Team No. 111

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.*

**STATE’S MEMORANDUM OF LAW IN OPPOSITION TO**

**DEFENDANT’S MOTION TO DISMISS**

 /s/ 111

*Attorneys for the State of Stetson*

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# INTRODUCTION

 The State respectfully requests that this Court deny Defendant Jay Cameron’s Motion to Dismiss. The general rule under Stetson’s Stand Your Ground statute provides that a person using or threatening to use deadly force does not have a duty to retreat if he or she “is not engaged in criminal activity, is in a place where he or she has a right to be, and is not the aggressor.” Stetson Gen. Stat. § 776.012. Here, the defendant cannot be entitled to Stand Your Ground immunity because he was engaged in criminal activity at the time of the shooting and was the initial aggressor.

 First, the defendant was engaged in criminal activity at the time of the shooting because he was illegally carrying a concealed firearm without a license in violation of Section 790.012(2) of the Stetson General Statutes. By engaging in criminal activity at the time of the shooting, the defendant had a duty to retreat and did not despite several opportunities to do so.

 Second, the defendant was the initial aggressor in the altercation because he was the first to use forceful action. The defendant also had no reasonable belief in imminent danger, as his fear was based on Mr. Wilson’s alleged reputation and not on actual provocation. Furthermore, the defendant did not exhaust all of his many reasonable means to escape.

# STATEMENT OF FACTS

 **The witnesses.** On August 6, 2022, Officer Hernandez and the Petersburg Police Department responded to a call of shots fired at the Boals Motel. (*See* Officer Hernandez Narrative Incident Rep. 5.) Officers found an unresponsive male – later identified as Ryan Wilson – at the scene. (*See* Officer Hernandez Narrative Incident Rep. 5.) Officers also identified a witness, Kenny Gray, who provided testimony. (Officer Hernandez Narrative Incident Rep. 6.) The manager of the motel offered statements relevant to the shooting, which led to the officers obtaining a search and seizure warrant to search rooms 1045 and 1077 at the motel. (*See* Officer Hernandez Supplemental Incident Rep. 8; Ex. 1; Ex. 2.) In room 1077, the defendant’s room on the date in question, officers found two firearms and a bloodstain on the carpet. (*See* Ex. 3; 5-6.) Later, officers located the defendant at a hospital in the neighboring county – thirty-five minutes away. (*See* Officer Hernandez Supplemental Incident Rep. 17.)

**The moments before.** The defendant testified that he knew Mr. Wilson by reputation only and thought that Mr. Wilson was dangerous. (*See* Jay Cameron Test. 19:27-28.) Mr. Wilson similarly testified that his familiarity with the defendant was simply from seeing him around. (*See* Wilson Test. 56:61-57:63.) On the morning at issue, the two exchanged tense words. (*See, e.g.*, Jay Cameron Test. 20:57 (“[H]e said, ‘You’re a dead man walking.’”); Jay Cameron Test. 20:54-55 (“Keep your distance, or else.”); Wilson Test. 57:72-74 (“So, I stood up and said something like, ‘You must be sick in the head because I know you’re not threatening me like that!’”); Wilson Test. 57:70 (“Kid walked by me and said, ‘This will be my turf soon.’”).) Little is agreed-upon except for the fact that the defendant said “pop-pop” on his way back from breakfast with his brother. (Jay Cameron Test. 21:74-75; Greg Cameron Test. 34:136; Gray Test. 47:70.)

**The attempted murder.** On his return from breakfast, the defendant wore a red hoodie with the hood pulled over his head. (*See* Ex. 8.) He had a firearm concealed in the hoodie’s front pocket. (*See* Jay Cameron Test. 21:70.) Mr. Wilson stood outside his room. (*See* Ex. 8.)Mr. Wilson testified that he had only a cell phone in *his* pocket. (Wilson Test. 57:84-85.) As the defendant walked swiftly from the parking lot toward Mr. Wilson, he said the words “pop-pop” before turning into the breezeway. (*See* Jay Cameron Test. 21:74-75; Greg Cameron Test. 34:136; Gray Test. 47:69-70.) He also made a quick threatening motion with his thumb across his neck at Mr. Wilson. (Wilson Test. 60:135-37.) Once in the breezeway, the defendant rapidly turned around and raised his gun. (Ex. 8.) Mr. Wilson, in the meantime, armed himself with a weapon and walked toward the corner of the breezeway. (Wilson Test. 60:143-44.) The instant that Mr. Wilson turned the corner, he was met with the defendant’s gunfire. (Ex. 8.) The defendant fired first, and Mr. Wilson returned fire. (Ex. 8.) Mr. Wilson was struck in his side and back as he attempted to retreat to safety. (Jay Cameron Test. 23:120-24; Greg Cameron Test. 36:194-97.) The defendant was hit in the stomach. (Jay Cameron Test. 23:118-19; Officer Hernandez Supplemental Incident Rep. 17.)

