Case No. 2024-CR-319

**IN THE**

**SUPERIOR COURT OF THE STATE OF STETSON**

**PINELLA COUNTY JUDICIAL DISTRICT**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

State of Stetson

v.

Jay Cameron,

*Defendant*.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**MOVANT’S MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Table of Contents**

Table of Contents i

Table of Authorities ii

Introduction 1

Statement of Facts 1

Argument 3

1. Jay Cameron was not engaged in an unlawful act because he was not carrying a concealed weapon. 3
2. Jay Cameron did not carry his firearm in a manner intended to conceal. 4
3. The manner Cameron carried the firearm did not conceal its existence from the ordinary sight or knowledge of another person. 7
4. Jay Cameron is immune from prosecution under Stetson’s Stand Your Ground law because he was not the aggressor. 9
5. Jay Cameron did not provoke the conflict between himself and Wilson. 10
6. If Jay Cameron did provoke Wilson, the danger posed by Wilson left no choice but the use of deadly force to protect himself. 13

Conclusion 14

**Table of Authorities**

**Cases Page(s)**

*Brown v. United States*,

256 U.S. 335 (1921) 3

*Davis v. Florida*,

761 So. 2d 1154 (Fla. Dist. Ct. App. 2000) 7

*Dorelus v. State*,

747 So. 2d 368 (Fla. 1999) 5, 6

*Murphy-Bey v. United States*,

982 A.2d 682 (D.C. 2009) 10

*People v. Riddle*,

467 Mich. 116 (2002) 10

*Robertson v. Delaware*,

704 A.2d 267 (Del. 1997) 5

*Rowe v. United States*,

164 U.S. 546 (1896) 9, 10

*State v. Hankerson*,

430 So. 2d 517 (Fla. Dist. Ct. App. 1983) 5

*State of Cal. v. Williams*,

184 Cal. App. 2d 673 (Cal. Dist. Ct. App. 1960) 5

*State of Colo. v. ex rel. O.R.*,

220 P.3d 939 (Colo. App. 2008) 5

*State of La. v. Fluker*,

311 So. 2d 863 (La. 1975) 5

*Sykes v. Kentucky*,

550 S.W.3d 60 (Ky. Ct. App. 2018) 5

**Introduction**

This Court should grant Jay Cameron’s Motion to Dismiss because Cameron was not engaged in criminal activity at the time of the shooting and was not the aggressor in the conflict with Ryan Wilson.

Cameron encountered Wilson while walking to his residence. Both Cameron and Wilson were armed with handguns. Just after Cameron had passed Wilson, Cameron heard a sound behind him and saw Wilson approaching with a gun. Both Cameron and Wilson fired, each hitting the other. The State has charged Jay Cameron with Attempted Murder in the Second Degree and with Carrying a Concealed Weapon. Cameron moves to dismiss the case because he is immune to prosecution under Stetson’s Stand Your Ground law.

**Statement of Facts**

At 9:00 a.m. on the morning of August 6, 2022, Jay Cameron woke up in his room at the Boals Motel and called his brother, Greg Cameron, inviting him to breakfast. (Jay Int. 19; Greg Int. 29.) At least part of the reason Cameron wanted Greg Cameron to join him was because he wanted “strength in numbers” around his neighbor, Ryan Wilson. (Jay Int. 19.) Cameron was very aware of Wilson’s violent and threatening behavior, including fighting and aiming guns at people. (Jay Int. 20.) Given this knowledge, Cameron felt unsafe being around Wilson. (Jay Int. 20.) When Cameron and Greg Cameron left the motel to go to breakfast around 9:45 a.m., their path led them past Wilson’s room. (Jay Int. 20.) Wilson and his friend, Kenny Gray, were sitting outside Wilson’s room at this time. (Gray Int. 45-46; Wilson Int. 56) As the brothers walked past, Wilson threatened Cameron, confirming Cameron’s fears that Wilson posed a danger to his safety. (Jay Int. 20; Greg Int. 29, 32.)

