

Jury: No Charges for Man Who Shot, Killed Albany Teacher

The man who shot and killed a popular local teacher in a Buffalo suburb will not face charges, a grand jury has decided.

The jury has ruled not to charge 33-year old David D'Amico in the shooting death of 31-year-old David Park, a 5th grade teacher and basketball coach at Albany's Arbor Hill Elementary.

Park was shot and killed in late March after walking into D'Amico's house on Millbrook Court in the Town of Amherst.

Authorities said Park had been at a friend's party right next door, left for a while, then returned to the wrong home -- D'Amico's. The incident woke up the homeowner and his wife. The D'Amico's lawyer, Thomas Burton, said they called 911, warned Park they had a gun, and told him to leave.

"When the individual that was in the house kept on coming, my guy fired," Burton said in late March. "He's protecting himself and his wife. They were terrorized as to what was happening." Shortly after the shooting, NEWS10 legal expert Thomas Carr of Tully Rinckey, PLLC explained how it would be possible for the grand jury to not hand up an indictment in this case.

"If the homeowner had no avenue of retreat, and reasonably believed or if a reasonable person in those circumstances would have believed that he faced imminent physical injury or death, then he could respond in kind," Carr said. He added that New Yorkers are protected by law from using deadly force if they feel their life is in jeopardy.

But Burton said in the case of a burglary or an attempted burglary, homeowners can use a gun regardless.

According to a report in the Buffalo News last month, toxicology tests showed Park's blood alcohol level was 0.18% at the time of his death.