**The charges.** The defendant was charged with Attempted Murder in the Second Degree and Carrying a Concealed Weapon Without a License. (Long Form Information 67.) He was taken into custody after an officer at a routine motor vehicle stop discovered the active warrant for his arrest. (Officer Hernandez Supplemental Incident Rep. 69.) The defendant now moves to dismiss the charges against him on the ground that he is immune from prosecution under Stetson’s Stand Your Ground statute.

# ARGUMENT

 The Second Amendment embodies an individual right to self-defense subject to limitations enacted by state and federal legislatures. *D.C. v. Heller*, 554 U.S. 570, 622-27 (2008); *see also McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010). States like Stetson are empowered to enact certain requirements to regulate this right to self-defense. Justification for the use of deadly force is subject to three threshold requirements under Stetson law: that the person using force (1) is not engaged in criminal activity; (2) is in a place where he/she has a right to be; and (3) is not the aggressor. *See* Stetson Gen. Stat. § 776.012. Failure to satisfy all three of these requirements defeats a defendant’s justification for the use of deadly force under Stetson’s Stand Your Ground statute.

When the defendant has established a prima facie case for Stand Your Ground immunity, as is the case here, the State has the burden of proving by clear and convincing evidence that the defendant is not entitled to immunity. (*See* Arraignment Tr. 75.)Thus, the ultimate factfinder must be convinced that it is highly probable that the defendant is not entitled to Stand Your Ground immunity. *See Colorado v. New Mexico*, 467 U.S. 310, 316 (1984) (explaining the clear and convincing evidence standard). The defendant is not entitled to assert Stand Your Ground immunity because (1) he was engaged in criminal activity at the time of shooting and (2) he was the aggressor that caused the shooting.

## THE DEFENDANT WAS ENGAGED IN CRIMINAL ACTIVITY AND HAD A DUTY TO RETREAT.

A defendant has a duty to retreat and may not claim Stand Your Ground immunity under Section 776.012 of the Stetson General Statues if he was engaged in criminal activity at the time of the shooting. *See* Stetson Gen. Stat. § 776.012. The way the defendant carried the firearm in the front pocket of his hoodie concealed its existence from the ordinary sight or knowledge of others. By illegally carrying a concealed firearm, the defendant was engaged in criminal activity and therefore had a duty to retreat under Stetson law. Each circumstance and event leading up to the defendant firing the initial gunshot showed the defendant was able to retreat. However, he did not.

### **The defendant was illegally carrying a concealed weapon without a license as a matter of law.**

Determining the issue of concealment “is ordinarily an issue for the trier of fact” but courts may conduct a judicial inquiry into whether a defendant concealed a weapon. *Dorelus v. State*, 747 So. 2d 368, 371 (Fla. 1999). This Court should determine that the defendant was illegally carrying a concealed firearm and is not entitled to Stand Your Ground immunity as a matter of law.

Section 790.02(2) defines “concealed firearm” 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 and knowledge of another person.” Stetson Gen. Stat. § 790.01. Thus, in assessing whether an individual is concealing the existence of a firearm from the ordinary sight or knowledge of others, this Court must determine whether the firearm would be visible by the “casual and ordinary observation of another in the normal associations of life.” *Ensor v. State*, 403 So. 2d 349, 354 (Fla. 1981). “[A]bsolute invisibility is not a necessary element to a finding of concealment.” *Id.* The Supreme Court of Florida in *Dorelus* used the following factors when determining whether a firearm was concealed: (1) “the location of the weapon . . .[;]” (2) “whether, and to what extent, the weapon was covered by another object[;]” and (3) “testimony that the defendant utilized his body in such a way as to conceal a weapon that would have otherwise been detectable by ordinary observation.” *Dorelus*, 747 So. 2d at 371. Applying these factors here shows that the defendant concealed his firearm in the front pocket of his hoodie.

