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*.

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**NON-MOVANT’S MEMORANDUM OF LAW IN OPPOSITION OF DEFENDANT’S MOTION TO DISMISS**

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**Introduction**

This Court should deny Jay Cameron’s Motion to Dismiss because clear and convincing evidence demonstrates that Cameron engaged in unlawful activity and provoked the confrontation without attempting to retreat, thus excluding Cameron from immunity to prosecution.

Defendant Jay Cameron filed a Motion to Dismiss based on Stand Your Ground Immunity, alleging that the circumstances of this case justified his use of deadly force against Ryan Wilson. The State files this Memorandum in opposition to Defendant’s Motion to Dismiss. Clear and convincing evidence demonstrates that at the time Defendant used deadly force, Defendant had a duty to retreat and was not entitled to “Stand His Ground” for two reasons. First, Defendant engaged in unlawful activity by carrying a concealed weapon without a license. Second, Defendant was the aggressor who provoked the use of force against himself. Defendant made verbal threats, and threatening gestures, pulled his gun out first, advanced on Mr. Wilson, and continued to advance on and shoot Mr. Wilson while Mr. Wilson tried to flee. The State respectfully requests this Court deny Defendant’s Motion to Dismiss.

**Statement of Facts**

On August 6, 2022, the Defendant, Jay Cameron, awoke alone in room 1077 of the Boals Motel at 9:00 AM. (Jay Cameron’s Interview. (“Def Int.”) 19; Ex. 4. 12.) Defendant called his brother, Greg Cameron, to come over for breakfast. (Def Int. 19; Greg Cameron’s Interview. (“Greg Int.”) 29.) This was the first time Defendant ever called his brother to come meet him for breakfast at the Boals Motel. (Greg Int. 29.) When asked why, Defendant said he wanted “strength in numbers.” (Def Int. 19.) Defendant further explained that Ryan Wilson, the victim and neighbor at the Motel, “has been threatening everyone at the Boals Motel for months,” and “I’m sick of it.” (Def Int. 20.) On previous occasions, Defendant claims to have seen Mr. Wilson “pull guns on people” and “get into bar fights.” (Def Int. 20.)

At the other end of the first floor, Mr. Wilson and two friends, Kenny Gray and Tony D., were spending the morning hanging out outside Mr. Wilson’s room. (Ryan Wilson’s Interview. (“Wilson Int.”) 56; Kenny Gray’s Interview. (“Gray Int.”) 45.) Mr. Wilson’s room is on the ground floor at the corner of the breezeway and the parking lot. (Ex. 8.)

**First threat.** 45 minutes after waking, around 9:45 AM, Defendant and his brother left Defendant’s room and walked through the breezeway of the Boals Motel to the parking lot, passing Mr. Wilson and his friends. (Def Int. 20; Greg Int. 29; Wilson Int. 56-7; Gray Int. 45.) Instead of leaving Mr. Wilson alone, Defendant verbally taunted and threatened Wilson while walking to the parking lot. (Wilson Int. 57; Gray’s Int. 45-6.)

**Second threat.** At 10:32 AM, not even an hour later, Defendant and his brother returned from breakfast, walking through the same parking lot. (Ex. 8.) Defendant had his red hoodie pulled up tight over his head and face. (Ex. 8.) Defendant also had his right hand in the front pocket of his hoodie, holding his 0.40 caliber handgun where no one could see. (Ex. 8.; Def Int. 21.) Instead of leaving Mr. Wilson alone, Defendant stared Mr. Wilson down and using his free left hand Defendant made the shape of a gun while saying “pop-pop.” (Def Int. 21; Greg Int. 34; Gray Int. 47.) Mr. Wilson did not say anything to Defendant in response. (Def Int. 21; Wilson Int. 59; Gray Int. 48) While Defendant thought Mr. Wilson might be holding a gun in Mr. Wilson’s right pocket, Defendant admits it could have just been a cell phone. (Def Int. 22)