When Cameron and Greg Cameron returned to the motel at 10:32 a.m., they had to walk back the way they came, past where Wilson and his friends were still sitting and standing outside. (Ex. 8; Jay Int. 20.) Cameron carried a firearm, which he held with his right hand in the front pocket of his red hoodie. (Ex. 8; Jay Int. 21.) However, Cameron wanted Wilson to know he was armed in hopes Wilson would leave him alone. (Jay Int. 21). So, as he passed Wilson, Cameron made a gun shape with his left hand and said “Pop-pop”. (Jay Int. 21; Greg Test. 33-34; Gray Int. 47.) Wilson made no reply, but instead pulled what was presumably his own handgun out of his pocket. (Ex. 8; Jay Int. 22; Greg Int. 33-34.) By now, Cameron had his back to Wilson and began to walk away from Wilson down a breezeway when Wilson began moving towards the corner of the building. (Ex. 8; Jay Int. 22; Greg Int. 34.)

At this moment, Cameron heard a sound behind him and began turning around while drawing his gun. (Ex. 8; Jay Int. 22-23; Greg Int. 34.) As he did so, Cameron saw Wilson rounding the corner towards him carrying a gun. (Ex. 8; Jay Int. 23.) Both Wilson and Cameron aimed their guns at each other, and both exchanged fire nearly simultaneously. (Ex. 8; Jay Int. 23; Greg Int. 35.) One of Wilson’s shots hit Cameron in the right side of his stomach. (Jay Int. 23.) Two of Cameron’s shots impacted Wilson, one striking his left shoulder and the other his back as he spun around from the force of the first shot. (Jay Int. 23; Greg Int. 36.) Wilson then lost consciousness and collapsed, dropping his gun. (Wilson Int. 61.) Cameron had Greg Cameron confiscate Wilson’s gun so that Wilson could not recover the weapon and shoot again. (Jay Int. 23; Greg Int. 37-38.) After briefly stopping at Cameron’s room, Greg Cameron took Cameron to the hospital, choosing one further away to avoid retaliation from Wilson or his friends. (Jay Int. 24; Greg Int. 28-29.) Gray subsequently called 911 and both police and first responders arrived shortly after. (Gray Int. 50.) Both Cameron and Wilson survived their injuries and were able to make a successful recovery. (Jay Int. 19; Wilson Int. 55.)

**Argument**

The right of law-abiding citizens to engage in proportionate self-defense is firmly embedded in American jurisprudence. As noted by the United States Supreme Court, “...if a man reasonably believes that he is in immediate danger of death or grievous bodily harm from his assailant he may stand his ground and that if he kills him he has not exceeded the bounds of lawful self-defense.” *Brown v. United States*, 256 U.S. 335, 343 (1921). This principle is reflected in Stetson law, which affords immunity from prosecution to individuals who stand their ground and defend themselves even with deadly force. To prevent defendants from invoking this protection, the burden is on the state to establish by clear and convincing evidence that they were engaged in criminal activity or were the aggressor. Because the evidence does not support precluding Jay Cameron from seeking immunity on either of these grounds, this Court should grant his motion to dismiss.

1. **Jay Cameron** **was not engaged in an unlawful act because he was not carrying a concealed weapon.**

Stetson General Statutes § 776.032 provides a person with immunity from both criminal and civil actions for the use of force if the person’s use of force complies with Section 776.012, Stetson’s stand your ground law. Section 776.012 justifies the use of force when the person using force “is not engaged in criminal activity” at the time of using force. Stet. Gen. Stat. § 776.012. Count two of the Information charges Cameron with carrying a concealed weapon in violation of Section 790.01. (Inf. 67.)

