

## Acquittal follows unusual move

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BONNERS FERRY, Idaho – Defense attorney Tim Gresback tried Friday to call Fred Cooper to the witness stand.

Because Cooper is dead, the Moscow, Idaho attorney took the stand himself. And, in a dramatic ending to the first-degree murder trial, he pretended to be the man shot by his client, Henry Ryder.

“My name is Fred Cooper,” said Gresback in a feigned folksy drawl that contrasted sharply with his trademark spectacles and shiny gold suit vest. “I pulled my gun on Henry Ryder. I didn’t know he had a gun.”

Gresback sat in the witness stand, slightly hunched, arms folded on the table before him, and slowly shook his head, while Cooper’s friends and family watched aghast.

“I scared the death out of him. He shot me in the chest. I think Henry’s sorry for the day he moved next door to me,” Gresback continued. “I’m sorry for the way my life ended up, what I’ve done to Henry, what I’ve done to my kids. Henry’s got to live with this the rest of his life.”

Gresback concluded his characterization of Cooper and his closing arguments by asking the jurors not to create another tragedy “by convicting an innocent man.”

After deliberating for about four hours, jurors returned a not-guilty verdict on all possible charges – first- and second-degree murder and manslaughter.

Gresback maintained that his client, Ryder, shot Cooper in self-defense, after Cooper pulled a gun on him in an intimidation tactic that witnesses said Cooper had used before.

Boundary County Prosecutor Jack Douglas, however, argued that Ryder shot Cooper in cold blood after his pride was injured when a surveyor determined that the property at the center of a long-running dispute actually belonged to Cooper.

At the least, Douglas told the jurors, the two had an argument provoking Ryder to shoot Cooper in the heat of passion, which would constitute the crime of voluntary manslaughter.

“Nobody can speak for Fred Cooper,” Douglas said. “It may sound real dramatic, but none of that is evidence.

“The evidence speaks more eloquently than Fred ever could, because it’s not biased.”

The day after the two neighbors learned the results of the survey, Cooper started building a fence across Ryder's driveway. Ryder had already called a contractor about building a new driveway on his own property, according to testimony. But until that was built, the fence would prevent any access in and out of his property.

Ryder and his stepson and grandson were towing a broken down all-terrain vehicle to the house, when they passed Cooper digging fence posts. Ryder grabbed his gun and walked up the driveway to talk to Cooper. No one actually witnessed the shooting, although several witnesses heard the gunshot.

Ryder admits that he shot Cooper, but he claims Cooper pulled a gun on him. An appliance repairman, Ernie Smith, testified that Cooper had once pulled a gun on him when he was on the road that Cooper posted with no trespassing signs.

"He didn't put a bullet in the pistol. He pulled a gun on him, just like he had on other people. He didn't know Henry was packing," said Gresback, who tried to portray Cooper as obsessed with trespassers.

Douglas, however, had plenty of material to work with, too. For instance, the surveyor testified that a couple of days after the shooting, he asked Ryder how it was he didn't get shot.

"I didn't give him a chance," Ryder answered, a quote that Douglas wrote in capital letters on the courtroom blackboard for the benefit of the jury. Gresback contended that the comment was Ryder's way of saying that he'd won the draw.

According to Douglas' theory, Ryder shot Cooper, then pulled Cooper's pistol out of his waistband and laid it down about 22 feet away from the body to cover up the fact that Cooper's gun had never been pulled on Ryder.

Douglas relied heavily on the testimony of an expert witness, who didn't think the gun was dirty enough to have been thrown. But Gresback countered that the gun was dirty, according to one photograph at the scene, and no footprints were near where it lay.

Furthermore, Gresback could not understand any motive for Ryder to throw the gun away. "If Henry's covering it up, why not leave the gun close to Fred?"

Pretending to be Cooper wasn't the first risk Gresback took in the trial – he also called his client to the stand, which gave Douglas an opportunity to enter testimony that might have been missed because of the absence of a key witness.

Ryder's stepson, Jim Gibson, provided compelling testimony at the preliminary hearing, but because Douglas never subpoenaed him, he refused to show up for the trial.

The jury had four options: to find Ryder not guilty because the shooting was in self-defense, find him guilty of first-degree murder, second degree murder or voluntary manslaughter.