**Video Footage.** Defendant walks through the parking lot and passes Mr. Wilson. (Ex. 8.) Defendant walks around the corner into the breezeway, leaving the sight of Mr. Wilson. (Ex. 8.) Once out of sight of Mr. Wilson, Defendant turns around and pulls his gun out, holding it in his right hand. (Ex. 8.) Pointing the gun at the empty corner, Defendant stalks forward. (Ex. 8.) Mr. Wilson walks to the corner of the breezeway to see where the guy who just threatened his life went. (Ex. 8.) Mr. Wilson rounds the corner and sees Defendant pointing a gun at his chest and getting closer with every step. (Ex. 8) Fearing for his life, Mr. Wilson then raises his handgun and tries to hide behind the wall for cover. (Ex. 8)

**Shooting.** Both Defendant and Mr. Wilson fired their weapons and struck the other. Defendant is shot in his abdomen. (Def Int. 23) Mr. Wilson is shot in his left chest. (Def Int. 23; Greg Int. 36; Wilson Int. 60; Gray Int. 48.) Hit in his chest, Mr. Wilson spun around and stumbled away from Defendant. (Def Int. 23; Greg Int. 36; Wilson Int. 60; Gray Int. 48.) Mr. Wilson tried to run away from Defendant. (Greg Int. 36; Wilson Int. 61; Gray Int. 48.) Instead of stopping, Defendant pulled the trigger again and shot a fleeing Mr. Wilson in the back. (Def Int. 23; Greg Int. 36; Wilson Int. 61; Gray Int. 48.) Mr. Wilson fell to the ground and dropped his gun. (Def Int. 23; Greg Int. 36; Wilson Int. 61; Gray Int. 48.)

**After shooting.** Wilson is unconscious on the ground, bleeding. (*See* Gray Int. 50; *See* Wilson Int. 61.) Defendant yelled at his brother to grab Mr. Wilson’s gun. (Def Int. 23; Greg Int. 37; Gray Int. 50.) His brother complied and the two fled the scene, dumping both guns in the Defendant’s room. (Def Int. 23-4; Greg Int. 38.) Defendant’s brother took Defendant out of Pinella County to an Emergency Room in Hillsboro. (Greg Int. 38.) Gray calls 911. (Gray Int. 50) Both Defendant and Mr. Wilson recover from their injuries.

**Argument**

In 2002, Stetson Legislature enacted Stetson General Statutes §§ 776.012 and 776.032, referred to as Stetson’s “Stand Your Ground” Laws. Particularly, under § 776.012, a person is justified, and thus immune from criminal prosecution under § 776.032, using deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself. § 776.032 further specifies that a person does not have a duty to retreat and has the right to stand his or her ground if (1) the person using deadly force is not engaged in a criminal activity, (2) is in a place where he or she has a right to be, and (3) is not the aggressor. While not expressly defining “aggressor,” the Stetson Legislature codified in § 776.041(2)(a) that the justification and thus the immunity from criminal prosecution is *not* available to a person who (2) initially provokes the use or threatened use of force against himself or herself, unless (a) such force or threat of force 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 the use of deadly force. (emphasis added) This means that a person may not stand their ground if that person is engaged in a criminal activity or is the aggressor because the statute imposes a duty to retreat before allowing the use of deadly force in those situations. *See* Stet. Gen. Stat. §§ 776.032, 776.041(2)(a).

After a defendant files a motion to dismiss based upon the Stand Your Ground Law presenting a prima facie claim of self-defense immunity from criminal prosecution, the State must prove, by clear and convincing evidence, the defendant is not entitled to immunity from criminal prosecution. In this case, there are two pivotal questions of fact for the court to consider. First, whether Defendant engaged in an unlawful act by carrying a concealed weapon, and second, whether Defendant was the initial aggressor who provoked the confrontation.

