



Written by [Bob Adelman](#) on January 28, 2016

## After Being Tied up and Robbed, Colorado Homeowner Shoots and Kills Fleeing Suspect

On Tuesday, David Martinez [made a fatal decision](#). He and a friend tried to pull a Craigslist caper that went south. That decision cost Martinez his life.

According to Fox News, Martinez and his friend contacted a homeowner (whose name isn't being released) who was offering several items for sale on Craigslist. Just after 9 a.m. on Tuesday, they arrived at his home in Littleton, Colorado, pulled a gun on the unsuspecting homeowner, tied him up, robbed him of numerous items, including the keys to his SUV, and then left.



The homeowner managed to untie himself, retrieved his own handgun, and ran after the suspects. One of them was driving off in his SUV. The homeowner fired several shots, at least one of them hitting Martinez. Martinez drove down the street mortally wounded, running the homeowner's vehicle into the front porch of a nearby house. EMTs rushed him to the hospital, but Martinez was dead on arrival.

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Now the Jefferson County prosecutor has a problem. Where can he find a jury that would convict the homeowner of anything other than justified self-defense?

Colorado's "Make My Day" law doesn't apply, according to several legal experts consulted on the matter. That law, according to Denver7's legal analyst David Beller, "does not include the porch, the yard, the driveway, the street outside. The crime must be happening inside the four walls of the victim's home."

And Colorado's self-defense law doesn't apply either, added Beller: "You can't take the law into your own hands. And if the homeowner in this situation was no longer in danger, you're not allowed to take a life.... [Only] if the homeowner believed his life was in imminent danger [is he] allowed to act in self-defense."

Another legal expert, Dan Recht, agreed, telling KDVR Fox 31 Denver:

While the facts are very sympathetic to the homeowner, the law is not. It is not enough to have been threatened and now use physical force to retaliate.

If a guy is driving away, even if it is your vehicle that he stole, you cannot use deadly force.

Once a jury learns about Martinez's long rap sheet, including burglaries, home invasions, and illegal drug use, it's going to be hard, if not impossible, to obtain a first-degree murder conviction.

It's now two days after the robbery and the incident, and prosecutors still haven't decided officially how to proceed. They are still interviewing neighbors, most of whom agreed with one who told them, "I don't



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want to see him charged.” And they are still looking for Martinez’s partner in the crime for his views on what went down in Littleton, Colorado, on Tuesday morning, at 9 a.m.

When asked his opinion about how the prosecutors are likely to proceed, Recht opined that the homeowner may be charged with a lesser crime that results in no jail time. But a full-blown jury trial, given the facts that are known so far, isn’t likely get traction.

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