Section 790.01 makes it a crime for an unlicensed person to carry a concealed firearm. A concealed firearm is defined as “any firearm which is carried on or about a person in a manner designed to conceal the existence of the firearm from the ordinary sight or knowledge of another person.” Stet. Gen. Stat. § 790.01. There are three elements for finding that a firearm was concealed: (1) it was carried on or about a person; (2) the person did so in a manner designed to conceal; and (3) that specific design would conceal the firearm from the ordinary sight or knowledge of another person. There is no dispute as to the first element as Cameron admits he possessed a firearm on his person. (Jay Int. 21.) However, Cameron did not specifically design to conceal the firearm. Furthermore, the manner Cameron carried the firearm did not conceal its existence from the ordinary sight or knowledge of another person.

* 1. **Jay Cameron did not carry his firearm in a manner intended to conceal.**

Historically, a concealed weapon was one “*willfully* or *knowingly* covered or kept from sight.” 1891 Black’s Law Dictionary 241 (emphasis added); *see also* 1910 Webster’s New International Dictionary of English Language 461 (Concealed weapons are “dangerous weapons so carried on the person as to be *knowingly or willfully* concealed from sight.” (emphasis added)); 1889 Anderson's Dictionary of Law 1110 (defining a “concealed weapon” as “a weapon willfully covered or kept from sight”). These definitions make clear that an element for a concealed weapon was understood to be intent to conceal. Many states have elected to deviate from this historical understanding either by defining a concealed firearm without a specific intent element or by court interpretations reaching the same result.[[1]](#footnote-1) There is only one state with a criminal statute that prohibits carrying a concealed firearm and interprets concealed to require a specific intent element. *See* La. Stat. Ann. § 95 (interpreted to require specific intent in *State of La. v. Fluker*, 311 So. 2d 863 (La. 1975)). Such a disparity is somewhat misleading as the rise of ‘constitutional carry’ states has gutted many criminal statutes on this subject. What is clear though is most states with such statutes do not require specific intent.

For example, Florida’s concealed firearm law defines concealed as (1) carried on or about a person and (2) hidden from the ordinary sight of another person. *See* Fla. Stat. § 790.01; *State v. Hankerson*, 430 So. 2d 517, 518 (Fla. Dist. Ct. App. 1983). The language of the statute, namely the absence of specific intent language, indicates an intent by the Florida Legislature to not require proof of specific intent to conceal. Florida does not reject evidence of specific intent to conceal when pursuing violations of its concealed carry law; however, neither does its law require it. *See* *Dorelus v. State*, 747 So. 2d 368, 371 (Fla. 1999) (recognizing that Florida law does not require specific intent, but such evidence is useful in determining if a weapon is concealed).

However, unlike Florida and unlike the myriad of other states, Stetson’s Legislature has chosen to align its concealed firearm laws with historical understanding. Section 790.01 requires that a person carry a firearm “in a manner designed to conceal” it. The language of the Stetson statute closely mirrors the Florida definition, indicating a likeliness the Florida statute served as a basis for Stetson law. *Compare* Stet. Gen. Stat. § 790.01 *to* Fla. Stat. § 790.01. But the Stetson Legislature departed from the Florida statute in one key respect—including the word “designed.” By including the extra word, the Stetson Legislature signaled its goal of including an element of intent for a violation of Section 790.01.

Design means to have a purpose or to intend. *Design*, Merriam-Webster Eleventh Edition 2003. This serves as the basis for an element of specific intent within Section 790.01. Furthermore, the inclusion of the word ‘designed’ illustrates the Legislature’s intent to adopt and align Stetson’s concealed firearms law with that of historical versions and understandings about concealed weapons laws. Thus, applying the plain meaning of the word designed requires a reading of the statute as requiring that the firearm be carried in a manner intended to conceal. Giving effect to the inclusion of the word ‘designed’ ensures that the statute is properly followed and gives effect both to the plain language and the Legislature’s intent to align Stetson concealed firearms laws with historical practice.