1. **Jay Cameron was engaged in an unlawful act because he was carrying a concealed weapon.**

Stetson General Statutes Section 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, which is Stetson’s Stand Your Ground law. Stet. Gen. Stat. § 776.032. Section 776.012 provides justification for 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. Cameron is charged with carrying a concealed weapon in violation of Stetson General Statutes § 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. *Id*. There is no dispute as to the first element as Cameron admits he possessed a firearm on his person. (Jay Cameron Int. 21.) Additionally, Cameron did so in a manner designed to conceal, and his specific method of carrying did in fact conceal the firearm from the ordinary sight and knowledge of other people. This means that Cameron was involved in unlawful activity by carrying an unlicensed concealed firearm.

* 1. **Cameron was carrying his firearm in a way intended to conceal its existence from the ordinary sight and knowledge of others.**

Section 790.01(2) of the Stetson Penal Code provides that a person commits a felony of the third degree if they are not licensed to carry a concealed firearm and nevertheless proceed to carry a concealed firearm on or about their person. Stet. Gen. Stat. § 790.01(2). Further, a “concealed firearm” is defined as any firearm 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. *Id*. In the present case, it is not disputed that Jay Cameron was not licensed to carry a concealed firearm. Further, it is not disputed that Cameron was carrying the firearm on or about his person. Therefore, the central issue is whether the firearm falls under the definition of a “concealed firearm” as provided by the Stetson Penal Code.

By including the word “design” in the Penal Code, the Stetson Legislature clearly meant to include an element of intent for a violation of Section 790.01. Generally, courts use the ordinary meaning of words when interpreting statutory texts. *Gonzalez v. Carhart*, 550 U.S. 124, 152 (2007). Since the statutory language is plain and unambiguous, this Court should use the ordinary meaning of the word ‘design’ when interpreting this statute. According to the common definition most in line with the use of the word in the Penal Code, ‘design’ means “to have a purpose or to intend.” *Design*, Merriam-Webster Eleventh Edition 2003. This plain definition shows that the Stetson Legislature meant that, for one to be guilty of unlawfully concealing a handgun, they had to intend to conceal the handgun from one’s ordinary sight or knowledge. In this situation, Cameron did just that.

As Cameron approached Wilson, he had his handgun stored entirely within the spacious front pocket of his hoodie. (Def Int. 20.) The only alleged indication he gave to Wilson that he possessed a handgun came when he pointed to his hoodie pocket “in the shape of a gun” and said the words “pop pop.” (Def Int. 20.) Apart from this vague and confusing “warning,” Cameron gave no other indication that he was armed. (Def Int. 20.) Jay Cameron’s own brother, Greg Cameron, also indicated that Wilson could not see Cameron’s firearm. (Greg Int. 33–34.) One witness at the scene, Kenneth Gray, testified that Cameron looked like he was holding something that was “probably a weapon” as he approached Wilson. (Gray Int. 47.) Finally, Wilson opined that it simply looked as though Cameron was holding an unspecified object in his right hand as he approached. (Wilson Int. 58.)

Much time could be spent debating whether Wilson had actual knowledge that Cameron was in possession of a firearm. However, the truth there is of no consequence to whether Cameron possessed a concealed firearm. The Stetson Penal Code requires simply that a person *intends* to conceal a firearm from an ordinary person’s sight or knowledge, regardless of whether they actually *succeed* in concealing the firearm. Stet. Gen. Stat. § 790.01(2). Here, the evidence simply shows that Cameron made a pointing gesture towards his hoodie pocket and said “pop pop” as he approached Wilson. (Def Int. 20.) This is a vague gesture that likely would not plainly indicate that the person making the gesture was carrying a concealed firearm. However, this point also carries little weight. Even assuming, *arguendo*, that Cameron’s gesture made it clear that he was carrying a concealed firearm, he only revealed that he was carrying a firearm in the fleeting moment before he opened fire on Wilson. (Def Int. 21-23.) For the entire time Cameron crossed the parking lot until he approached the breezeway, he kept his firearm hidden in his hoodie packet and made no effort to make others aware of the firearm’s presence. (Def Int. 21.) This explicitly shows that Cameron intended to carry his firearm in a manner that concealed its existence from ordinary sight and knowledge *at least* until he approached Wilson in the breezeway. By the Stetson Penal Code definition, Cameron was engaged in the criminal activity of carrying a concealed firearm on the day he shot Ryan Wilson.

