

Confrontation Clause & the Forfeiture-By-Wrongdoing Exception in Minnesota

In our criminal justice system, a defendant has the constitutional right to confront their accusers at trial. If the accuser does not appear for trial, then the prosecution may not have as strong of a case, if any case at all. Knowing this, some defendants will attempt to tamper with the prosecution's witnesses by trying to get them to not testify. Besides witness tampering being illegal, a defendant's actions in getting their accusers to not show up to testify may also allow the prosecution to get the witness's statements admitted at trial under the forfeiture-by-wrongdoing exception to Confrontation Clause.



Recently, attempts to tamper with a witness backfired in *State v. Shaka*. In this case, the defendant was in custody while awaiting trial. As the trial approached, he made phone calls (which were recorded by the jail) asking people to seek out his accuser and make sure she did not come to court. The accuser ultimately did not appear at trial to testify. This prompted the prosecutor to ask that the accuser's prior statements be admitted through the forfeiture-by-wrongdoing exception to the Confrontation Clause. *Davis v. Washington* determined that defendants "have the duty to refrain from acting in ways that destroy the integrity of the criminal-trial system."

To use the forfeiture-by-wrongdoing exception, Minnesota requires the prosecution to prove four elements by a preponderance of the evidence: (1) the declarant is unavailable; (2) the defendant engaged in wrongful conduct; (3) the wrongful conduct procured the unavailability of the witness; and (4) the defendant intended to procure the unavailability of the witness. State v. Cox; and Minn. R. Evid. 804(b)(6). Shaka only disputed element three, which prompted the Minnesota Court of Appeals to address whether the prosecution could rely on circumstantial evidence when trying to prove a defendant's wrongful conduct caused the unavailability of a witness. Circumstantial evidence is entitled to the same weight as direct evidence. Here, the court stated the record supported the inference that the defendant convinced his family members to cause his accuser's absence from trial. Therefore, the court concluded that the forfeiture-by-wrongdoing exception to the Confrontation Clause applied and there was no error in admitting the accuser's statements at trial.

Robert H. Ambrose is a [Criminal Defense Attorney Woodbury MN](#) criminal defense attorney and DWI lawyer in Minnesota. Super Lawyers named him a Rising Star for the past four years; and the National Trial Lawyer's Organization named him a Top 40 Under 40 Trial Lawyer the past six years. DWI Lawyer Woodbury; Criminal Trial Attorney Minnesota; and Minnesota DUI Lawyer.

REQUEST A FREE CONSULTATION

Contact Details

Ambrose Law Firm, Criminal Defense Attorneys

680 Commerce Drive #271

Woodbury, MN 55125

(651) 800-4842

<https://ambroselaw247.com>

<https://goo.gl/maps/V7AgSCgytPr>

AMBROSELEGAL@ICLOUD.COM

Website: <https://ambroselaw247.com>

Google Site: <https://sites.google.com/site/criminaldefenseattywoodburymn>

Google Folder: <http://bit.ly/2JDZt6j>

<https://youtu.be/T3QqVL1v1Jl>

Recommended Links

[criminal lawyer](#)

[criminal defense attorney](#)

[criminal attorney](#)

[criminal defense lawyer](#)

[dui lawyer](#)

[defense attorney](#)

[dui attorney](#)

[defense lawyer](#)

[criminal defence lawyer](#)

[dui lawyers](#)

[criminal law attorney](#)

[dwi lawyer](#)
[defence attorney](#)
[domestic violence attorney](#)
[criminal defense](#)
[criminal lawyers near me](#)
[dwi attorney](#)
[criminal defence attorney](#)
[lawyer criminal](#)
[crime lawyer](#)
[criminal defense attorney near me](#)
[criminal law lawyer](#)
[criminal law firms](#)
[criminal attorney near me](#)
[best criminal defense attorney](#)
[best dui lawyer](#)
[dwi lawyers](#)
[assault law](#)
[dui defense](#)
[dui defense attorney](#)
[criminal justice attorney](#)
[drug defense attorney](#)
[domestic violence lawyer](#)
[best criminal lawyer](#)
[drug attorney](#)
[dui attorney near me](#)
[federal criminal defense attorney](#)
[drug defense lawyer](#)
[attorney criminal](#)
[dui defense lawyer](#)
[criminal defense lawyer near me](#)
[criminal solicitors](#)
[defense attorney near me](#)
[dwi defense attorney](#)
[criminal defense law firm](#)
[top criminal defense attorneys](#)
[homicide lawyer](#)
[dui help](#)
[felony lawyer](#)
[federal defense attorney](#)
[criminal defence](#)
[good criminal lawyers](#)
[best criminal defense lawyer](#)
[domestic violence charges](#)
[drug crime attorney](#)
[dui law firm](#)
[white collar crime lawyer](#)
[theft lawyer](#)
[criminal justice lawyer](#)

[federal attorney](#)
[top criminal lawyers](#)
[embezzlement lawyer](#)
[domestic violence defense attorney](#)
[defense lawyers near me](#)
[probation violation](#)
[misdemeanor lawyer](#)
[drug lawyer](#)
[criminal defense atty](#)
[federal criminal lawyer](#)
[drug lawyers near me](#)
[felony charge](#)
[federal criminal attorney](#)
[criminal charges](#)
[fraud lawyers](#)
[find a criminal defense attorney](#)
[expungement attorney](#)
[felony attorney](#)
[find a criminal lawyer](#)
[local dui attorney](#)
[assault attorney](#)
[criminal advocate](#)
[fraud attorney](#)
[expungement lawyer](#)
[federal criminal defense lawyer](#)
[white collar crime attorney](#)
[dui lawyer cost](#)
[felony defense attorney](#)
[local criminal defense attorney](#)
[criminal law defense attorney](#)
[best criminal attorney](#)
[best defense attorney](#)
[federal criminal law](#)
[misdemeanor attorney](#)
[dui defence lawyers](#)
[white collar criminal defense](#)
[juvenile attorney](#)
[criminal defense law](#)
[criminal law attorneys near me](#)
[dwi defense lawyer](#)
[local criminal lawyers](#)
[criminal law firms near me](#)
[top criminal law firms](#)
[dwi law firm](#)
[federal lawyers](#)
[dwi defense](#)
[defence attorney near me](#)
[juvenile criminal lawyer](#)

[is a dui a felony](#)
[civil law](#)
[civil attorney](#)
[top rated criminal defense attorney](#)
[top criminal defense lawyer](#)
[domestic violence defense](#)
[criminal defence lawyer near me](#)
[assault and battery lawyer](#)
[crime attorney](#)
[embezzlement attorney](#)
[criminal justice lawyers near me](#)
[best criminal lawyer near me](#)
[felony lawyers near me](#)
[find defense lawyer](#)
[dwi defense lawyers](#)
[best criminal law firms](#)
[civil rights lawyer](#)
[assault and battery attorney](#)
[criminal defense firm](#)
[top criminal defense law firms](#)
[drug crime lawyer](#)
[what does a criminal lawyer do](#)