**IN THE SUPERIOR COURT OF THE STATE OF STETSON**

**PINELLA COUNTY JUDICIAL DISTRICT**

STATE OF STETSON, )

 )

 Non-Movant-Prosecution ) CASE NO. 2024-CR-319

v. )

 )

JAY CAMERON, )

 )

 Movant-Defense ) September 1, 2024

 )

**MEMORANDUM OF DEFENSE IN SUPPORT OF ITS MOTION TO DISMISS**

Pursuant to Stetson R. Crim. P. 3.190, the Defense, representing Jay Cameron, submits this motion to dismiss and, in support of it, states: Stetson’s Stand Your Ground Law renders Jay Cameron immune from criminal prosecution. Stetson Gen. Stat. §§ 776.012, 776.013.

**Table of Contents**

[Table of Contents ii](#_Toc176084503)

[Table of Authorities iii](#_Toc176084504)

[Introduction 1](#_Toc176084505)

[Statement of Facts 2](#_Toc176084506)

[Argument 3](#_Toc176084507)

[I. Mr. Cameron was not Engaged in Criminal Activity on August 6, 2022 4](#_Toc176084508)

[A. Mr. Cameron did not intend to conceal his firearm from the ordinary sight or knowledge of another person 5](#_Toc176084509)

[1. The manner in which Mr. Cameron carried his firearm showed he had no intent to conceal it 5](#_Toc176084510)

[2. Mr. Cameron’s firearm was not outside of the ordinary knowledge of another person 7](#_Toc176084511)

[II. Mr. Cameron Was Not the Initial Aggressor 8](#_Toc176084512)

[III. Mr. Cameron Would Still Qualify for Immunity Regardless of if he Was an Initial Aggressor 10](#_Toc176084513)

[A. Mr. Cameron had an objectively reasonable belief that he was in imminent danger or great bodily harm, and he exhausted all reasonable means of escape 10](#_Toc176084514)

[1. Mr. Cameron had an objectively reasonable belief that he was in imminent danger of great bodily harm 10](#_Toc176084515)

[2. Mr. Cameron exhausted all reasonable means of escape 12](#_Toc176084516)

[B. Mr. Cameron withdrew from physical contact 14](#_Toc176084517)