1. **Defendant is not immune from prosecution because he was the aggressor and did not attempt to retreat before using deadly force.**

Stetson’s Stand Your Ground law does not protect initial aggressors unless they retreat before using deadly force. Stet. Gen. Stat. § 776.041 imposes a duty to retreat to an initial aggressor who “provokes the use or threatened use of force against himself or herself” because even if “the person reasonably believes that he or she is in imminent danger of death or great bodily harm,” the person must “exhaust every reasonable means to escape such danger.”

Courts consistently hold that initial aggressors must retreat before using force. The Florida Supreme Court in *State v. Floyd* emphasized that the Stand Your Ground law is “consistent with an exception for initial aggressors because, among other conditions, a person may not invoke the right to stand his or her ground unless he or she is ‘attacked.’” 186 So. 3d 1013, 1020 (Fla. 2016). The court in *Wyche* further elaborated on this point, stating that if a person “initially provoked the use of force against himself, that person has the duty to retreat . . . before he may rely on the defenses contained in Chapter 776.” *Wyche v. State*, 170 So. 3d 898, 906 (Fla. App. 2015).

Defendant did not have the right to “Stand His Ground” because he provoked the attack. Like in Florida, Stetson recognizes that a person may not invoke the right to stand his or her ground unless attacked. Thus, if the defendant initially provokes the use of force against him (i.e., he was the initial aggressor), the defendant does not have the right to “Stand His Ground.” *See id*.

* 1. **Defendant was the initial aggressor because he provoked the confrontation.**

Defendant’s actions demonstrate preparation for a confrontation. Defendant knew Mr. Wilson was staying in the Motel near him and claimed knowledge that Mr. Wilson was potentially armed and dangerous. (Def Int. 20.) Defendant called his brother for “strength in numbers” and prepared for a confrontation by arming himself with a 0.40 caliber handgun. (Def Int. 19, 21.) Defendant then walked by Mr. Wilson not once but twice, placing himself voluntarily near “known danger.” (Def Int. 20, 22.)

Defendant’s verbal taunts and threatening gestures provoked the confrontation. While Mr. Wilson minds his own business, Defendant initiates a confrontation by verbally threatening Mr. Wilson while walking past. (Wilson Int. 57; Gray’s Int. 45-6.) Then, less than an hour later, while Mr. Wilson again simply stands outside his door minding his own business, Defendant admits to making a gun shape with his left hand and saying “pop-pop” to Mr. Wilson while walking within feet of him. (Def Int. 21.) These actions provoked the confrontation.

Instead of self-defense, Defendant prepared an offensive ambush. Just after essentially threatening to shoot Mr. Wilson by making a gun gesture and saying “pop-pop,” Defendant disappeared from Mr. Wilson’s view. (Def Int. 21; Ex. 8.) Out of sight of Mr. Wilson, Defendant repositioned himself and again prepared rather than retreated. (*See* Ex. 8.) Defendant pulled out the 0.40 caliber handgun he carried all morning and aimed the gun at the corner, waiting for Mr. Wilson to appear. (*See* Ex. 8.) Now on offense, Defendant stalked forward on the attack. (*See* Ex. 8.) Even if Mr. Wilson had not appeared at that corner, Defendant would have rounded the corner himself within two seconds. (*See* Ex. 8.) This sequence of events shows that Defendant did not react to an imminent threat but instead acted affirmatively on offense, as the aggressor.