Here, Cameron did not intend to conceal his firearm and in fact intended to do the opposite. When Cameron first returned to the Boals Motel, he sought to avoid a confrontation by alerting Wilson to the fact he possessed a firearm. (Jay Int. 21.) He displayed his left hand in the shape of a gun and said, “Pop-pop,” an onomatopoeia for the sound a firearm makes when fired. (Jay Int. 21.) Cameron’s intent behind stating this phrase was to let Wilson know that he was armed. (Jay Int. 21.) Furthermore, two people help corroborate Cameron’s recollection of events as they too heard Cameron say, “Pop-pop” and witnessed him gesture with his hand. (Greg Int. 34; Gray Int. 47.) Cameron’s actions and mannerisms indicate a design or intent to alert people to the presence of a firearm, not conceal one. Because Cameron did not intend to conceal the firearm on his person, he did not engage in unlawful activity by violating Section 790.01.

* 1. **The manner Cameron carried the firearm did not conceal its existence from the ordinary sight or knowledge of another person.**

The final requirement for a concealed firearm under Section 790.01 is that a person’s attempted concealment actually conceals the firearm from the ordinary sight or knowledge of another person. If a firearm is visible by a person of ordinary sight or knowledge, the firearm is not concealed within the meaning of Section 790.01, regardless of the intent of the person carrying the weapon. Looking at the same language in its State’s statutes, Florida Courts describe ordinary sight as “the casual and ordinary observation of another in the normal associations of life.” *Davis v. Florida*, 761 So. 2d 1154, 1156 (Fla. Dist. Ct. App. 2000). Ordinary knowledge is knowledge that the reasonable person would have. *See generally* Restatement (Second) of Torts § 283 (describing the reasonable person as a person of ordinary sight, knowledge, and intelligence).

Cameron did not carry the firearm in a manner that would conceal its existence from a person of ordinary sight or knowledge. The gun Cameron carried was quite large and he carried this gun in the front pocket of his hoodie. (Jay Int. 21; Ex. 5.) By necessity a larger gun is more easily discernable than a smaller gun. However, Cameron is not resting on this fact alone. Cameron held up his left hand in the shape of a gun. (Jay Int. 21.) Both Greg Cameron and Kenny Gray confirmed they saw Cameron make a gesture with his hand (Greg Int. 34; Gray Int. 47.) While Greg Cameron and Gray are not in full agreement on the exact gesture—Greg Cameron confirmed it was a gun shape and Gray could not identify the shape—both support what Cameron maintains . . . that he held his hand up in a gun shape. (Greg Int. 34; Gray Int. 47.) While making this gesture, Cameron said “Pop-pop.” (Jay Int. 21.) This time both Greg Cameron and Gray agree . . . Cameron uttered those exact words. (Greg Int. 34; Gray Int. 47.)

A person of ordinary knowledge, in fact, any child who has played cops and robbers, would know that pop-pop signifies gunfire. Coupled with the gun gesture, there is little doubt a person of ordinary knowledge and sight would know that Cameron had a gun. Because a person of ordinary sight and knowledge would know Cameron had a gun, it was not concealed within the meaning of the statute.

1. **Jay Cameron is immune from prosecution under Stetson’s Stand Your Ground law because he was not the aggressor.**

Jay Cameron further satisfies the Stetson General Statutes § 776.012 requirement that the person raising the Stand Your Ground defense not be the aggressor in the incident involving deadly force. Section 776.041 expounds upon this limitation in greater detail, providing two ways in which a person could be defined as an aggressor. One is when the person is “attempting to commit, committing, or escaping after the commission of, a forcible felony.” Stet. Gen. Stat. § 776.041. Alternatively, the person “initially provokes the use or threatened use of force against himself or herself,” though there are two exceptions to this circumstance. Stet. Gen. Stat. § 776.041. The first exception is triggered when an assailant’s use or threatened use of force against the person is “so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape such danger” other than to respond with the use or threatened use of force likely to cause death or great bodily harm to the assailant. Stet. Gen. Stat. § 776.041. The second exception applies when “in good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use or threatened use of force, but the assailant continues or resumes the use or threatened use of force.” Stet. Gen. Stat. § 776.041.