Table of Authorities

Federal Court Cases

*Regalado Cuellar v. United States*,
553 U.S. 550 (2008) 5

*Smith v. United* States,
161 U.S. 85 (1896) 11, 12

State Court Cases

*Bouie v. State,*292 So. 3d 471 (Fla. Dist. Ct. App. 2020) 11

*Commonwealth v. Montgomery*,
234 A.3d 523 (Pa. 2020) 7

*People v. Brown*,
125 N.E.3d 808 (2019) 8

*Smith v. State*,
387 So. 3d 495 (Fla. Dist. Ct. App. 2024) 13

*State v. Collins*,
461 P.3d 828 (Kan. 2020) 14, 15

*State v. Dukes*,
481 P.3d 184, 192 (Kan. Ct. App. 2021) 8, 9

*State v. Fluker*
311 So. 2d 863 (La. 1975) 5, 6

*State v. Haley,*2024-Ohio-2303 (Ct. App.) 8

*State v. Hardy*,
390 P.3d 30, 39 (Kan. 2017) 12

*State v. Hicks*,
891 S.E.2d 235 (N.C. 2023) 14

*State v. Marr*,
765 A.2d 645 (Md. 2001) 11

*State v. Marsh*,
138 So. 3d 1087 (Fla. Dist. Ct. App. 2014) 6

*State v. Nichols*,
2002-Ohio-415 (Ct. App.) 8

*State v. Pickus*,
257 N.W. 284 (S.D. 1934) 5

*State v. Quevedo*,
357 So. 3d 1249 (Fla. Dist. Ct. App. 2023) 11

*State v. Robinson*,
48 N.E.3d 1030 (Ohio Ct. App. 2015) 6

*State v. Stephens*,
853 S.E.2d 488 (N.C. Ct. App. 2020) 14, 15

*State v. Walker*,
966 P.2d 883 (Wash. 1998) 11

*State v. Yarn*,
63 So. 3d 82 (Fla. Dist. Ct. App. 2011) 4

*Thomas v. State*,
918 So. 2d 327 (Fla. Dist. Ct. App. 2005) 12

*Viera v. State*,
163 So. 3d 602 (Fla. Dist. Ct. App. 2015) 11

*Wyche v. State*,
17 So. 3d 898 (Fla. Dist. Ct. App. 2015) 10

*Wyers v. Am. Med. Response Nw., Inc.*,
342 P.3d 129 (Or. Ct. App. 2014) 7

Statutory Provisions and Rules

Stetson Gen. Stat. § 776.032 1

Stetson Gen. Stat. § 776.041 4, 14

Stetson Gen. Stat. § 776.013 i

Kan. Stat. Ann. § 21-5226 8

R. Crim. P. 3.190 i

Stetson Gen. Stat. § 790.01(2) 4, 5

Stetson Gen. Stat. § 776.012 i, 1, 4

Introduction

This Court should grant Defendant Jay Cameron’s Motion to Dismiss pursuant to Stetson General Statutes § 776.012 and § 776.032 because Mr. Cameron is immune to criminal prosecution pursuant to Stand Your Ground law.

On August 6th, 2022, Mr. Cameron justifiably used deadly force he reasonably believed was necessary to prevent imminent death or serious bodily harm from Ryan Wilson. Prior to Mr. Cameron’s use of force, Ryan Wilson, a known, violent drug dealer, threatened Mr. Cameron’s life, before cornering and shooting him. At the time of the shooting, Mr. Cameron lawfully carried a firearm in an open manner to protect himself from Mr. Wilson.

Furthermore, the evidence shows that Ryan Wilson was the initial aggressor. Mr. Cameron responded with deadly force only after Mr. Wilson threatened him, chased him into the motel breezeway, and shot him in the stomach. Even if Mr. Cameron was the initial aggressor, he still would qualify for immunity from criminal prosecution under Stetson’s Stand Your Ground law because he satisfied the safe harbor exceptions for initial aggressors. Namely, Mr. Wilson’s threat was so great that Mr. Cameron reasonably believed he was in imminent danger of death or serious bodily harm, and Mr. Cameron exhausted all reasonable means of escape prior to using force. Furthermore, Mr. Cameron physically withdrew from the confrontation on two separate occasions. Nevertheless, Mr. Wilson followed him into the breezeway and shot him.

Statement of Facts

On August 6, 2022, Mr. Cameron was a resident at Boals Motel (“Motel”). (J. Cameron Tr. 19:24). Mr. Cameron invited his brother, Greg Cameron (“Greg”) (collectively, the “Camerons”), to get breakfast with him that day as Mr. Cameron no longer felt safe at the Motel due to the presence of violent drug dealers, namely Mr. Wilson. (J. Cameron Tr. 19:25–28). The community in and around the Motel knew Mr. Wilson as a particularly violent individual, with an extensive criminal history that included battery and aggravated battery, as well as various narcotics charges. (G. Cameron Tr. 30:40-41; Ex. 12). Mr. Cameron, as a member of the community, knew of Mr. Wilson’s reputation and had seen Mr. Wilson pull guns on people. (J. Cameron Tr. 20:49). Consequently, Mr. Cameron openly carried a large .40 caliber pistol in the front pocket of his hoodie for protection. (J. Cameron Tr. 21:70–78).

On their way to breakfast, the Camerons passed Mr. Wilson standing outside his own room with known associates. (R. Wilson Tr. 56:59-61). Mr. Wilson, unprovoked, told Mr. Cameron to “[k]eep [his] distance, or else[,]” and that Mr. Cameron was “a dead man walking.” (J. Cameron Tr. 20:54–57). Mr. Cameron attempted to de-escalate the situation by leaving the premises. (J. Cameron Tr. 20: 59).

Forty-five minutes later, the Camerons attempted to return to Mr. Cameron’s room at the Motel. (G. Cameron Tr. 33:111–113). Mr. Wilson was still standing outside of his own room with associates. (J. Cameron Tr. 20:62, 22:98). Mr. Cameron attempted to keep his head down by putting his hood up. (J. Cameron Tr. 20:63–21:65). As he passed, Mr. Cameron saw Mr. Wilson was holding a gun in his pocket. (J. Cameron Tr. 22:87–92). In an effort to deter Mr. Wilson from attacking him, Mr. Cameron made it clear that he had a gun on him by pointing his hand up in the shape of a gun and saying, “[p]op pop.” (J. Cameron Tr. 21:73–76).

