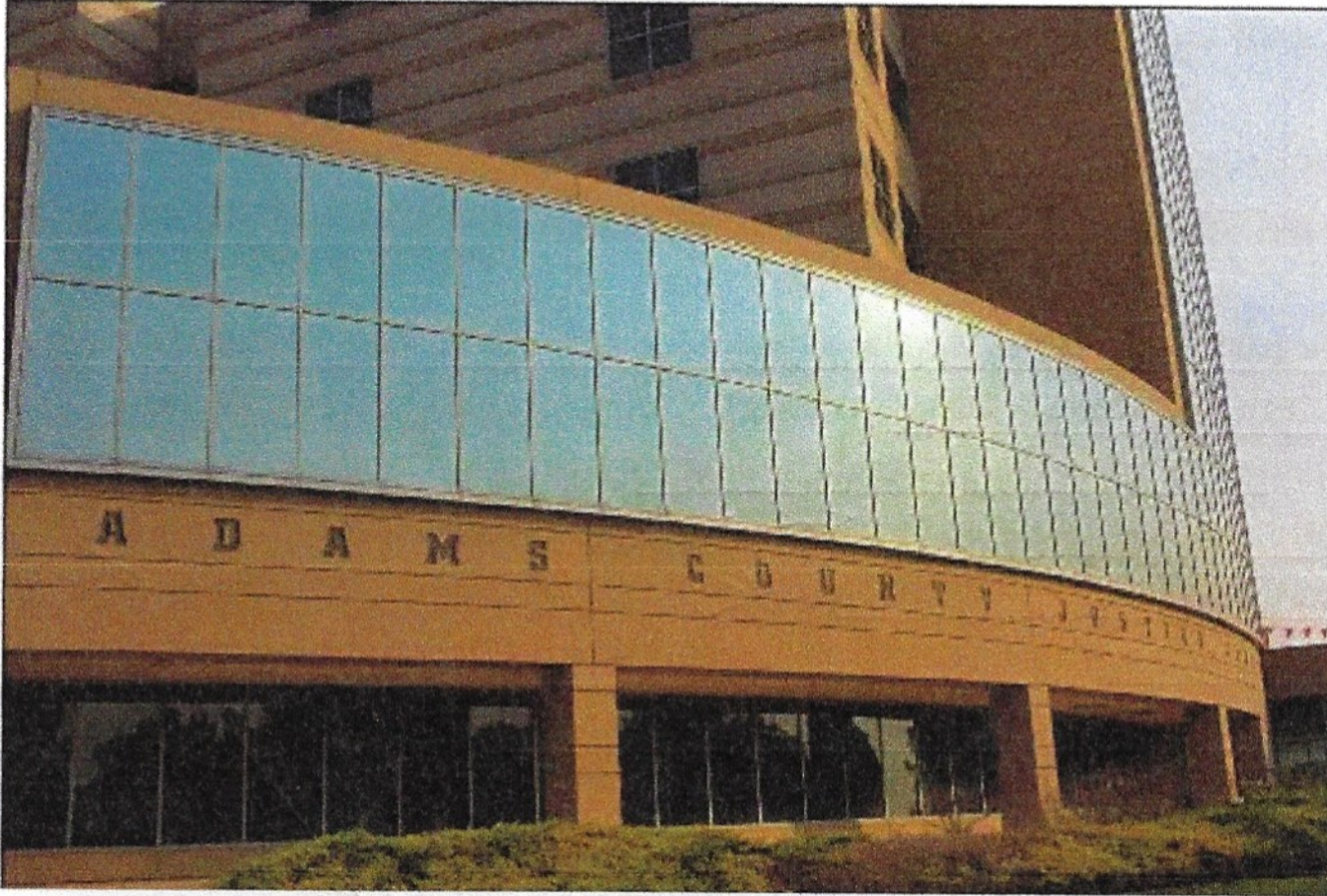


Adams County murder conviction reversed

GTK

The Denver Gazette · 22 Jun 2026 · A15 · MICHAEL KARLIK The Denver Gazette

Colorado's second-highest court overturned an Adams County defendant's murder conviction last month because the instruction provided to the jury about a trespasser's right to use self-defense did not accurately reflect Colorado law.



A person is justified in using force to defend himself if he has a reasonable belief that another person will imminently use unlawful force against him. However, jurors in Hayden Allen Banks' trial were told that an alleged trespasser like Banks "has no privilege to use physical force in self-defense" against a property owner's lawful use of force — with no instruction to evaluate Banks' reasonable belief about the property owner's actions.

A three-judge Court of Appeals panel determined the misstatement of law warranted a new trial. "Colorado law is clear that the right to self-defense turns not on whether the victim actually used or intended to use unlawful physical force," wrote Judge Karl L. Schock in the May 28 opinion, "but on 'whether, under the totality of the circumstances, it was reasonable' for the defendant to believe that they did." Case: People v. Banks

Decided: May 28, 2026 Jurisdiction: Adams County Ruling: 3-0

Judges: Karl L. Schock (author) Matthew D. Grove

David H. Yun

Banks lived at the Venture Inn with his longtime friend David Islas. One night, Banks went to Islas' room, where security footage showed Banks standing outside the door and talking to Islas. After Islas went inside the room, out of the camera's view, Banks remained in the doorway and the men continued talking.

Eventually, the door began to close while Banks kept his foot in the doorway. Then, Banks pulled a gun and shot Islas. Police found another gun lying next to Islas. Banks alleged he acted in self-defense after Islas pointed a gun at his head.

At trial, Chief Judge Kyle Seedorf gave the jury a self-defense instruction. But over the defense's objection, he also instructed jurors that Islas was legally allowed to use physical force to defend the premises against an alleged trespasser like Banks.

"A trespasser who is subjected to lawful physical force by the owner or occupant of property or premises has no privilege to use physical force in self-defense because the privilege applies only when a person faces unlawful force," the instruction concluded.

The prosecutors repeatedly argued that Banks had no right to use force against Islas. One prosecutor said that if a trespasser is facing the use of lawful force, "they do not have the protection of self-defense." *Note*

"Mr. Banks doesn't get the benefit of self-defense," the prosecutor added.

After jurors convicted him of second-degree murder, Banks argued on appeal that the instruction misstated the law.

"Here, the instruction likely caused the jury to reject Banks's self-defense claim on the improper basis that he lost the privilege to use self-defense by trespassing," wrote public defender Dilyn K. Myers.

"This Court should reverse because the prosecutors misstated the law and misled the jury to believe Banks was not entitled to use self-defense if he trespassed." *Note*

The Court of Appeals panel agreed that the mistake was obvious. *Note*

"Contrary to what the jury was told, self-defense does not 'appl(y) only when a person faces unlawful force.' It also applies when a person reasonably believes they face unlawful force," wrote Schock. *Note* "That omission was particularly problematic under the facts of this case because the jury reasonably could have found that, even if Islas's use of force was lawful, Banks reasonably believed it was not. In particular, a person may not lawfully use deadly force in the defense of premises except under circumstances not present in this case."

He added that the misstatement of law potentially affected the jury's determination of whether Banks justifiably acted in response to a gun allegedly being pointed at him.

"And because Islas does not appear in the video, the evidence on that point was 'far from overwhelming,'" wrote Schock.

The panel ordered a new trial. Although it was a "close call," added Schock, the judges believed a trespassing-related instruction was warranted because of what the surveillance video showed.

The Court of Appeals did not address Banks' argument that prosecutors Jesse Forrest and Katelyn L. Konecny committed misconduct by misstating the law to jurors, but Schock acknowledged that their statements "were all legally incorrect."

The case is People v. Banks.