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## **Trial begins for alleged ‘cop killer’** Attorney says man acted in self-defense

By: Lien Hoang Special to the Journal

A “cop killer” tied to Hell’s Angels, or a man protecting his friends and family? In the trial of David Virgo, arrested four years ago after a shootout, a prosecutor Monday sought to paint the man as a deadly fugitive, while his attorney argued he merely acted in self-defense. “I shot 55 rounds and didn’t get killed,” Virgo said after his arrest, according to prosecutor Jeff Wilson. “What a (expletive) loser I am.” That the Oct. 18, 2006 gunfight in Newcastle resulted in no deaths was a result of luck rather than intent, Wilson said. He is charging Virgo, 46, with attempted murder of a peace officer, premeditation, and assault with a deadly weapon on a peace officer. Virgo, who holds multiple felony convictions, faces 30-years-to-life in prison and 23 felony charges. “Mr. Virgo was a cop killer,”

Wilson said as he wrapped up his opening statement. “We’re lucky, for all our sakes, he was bad at it.” The main points of contention during the trial were whether police made a lawful arrest, and the related question of whether Virgo fired at police with intent to harm or kill. After playing a dramatic recording of gunfire — which did not come from the shootout — defense attorney Mary Beth Acton accused police of ambushing her client before confirming they had an arrest warrant for alleged battery. What she said started out as “an evening at home” for six friends turned violent when “a person acting weird outside” intruded on them. She was referring to an officer who approached the property and whispered “Sheriff’s department” to a man — not Virgo — who then retreated into the house. Police were dressed in military gear and did not properly identify themselves, Acton said, putting her client on the defensive. “There was no announcement, ‘David Virgo, come out, this is the police,’” Acton said, adding that by sneaking up to the house, Placer County officers “put all the occupants of 9525 Happy Hollow Lane in harm’s way.” Wilson interpreted the officers’ decision another way: they settled on a stealth tactic, surrounding the home that evening because Virgo, who is from Applegate, was a parole violator deemed armed and dangerous. They announced themselves quietly at first so as not to provoke others — namely, Virgo — inside the house, Wilson said. The prosecutor listed Virgo’s threats to police: “I have explosives. I’ll blow the place up. I’m going to kill everyone;” “I’ve got a bomb;” and “I have C-4.” Leading up to the shootout, police were hunting for Virgo in connection to an alleged battery, according to deputy sheriff Tim Lewandowski. In his testimony, Lewandowski said he interviewed David Rascon, who accused Virgo of causing injury to his eye and nose and knocking him unconscious on Sept. 16, 2006. That’s when he put out a BOLO — be on the lookout — to his fellow officers. “There was probable cause to arrest,” Lewandowski said. Acton objected that Virgo was not convicted of the battery, and suggested Rascon was drunk at the time of the alleged crime. The night of the shootout, Wilson said that the five others in the house eventually crawled out to safety, leaving just Virgo, who started throwing objects through a window. When police saw him wield a .9 mm handgun, they shot it out of his hand, leaving a scratch. “That is the only injury that occurred as a result of this action to anyone,” Wilson said. Police also shot out a light and launched tear gas into the residence, according to the prosecution. The property belonged to Melinda Wills, a probationer whose house is subject to search without warrant. Virgo finally crawled out, feigned injury, and then surrendered when threatened with a Taser, Wilson concluded. He later called to the stand detective Paul David Long, who recalled meeting Virgo in June 2006. Long was summoned to Bear River Campground, where Virgo was a suspect in a reported disturbance, the detective said. He spent an hour talking to Virgo, who claimed he was a member of the Hell’s Angels enforcement division. Long described the group known as the Filthy Few as “people who distinguish themselves through violence in Hell’s Angels,” which made Virgo a “threat to officers’ safety.” Acton countered that Long never verified her client’s membership in

Hell’s Angels, and that Virgo had no history of scrapes with law enforcement. “He never threatened police officers,” she said, going on to add, “Why now? Why all of a sudden?” Reach Lien Hoang at Lienh@goldcountrymedia.com.

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