As Mr. Cameron walked by, one of Mr. Wilson’s associates said, “he’s done.” (J. Cameron Tr. 22:102). Mr. Cameron then tried to escape by running to the Motel breezeway. (J. Cameron Tr. 22:107–08). Mr. Wilson followed behind him, raising his arms and brandishing a gun, shouting, “Let’s F\*\*\*in go!” (G. Cameron Tr. 34:143–44). Greg then warned his brother by shouting “Yo watch out man!” (G. Cameron Tr. 34:149). Mr. Cameron, afraid for his life, drew his firearm and turned around. (J. Cameron Tr. 23:110–11). Mr. Wilson aimed and fired his gun, hitting Mr. Cameron in the stomach. (J. Cameron Tr. 23:118–19). In response, Mr. Cameron shot back, striking Mr. Wilson in the left shoulder and the back. (J. Cameron Tr. 23:113–24).

In the attempt to prevent further threat to his life, Mr. Cameron directed Greg to grab Mr. Wilson’s dropped gun off the ground before Mr. Wilson’s associates could. (J. Cameron Tr. 23:125–26). The Camerons then left the firearms in the safety of Mr. Cameron’s room at the Motel before driving to the hospital for medical attention. (G. Cameron Tr. 38:240–41, 247–48). Because of Mr. Wilson’s reputation and network, Greg drove Mr. Cameron to a hospital in a neighboring county to try to keep him safe. (G. Cameron Tr. 38:251–52).

Argument

Stand Your Ground law grants a person immunity from criminal prosecution when they reasonably believe that deadly force is necessary to prevent imminent death or serious bodily harm. Stetson Gen. Stat. § 776.012. To qualify for immunity, the Defense must show that: (1) Mr. Cameron was not engaged in a criminal activity; (2) was in a place where he or she has a right to be; and (3) and was not the initial aggressor. Stetson Gen. Stat. § 776.012. There is no dispute regarding the second element. As such, this motion will address only the first and third elements to demonstrate that Mr. Cameron is entitled to immunity. First, Mr. Cameron was not engaged in unlawful activity as he was lawfully open-carrying his pistol. Second, Mr. Cameron was not the initial aggressor.

Even if this court finds that Mr. Cameron was the initial aggressor or engaged in criminal activity, Mr. Cameron still qualifies for immunity because he exhausted all reasonable means of escape and attempted to withdraw from physical contact. § 776.041.

1. Mr. Cameron was not Engaged in Criminal Activity on August 6, 2022

 “A person who is not licensed to carry a concealed firearm and who carries a concealed firearm on or about his or her person commits a felony of the third degree.” Stetson Gen. Stat. § 790.01(2). The statutory definition of a “concealed firearm” in Stetson is a firearm hidden from the “ordinary sight *or knowledge* of another person.” § 790.01(2) (emphasis added). The Court canconsider all circumstances and inferences in the individual case to determine whether a person concealed their firearm. *State v. Yarn*, 63 So. 3d 82, 85 (Fla. Dist. Ct. App. 2011).

* 1. Mr. Cameron did not intend to conceal his firearm from the ordinary sight or knowledge of another person
		1. The manner in which Mr. Cameron carried his firearm showed he had no intent to conceal it

A “concealed firearm” is “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.” Stetson Gen. Stat. § 790.01(2) (emphasis added). The inclusion of the term “design” within the statute's language signifies that the legislature expressly required a defendant to intend to conceal a firearm. *See* *e.g.*, *Regalado Cuellar v. United States*, 553 U.S. 550, 565 (2008) (the word “design” in the statute indicates Congress intended it to mean “purpose and intent”); *State v. Pickus*, 257 N.W. 284, 289 (S.D. 1934) (finding that “designedly” in statutory language required showing willful knowledge and intent as an essential element of the crime).