The defendant’s firearm was indistinguishable from a cell phone by the ordinary observer. This is shown through the testimony of an eyewitness, who was within the “casual and ordinary” observation of the defendant at the time of the shooting. (Ex. 8A.) Kenny Gray, when questioned, was unable to confirm whether the defendant had a firearm, cellphone, or some other “black object” in his possession. (Gray Test. 46:54-59.) Moreover, even if Mr. Gray presumed it was a gun, the firearm was still concealed as a matter of law based on the “manner in which the weapon [was] carried on or about the [defendant].” *Dorelus*, 747 So. 2d at 372; *see also Ensor*, 403 So. 2d at 354-55. The defendant was seen stuffing something into his right pocket and then holding his right hand on the front pocket of his hoodie. (Gray Test. 46:54-67; Wilson Test. 58:104-10.) This testimony suggests that the defendant’s firearm was not distinguishable from other similar-looking objects in the ordinary observation of Mr. Gray. Because the defendant was carrying his firearm in a manner that concealed it from the observation of others, this Court should find that the defendant was illegally carrying a concealed firearm as a matter of law.

Therefore, the defendant was engaged in criminal activity in violation of Section 790.01(2) and had a duty to retreat, because he was carrying his firearm concealed without a license.

### **The defendant is not entitled to Stand Your Ground immunity under the plain language of Section 776.012.**

 Section 776.012 provides that an individual using or threatening to use deadly force “does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity. . .” Stetson Gen. Stat. § 776.012. By carrying a concealed weapon in violation of Section 790.01(2), the defendant was clearly engaged in criminal activity. The plain language of Section 776.012 imposes a duty to retreat upon the defendant, and a court interpreting this law should employ the “cardinal cannon” of statutory interpretation “before all others.” *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 253 (1992). The Court “must presume that the legislature says in a statute what it means and means in a statute what it says there.” *Id.* at 253-54. The language of Section 776.012 of the Stetson General Statutes is clear. The defendant cannot be entitled to Stand Your Ground immunity because the duty to retreat is paramount to the plain and unambiguous text of Section 776.012 when that defendant is engaged in criminal activity.

Here, the defendant did not retreat, and the duty to retreat is crucial to immunity under Stetson’s Stand Your Ground law when the individual is engaged in criminal activity at the time of the shooting. Instead of retreating down the breezeway when the defendant returned to the motel, he instantly turned around to draw his firearm and shoot at Mr. Wilson. (Jay Cameron Test. 23:110-13; Exhibit 8.) The defendant alleges that he felt threatened despite being unable to confirm whether Mr. Wilson possessed a firearm. (Jay Cameron Test. 22:89-98.) The evidence demonstrates that the defendant initiated the encounter by turning around and aiming his gun at Mr. Wilson, all after illegally concealing the firearm. Therefore, because the defendant clearly failed to retreat while he was engaged in criminal activity, this Court should deny his motion to dismiss.

### **A reasonable person would have retreated instead of using deadly force.**

 Even if the Court does not apply the plain language of Section 776.012, the defendant is still not entitled to immunity because he did not act as a reasonable person would have under the circumstances. A Florida appellate court in *Jimenez v. State* held that an individual engaged in unlawful activity may still exercise deadly force if he is “unable to retreat or otherwise terminate the encounter.” *Jimenez v. State*, 353 So. 3d 1286, 1288 (Fla. Dist. Ct. App. 2023). The Supreme Court, in a seminal opinion that established the bulwark for many states’ Stand Your Ground laws, explained that “the failure to retreat is a circumstance to be considered with all others in order to determine whether the defendant went farther than he was justified . . .” *Brown v. U.S.*, 256 U.S. 335, 343 (1921) (J. Holmes). The record demonstrates that the defendant had several opportunities to retreat or terminate the encounter with Wilson, but he consciously chose not to. *See State v. Kirkland*, 276 So. 3d 994, 996 (Fla. Dist. Ct. App. 2019) (holding that Stand Your Ground immunity “is unavailable if [the defendant] was involved in criminal activity just prior to the shooting.”) The defendant knew Mr. Wilson’s location and turned toward him, raising a gun at him instead of continuing down the breezeway. (*See* Jay Cameron Test. 21:84-92; Ex. 8.) This is not retreating.