Stetson’s statutory language is consistent with longstanding the framework for determining an aggressor in a self-defense case. As early as 1896, the United States Supreme Court recognized that even if a defendant initially provokes a conflict, their right to self-defense is restored if they withdraw in good faith and are then pursued by the other party. *Rowe v. United States*, 164 U.S. 546, 555 (1896). Thus, while the initial analysis should consider whether the defendant was in fact the provocateur, the inquiry cannot stop there. Even in such cases, defendants can find safe harbor if they withdraw and nevertheless find themselves under attack. Courts in the modern era still rely on the *Rowe* approach despite its age. *See, e.g.*, *Murphy-Bey v. United States*, 982 A.2d 682, 691 (D.C. 2009) (evidence of withdrawal); *People v. Riddle*, 467 Mich. 116, 130 (Mich. 2002) (inability to safely retreat). Though there is a dearth of precedent on this issue from Stetson courts, the case today provides a textbook example of how a defendant can successfully survive the aggressor test.

In the case at hand, Cameron does not meet the definition of an aggressor that would preclude his invocation of either the Stand Your Ground defense under Section 776.012 or immunity from prosecution under Section 776.032. Cameron was neither engaged in the commission of a forcible felony nor did he initially provoke Wilson. However, even if this Court were to find that Cameron’s behavior towards Wilson was to some degree provocative, he is nevertheless protected because even after withdrawing, Cameron was faced with imminent death or great bodily harm without any other means of escape beyond using force himself.

* 1. **Jay Cameron did not provoke the conflict between himself and Wilson.**

Cameron’s actions before and during the altercation with Wilson fail to meet the definitions outlined in Section 776.041. Cameron did not commit any forcible felony, nor any crime at all, including, as discussed above, carrying a concealed firearm. The sole remaining point of contention is the nature of the relevant interactions between Cameron and Wilson, but the evidence is ultimately insufficient for the State to meet their burden of showing that Cameron made himself the aggressor by initially provoking the force or threat of force against him by Wilson.

While it may never be perfectly clear from the evidence who was responsible for the animosity between Cameron and Wilson, both they and other witnesses agree that they had a mutual dislike for each other leading up to the altercation on August 6, 2022. (Jay Int. 20; Greg. Int. 30-31; Wilson 56-57.) With that backdrop, it is important to focus on the events that took place before the shooting. At around 9:45 a.m. that morning, there was a tense exchange between Cameron and Wilson as Cameron walked past Wilson’s room on the way to breakfast, though witnesses gave contradictory accounts of what words were said by whom. (Jay Int. 20; Greg Int. 32; Gray Int. 45-46; Wilson Int. 56-57.) What took place at 10:32 a.m. when Cameron returned from breakfast is better-documented thanks to the placement of a Boals Motel security camera, which was able to capture some angles of the ten seconds just before shots were fired. (Ex. 8.) Although the camera’s field-of-view is limited, it does show some very important information about the behavior of both Cameron and Wilson in those critical moments. (Ex. 8.)

The sequence begins with Cameron walking parallel to Wilson, who is standing stationary in front of his room. (Ex. 8.) Both Cameron and Wilson have one of their hands obscured in a pocket. (Ex. 8; Jay Int. 21-22.) Notably, Cameron believed that Wilson was holding a gun in his pocket, while, in contrast, and despite Cameron’s attempts, Wilson did not think that Cameron was carrying a gun. (Jay Int. 22; Wilson Int. 59.) The video shows Cameron walking at a moderate, steady pace past Wilson towards the breezeway through the building. (Ex. 8.) No sudden or threatening movements can be discerned from Cameron as he is moving. (Ex. 8.) Though the angle of the video fails to show it, both Cameron and witnesses mention him raising his left hand in the shape of a gun and saying “Pop-pop,” in what Cameron intended to be a warning to Wilson that he was armed. (Jay Int. 21; Greg Test 33-34; Gray Int. 47.) This was meant to caution Wilson against attacking Cameron and not as a threat or challenge. (Jay Int. 21.) However, despite Cameron’s subjective intent, Wilson claimed to not understand the message Cameron was trying to convey either by his words or gestures. (Wilson Int. 59.) Accordingly, Cameron’s behavior as he walked by Wilson cannot rightly be construed as a provocation when it was neither intended nor perceived as such.