In contrast to Defendant’s actions, Mr. Wilson looked with his eyes, not his gun. Mr. Wilson searched for information while Defendant hunted. Mr. Wilson walked cautiously to the corner of the breezeway where Defendant just disappeared. (*See* Ex. 8.) Video evidence shows Mr. Wilson’s head and left shoulder round the corner first, not his gun. (Ex. 8.) Only after Mr. Wilson sees a gun pointing at his face does he raise his own weapon in defense. (Ex. 8.) Regardless of who said what or who fired first, the video evidence shows Defendant pointed a gun first and advanced toward potential danger as the aggressor. (Ex. 8.)

Defendant did not have the right to stand his ground because the evidence overwhelmingly demonstrates that Defendant was the initial aggressor in this confrontation. Defendant’s verbal threats, provocative gestures, and subsequent actions in arming himself and lying in wait for Mr. Wilson all point to provoking an attack rather than simply a defensive response to being attacked. As stated in *Bouie v. State*, “A person does not get to claim that he was acting in self-defense if he is defending himself from the violence that he provoked in the first instance.” 292 So. 3d 471, 477 (Fla. App. 2020). Defendant’s actions fall squarely within this principle. Therefore, Defendant cannot claim self-defense or seek immunity under the Stand Your Ground law because he provoked and escalated the situation as the aggressor.

* 1. **Defendant did not exhaust every reasonable means to escape before using deadly force.**

Stetson law requires an initial aggressor to “exhaust every reasonable means to escape such danger” before using deadly force. Stet. Gen. Stat. § 776.041(2)(a). The *Jenkins* court explains that a person under attack must “retreat to the wall” before taking a life. *Jenkins v. State*, 942 So. 2d 910, 914 (Fla. App. 2006). This duty requires using “all reasonable means in his power, consistent with his own safety, to avoid the danger and to avert the necessity of taking human life.” *Id*. Defendant failed to meet this standard.

Self-defense cases that qualify for “Stand Your Ground” immunity share common elements. These cases typically involve “clear aggression by the victim, evidence that the defendant could not retreat, and evidence that the defendant took some effort to ward off the attack or end it without violence.” *Id*. at 916. In *Thompson v. State*, the defendant backed up and brandished a gun at the aggressor, who continued to approach until the defendant shot him. 552 So. 2d 264 (Fla. 2d DCA 1989). In *Hernandez Ramos v. State*, the defendant shot his knife-wielding attacker after being trapped in a bar by the attacker’s friends with nowhere to run. 496 So. 2d 837 (Fla. 2d DCA 1986). These cases demonstrate efforts to retreat or de-escalate before resorting to deadly force. Defendant’s case lacks these crucial elements.

Defendant had multiple options available for retreat or de-escalation. Unlike in *Hernandez Ramos,* where the defendant had no escape options, Defendant walked safely past Mr. Wilson into the breezeway. (Ex. 8.) The breezeway allowed multiple options for retreat, including running straight through the other side to the safety of his room or simply moving behind the concrete stairs. (*See* Ex. 8.) Pursuing either of these reasonable options would satisfy Stetson law and provide Defendant the right to stand his ground. Yet, instead of continuing away from potential danger in retreat or seeking safety, Defendant deliberately positioned himself out of sight of Mr. Wilson, with his gun drawn, and advanced back towards Mr. Wilson. (*See* Ex. 8.) Defendant chose to ambush Mr. Wilson with deadly force rather than attempt to exhaust every reasonable means of escape.

 While the law recognizes situations where a person may use deadly force in self-defense even if they initially provoked the use of force, the law requires that person to exhaust every reasonable means of escape first. *See* Stet. Gen. Stat. § 776.041(2)(a). The evidence in this case shows that Defendant had opportunities to retreat or de-escalate the situation but instead chose to prepare and position himself for a confrontation. This failure to exhaust reasonable means of escape leads to only one conclusion under Stetson Law: that Defendant does not qualify for immunity.

**Conclusion**

For the foregoing reasons, the State respectfully requests that this Court deny Jay Cameron’s Motion to Dismiss.

Respectfully Submitted,

/s/ Team 110

Attorneys for the State