 The self-defense inquiry “concerns a reasonably prudent person's state of mind” and what they would do under like circumstances. *Reimel v. State*, 532 So.2d 16, 18 (Fla. Dist. Ct. App. 1988). The law does not ascribe a subjective standard as to the defendant’s state of mind, but instead requires “that the situation would induce a reasonably prudent person to believe both that danger was imminent and that there was a real necessity for the taking of a life.” *Pressley v. State*, 395 So. 2d 1175, 1177 (Fla. Dist. Ct. App. 1981). The defendant’s subjective knowledge of Mr. Wilson is irrelevant because any reasonably prudent person possessing this knowledge would have avoided an encounter with Mr. Wilson entirely. Instead, the defendant chose to walk past Mr. Wilson rather than pursuing an alternative route to his motel room. (Jay Cameron Test. 20:62-65.) Even if this Court were to consider the defendant’s subjective knowledge, the testimony of the witnesses and the video footage demonstrate that the defendant targeted Mr. Wilson.

 A reasonable person would not have walked down the breezeway only to turn completely around and wait with their weapon raised. Instead, they would have continued down the breezeway for cover first, or simply avoided Mr. Wilson altogether. Furthermore, the fact that the defendant fired a final shot into Mr. Wilson’s back demonstrates that he continued to engage with deadly force despite there being no threat. (*See* Jay Cameron Test. 23:120-24.) This final shot fired by the defendant provides further support that he had no intention of ever retreating, but rathertargeted Mr. Wilson on his walk back to the motel.

\* \* \*

## THE DEFENDANT WAS THE INITIAL AGGRESSOR AND DID NOT EXHAUST EVERY REASONABLE MEANS TO ESCAPE.

 The general rule under Stetson’s Stand Your Ground statute provides that the defendant does not have a duty to retreat and is justified in his use of deadly force if he reasonably believed that such force was necessary to prevent imminent death or great bodily harm. *See* Stetson Gen. Stat. § 776.012. However, if the defendant was the initial aggressor in the altercation, the defendant is no longer justified in his use of deadly force with the exception of two narrow circumstances: (1) if the defendant reasonably feared imminent death or harm *and* exhausted all reasonable means to escape; or (2) if the defendant withdrew or indicated that he wished to withdraw from contact and the assailant continued the use or threat of deadly force. *See* Stetson Gen. Stat. §§ 776.041(2)(a)-(b). Because the defendant was the initial aggressor, he was not justified in his use of deadly force unless one of the aforementioned exceptions applies. The second exception is inapplicable to the present case, but the facts also show that the defendant did not satisfy the requirements of the first exception in order to claim justification for the use of deadly force.

### **The defendant was the aggressor because he initially provoked the use of force against himself.**

 The initial aggressor doctrine denies a defendant the benefits afforded by Stand Your Ground immunity when that defendant was the provocateur in the situation. *See State v. Corbett*, 269 N.C. App. 509, 566 (2020). Courts consider several factors when determining if the defendant was the initial aggressor, including “the circumstances that precipitated the altercation; the presence or use of weapons; the degree and proportionality of the parties’ use of defensive force; the nature and severity of the parties’ injuries; [and] whether there is evidence that one party attempted to abandon the fight.” *Id.* Additionally, numerous courts have held that mere words or verbal assaults do not justify the use of deadly force.[[1]](#footnote-2) Thus, in considering who the initial aggressor was on the date at issue, the Court must consider all the facts and circumstances – giving particular consideration to non-verbal threats or provocation.

 In the case of *Diggs v. State*, the Alabama Criminal Appeals Court reversed the lower court’s decision, in part, because of a determination as to who the initial aggressor was. *See Diggs v. State*, 168 So. 3d 156, 163 (Ala. Crim App. 2014). During agitated discussions, one man (ultimately determined to be the aggressor) suddenly pulled out his gun and fired the first shot. *See id.* at 162. The non-aggressor returned fire and attempted to flee. *See id.* The court noted the difference between a mere controversy and aggression: the former is an expression of opposing views, and the latter is a forceful action or attack. *See id.* Thus, an aggressor is not made with words but with forceful action.