At this point, Cameron began walking past Wilson into the breezeway. Wilson’s story diverges from that of both Cameron and the witnesses that were present. (Ex. 8.) Wilson claims Cameron drew his left thumb across his throat and believed it was a threat. However, it is important to note that neither the other witnesses nor the security camera corroborate this claim. (Ex. 8; Jay Int. 22; Greg Int. 34; Gray Int. 47.) As Cameron moves abreast of Wilson, it can be clearly seen that Wilson pulls a black object out of his pocket just before the camera turns to show Cameron walking away down the breezeway. (Ex. 8.) At this point, Cameron has turned his back on Wilson and is withdrawing from the area. (Ex. 8.) Cameron turned back towards the corner only upon hearing a shout from behind him, as Wilson simultaneously appeared from around the corner. (Ex. 8; Jay Int. 22-23; Greg Int. 34.) Although Wilson is mostly hidden by the camera angle, the last frames of the security recording show both Cameron and Wilson pointing guns at each other. (Ex. 8.) The video is not of sufficient quality to determine the order of the shots, but Cameron and Wilson each insist that the other fired first. (Jay Int. 23; Wilson Int. 60.) Notwithstanding this disagreement, careful observation of the recording in conjunction with the witness recollections decisively establishes that Cameron’s behavior leading up to and during the alteration falls well short of constituting a provocation.

* 1. **If Jay Cameron did provoke Wilson, the danger posed by Wilson left no choice but the use of deadly force to protect himself.**

While Cameron in no way concedes that he provoked Wilson, even should the Court disagree and find that his actions were provocative, his use of force against Wilson was still justified. When Cameron turned around in the breezeway, he found himself face-to-face with Wilson, who was aiming a gun at him. (Ex. 8.) The danger to Cameron at this moment was both extreme and immediate. He was potentially one trigger-pull away from death or grievous injury in a position where he could not be reasonably expected to either run or hide. Because Wilson was standing at almost point-blank range, Cameron had no path to flee save the long, straight breezeway which would have kept him in the line of fire for too long to escape harm. (Ex. 8.) Even when faced with this impossible scenario, Cameron did not fire at Wilson until after Wilson had already discharged the first shot. (Jay Int. 23.) Keeping in mind that Cameron had less than two whole seconds to react to Wilson pointing a gun at him, there can be little doubt that no other option was realistically available aside from meeting force with force.

**Conclusion**

For the foregoing reasons, Jay Cameron respectfully requests that this Court grant his Motion to Dismiss.

Respectfully Submitted,

/s/ Team 110

Attorneys for the Defendant

1. See *e.g*., Alaska Stat. § 18.65.790(3) (not requiring specific intent); Ark. Code § 5-73-301 (not requiring specific intent); Cal. Penal Code § 25400 (interpreted to not require specific intent in *State of Cal. v. Williams*, 184 Cal. App. 2d 673 (Cal. Dist. Ct. App. 1960)); Colo. Rev. Stat. § 18-12-105 (interpreted to not require specific intent in *State of Colo. v. ex rel. O.R*., 220 P.3d 939 (Colo. App. 2008)); Del. Code Ann. tit. 11, § 1442 (interpreted to not require specific intent in *Robertson v. Delaware*, 704 A.2d 267 (Del. 1997)); Haw. Rev. Stat. § 134-1 (not requiring specific intent); Idaho Code § 18-3302 (not requiring specific intent); Ky. Rev. Stat. § 527.020 (interpreted to not require specific intent in *Sykes v. Kentucky*, 550 S.W.3d 60 (Ky. Ct. App. 2018)); Miss. Code Ann. § 97-37-1; Mont. Code Ann. § 45-8-315; Nev. Stat. § 202.350; N.C. Gen. Stat. § 14-269; N.D. Cent. Code § 62.1-04-01; Utah Code Ann. § 76-10-501. [↑](#footnote-ref-1)