 Here, video evidence shows that the defendant was the aggressor. The recollection of events leading up to the shooting differs between the four eyewitnesses as to the words that were exchanged between the defendant and the victim. (*See, e.g.*, Jay Cameron Test. 20:57 (“[H]e said, ‘You’re a dead man walking.’”); *but see* Wilson Test. 57:72-74 (“So, I stood up and said something like, ‘You must be sick in the head because I know you’re not threatening me like that!’”).) However, surveillance footage clearly shows the defendant turning around to face his victim with a gun raised. (*See* Ex. 8.) Indeed, the video shows the defendant turned toward the direction from which he came, with his gun raised, at least a full second before Mr. Wilson ever turned the corner. (*See* Ex. 8, at 00:09.) Then, the video shows the defendant firing his weapon before Mr. Wilson fully turns the corner. (*See* Ex. 8.)Like the circumstances of *Diggs*, the circumstances here involved tense discussions. While there may not be complete consensus among the witnesses about what those discussions were, such consensus is unnecessary when determining who the initial aggressor was. An aggressor is not made with words, but with forceful action. *See Diggs*, 168 So. 3d at 162 (explaining that aggression involves forceful action or attack). So, the defendant’s forceful attack, where he first raised his weapon and first fired his gun, constitutes aggression.

 Additionally, the circumstances leading up to the shooting constitute aggression by the defendant, not Mr. Wilson. The defendant is seen walking quickly past Mr. Wilson with his hood drawn. (*See* Ex. 8.) The defendant made a threatening gesture, sliding his thumb across his throat, which Mr. Wilson understood to mean that the defendant was threatening to kill him. (Wilson Test. 60:135-39.) Mr. Wilson stood in one location while the defendant walked past, until the defendant had walked around the corner. (*See* Ex. 8.) Only after the defendant disappeared around the corner did Mr. Wilson follow – fearful of having the defendant out of his sight. (*See* Ex. 8; Wilson Test. 60:146-48.) While Mr. Wilson admitted to arming himself before following, he stated it was for self-defense. (*See* Wilson Test. 60:143-48.) Still, “the *mere* fact that a[n individual] was armed is not evidence that he was the aggressor if he made no unlawful use of his weapon.” *Corbett*, 269 N.C. at 569 (emphasis added); *see also State v.* Tann, 57 N.C. App. 527, 531 (1982) (rejecting the argument that arming oneself in anticipation of a fight made that individual responsible for causing the altercation). As shown in the video, Mr. Wilson only fired his weapon after the defendant shot him. (*See* Ex. 8.) The mere fact that Mr. Wilson was carrying a weapon at the time does not make him the aggressor. Rather, the defendant – hooded and walking fast – became the aggressor by turning and waiting with his weapon raised to shoot his victim.

### **The defendant did not have a reasonable belief that he was in immediate danger.**

 The defendant’s fear was unreasonable because he was not in imminent danger and he was not provoked. “[T]o justify the use of deadly force, the appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force.” *Garrett v. State*, 148 So. 3d 466, 468 (Fla. Dist. Ct. App. 2014). To make that determination, the trial court must consider whether the threat was *imminent*, in which case retreat would be futile. *Id.* at 473.

 The court in *State v. Knipp* clarified the types of altercations that may and may not lead to a reasonable belief of immediate danger. *See State v. Knipp*, 2024-Ohio-2143, ¶ 26 (Ct. App.). The court wrote that neither words nor fear alone, nor simple pushing or punching, constitute provocation enough to incite belief of imminent danger. *See id.* (“Although stated in terms of provocation, we find the same analysis would apply to whether a defendant . . . possessed the necessary . . . beliefs he was in imminent or immediate danger.”). The defendant in *Knipp* testified at trial that the only threats he received were verbal. *See id.* at ¶ 28. Additionally, the defendant testified that the victim did not charge him and was not within arm’s reach. *See id.* Thus, the evidence did not support the conclusion that the defendant reasonably believed he was in immediate danger. *See id.* at ¶ 26. Where sufficient provocation lacks, a defendant cannot reasonably believe he is in immediate danger.

 As was the case in *Knipp*, the defendant did not have a reasonable belief that he was in imminent danger. Applying that court’s reasoning, words and pushing constitute neither aggression *nor* the basis for belief of imminent danger. *See id.* Rather, only sufficient provocation may lead to a reasonable belief of imminent danger. *See id.* The defendant admitted that he could not specifically see what Mr. Wilson was carrying in the moments before the shooting. (*See* Jay Cameron Test. 22:89-90.) Mr. Wilson later identified the object as a cell phone. (*See* Wilson Test. 57:84-85.) Mr. Wilson never raised a weapon at the defendant until he had already been shot. (*See* Ex. 8.) The defendant’s belief that Mr. Wilson had a violent reputation and would kill him because of it was also unreasonable. “To say that a person is the aggressor on a specific occasion is not to say that he has a violent character: a generally peaceful person may experience a moment of violence, and a normally aggressive or violent person might refrain from violence on a specific occasion.” *Corbett*, 269 N.C. App. at 579. Indeed, the reasonable belief inquiry centers around whether the danger was *imminent*. *See Garrett*, 148 So. 3d at 473. The defendant was not in imminent danger. Mr. Wilson did not attack or provoke the defendant, and therefore any belief the defendant had that he was in danger was objectively unreasonable.

### **Even if the defendant believed that he was in imminent danger, he did not exhaust every reasonable means to escape.**

 The defendant is not justified in his use of force because he chose to turn around and use deadly force rather than exhaust his reasonable means to escape. For an aggressor to claim justification for the use of deadly force under the first exception of Section 776.041(2), the defendant must have first exhausted every reasonable means to escape. *See* Stetson Gen. Stat. § 776.041(2)(a). A defendant “must use all reasonable means in his power, consistent with his own safety, before his use of deadly force will be justified.” *Jiminez*, 353 So. 3d at 1288.

 The Supreme Court of Kansas affirmed the denial of a defendant’s motion to dismiss in a Stand Your Ground case under similar facts. *See State v. Collins*, 311 Kan. 418, 434 (2020). There, the court determined that the defendant did not exhaust every reasonable means to escape after provoking an altercation. *See id.* at 431. While the defendant was initially beaten and injured, the facts established at trial demonstrated that the defendant became the aggressor when he halted retreat and turned around to use force. *See id.* at 430. While climbing the stairs to his apartment, followed by the individuals who beat him in the earlier altercation, the defendant stopped and turned around to display a knife. *See id.* The court concluded that the defendant did not exhaust every reasonable means to escape, because he could have continued up the stairs to his apartment instead of turning around. *See id.* at 431. Thus, where a defendant is the aggressor and has a reasonable means of escape, his use of force is not justified.

 Here, the defendant had various means of escape available to him and he did not use them. First, the video surveillance shows the most obvious means of escape available to the defendant: to keep walking in the direction he was going. (*See* Ex. 8.) The defendant was walking away from Mr. Wilson down a breezeway, but stopped and turned back in the direction of Mr. Wilson. (*See* Ex. 8, at 00:09.) Then, the defendant took an additional step toward Mr. Wilson’s direction. (*See* Ex. 8, at 00:09.) Like the defendant in *Collins*, the defendant here had a choice: keep walking away or turn around to use force. The defendant also decided not to escape to his own room. He occupied room 1077 at the Boals Motel on the date in question. (Ex. 4; *see also* Greg Cameron Test. 38:243-44.) That room was located on the first floor, where the defendant would have had easy access to it. (*See* Ex. 4.) Indeed, the defendant chose to escape to that very location for safety immediately *after* exerting deadly force on his victim. (*See* Greg Cameron Test. 38:235-40; *see also* Jay Cameron Test. 23:130-35.) The defendant had yet another option: avoid walking directly past Mr. Wilson. The surveillance footage clearly shows the defendant walking through a wide-open parking lot before shots rang out. (*See* Ex. 8, at 00:01.) Not only does the defendant’s choice to approach the victim demonstrate his aggressive behavior, but it also shows his choice to engage with the victim. The defendant, if truly afraid for his life, could have avoided putting himself in danger by walking in a route that avoided Mr. Wilson’s path altogether. Because the defendant was the aggressor, the law dictates that the defendant’s choice – over all others – to walk directly past Mr. Wilson, turn around, and use deadly force strips him of any justification for his actions. *See* Stetson Gen. Stat. § 776.041(2)(a).

# CONCLUSION

 For the foregoing reasons, the State respectfully requests that this Court deny Defendant’s Motion to Dismiss on the basis of Stand Your Ground immunity. The defendant was engaged in criminal activity at the time of the shooting and was the initial aggressor. Therefore, he may not claim Stand Your Ground immunity.

Respectfully submitted,

 /s/ Team 111

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1. *See, e.g.*, *McDonald v. State*, 1988 OK CR 245, ¶ 12 (Okla. Crim. App.) (“[W]ords alone do not transform the speaker into an aggressor.”); *State v. Bogie*, 125 Vt. 414, 417 (1966) (“[P]rovocation by mere words will not justify a physical attack.”); *Caudill v. Commonwealth*, 27 Va. App. 81, 85 (1998) (“[W]ords alone, however insulting or contemptuous, are *never* a sufficient provocation for one to seriously injure or kill another.”) [↑](#footnote-ref-2)