In *State v. Fluker*, a police officer stopped the defendant for driving under the influence. 311 So. 2d 863, 864 (La. 1975). When the officer approached the defendant’s car, he saw a small brown holster housing a pistol attached to the defendant's belt. *Id.* The prosecution charged the defendant with violating a concealed carry law because the weapon was not in full open view, as required by Louisiana Law. *Id.* The Supreme Court of Louisiana noted that because prior versions of the concealed carry statute did *not* include any language requiring intent, the lower court found the defendant guilty of concealing a weapon when the weapon was not in “full open view.” *Id.* at 865–66. However, that Supreme Court went on to find that the amended statutory language required an “*intentional* concealment of any firearm . . . on one’s person.” *Id.* (quoting La. R.S. 14:95(A)(1)) (emphasis added). The Court determined that the inclusion of the word “intentional” made the concealed carry statute a specific intent crime. *Id.* Therefore, the court held that “[i]f the weapon is carried in a manner that reveals its identity, its carrier cannot be presumed to have *intended* to conceal it and, accordingly, is not in violation of the statute.” *Id.* at 866 (emphasis in original).

Courts have consistently applied a fact-specific inquiry that focuses on a defendant’s conduct when determining whether a defendant intends to conceal their weapon in violation of concealed carry laws. *See e.g. id.* at 866; *see also* *State v. Marsh*, 138 So. 3d 1087, 1090–91 (Fla. Dist. Ct. App. 2014) (a defendant attempted to conceal a firearm by placing it in the wheel well of a vehicle); *State v. Robinson*, 48 N.E.3d 1030, 1038–39 (Ohio Ct. App. 2015) (defendant knowingly concealed a firearm when he purposefully delayed exiting his vehicle to place a handgun behind the passenger seat).

In the case at bar, Mr. Cameron never intended nor attempted to conceal his firearm from Mr. Wilson. Mr. Cameron made every attempt to make it known to Mr. Wilson, and others, that he had a gun on him, short of waving the gun in the air and causing panic. *See Marsh*, 138 So. 3d at 1091; (J. Cameron Tr. 21:70–77). While the gun was not completely in open view, Mr. Cameron did not act in any way to obscure the view or identification of his gun. *See Fluker*, 311 So. 2d at 866.Mr. Cameron carried his gun in his hoodie front pocket around his waist and made no attempt to hide the gun. (J. Cameron Tr. 21:70). Mr. Cameron even revealed to Wilson, and others, that he carried a gun by making a gun-shaped gesture with his left hand and saying, “[p]op pop.” (J. Cameron Tr. 21:75). In fact, Mr. Gray, Mr. Wilson’s friend, indicated he was carrying a gun. (K. Gray Tr. 47: 67–68). Mr. Cameron did not carry his firearm in a manner designed to conceal it but, in a manner, to put others on notice that he had a gun without causing public hysteria. As such, Mr. Cameron was not in violation of Section 790.01(2).

* + 1. Mr. Cameron’s firearm was not outside of the ordinary knowledge of another person

As previously stated, a firearm is concealed under Stetson law when it is carried in a manner designed to conceal it “from the ordinary sight or knowledge of another person.” Stetson Gen. Stat. § 790.01(2). In addition to Mr. Cameron not carrying a firearm in a manner designed to conceal it, as discussed earlier, the evidence also shows that the fact that Mr. Cameron had a firearm was within the ordinary knowledge of others. *See Wyers v. Am. Med. Response Nw., Inc.*, 342 P.3d 129, 136 (Or. Ct. App. 2014) (defining “to know” as to be aware of its existence).

Interviews with Greg and Mr. Gray confirm that others were aware that Mr. Cameron had a firearm. Mr. Gray, Mr. Wilson’s associate, stated he saw Mr. Cameron make the gesture indicating a gun and saw Mr. Cameron with his right arm in his pocket holding something that looked like a gun. (K. Gray Tr. 47:67-68). Mr. Camerons brother also confirmed this observation. (G. Cameron Tr. 33:133-34:136). Under the totality of circumstances, Mr. Cameron sufficiently put others on notice that he had a firearm on his person. No need to see the gun to know he was armed. *See Commonwealth v. Montgomery*, 234 A.3d 523, 536 (Pa. 2020) (the prohibition on carrying an unlicensed concealed weapon serves to appraise citizens of the fact that an individual is carrying deadly force). As such, Mr. Cameron did not violate the law prohibiting concealed carry, because the gun was not concealed. Stetson Gen. Stat. § 790.01(2).

1. Mr. Cameron Was Not the Initial Aggressor

Section 776.041 demonstrates that a defendant is not immune from criminal prosecution if he or she “[i]nitially provokes the use or threatened use of force” against themself. The statute does not specify "physical force" or "deadly force," therefore, the defendant is not automatically the initial aggressor simply by "throwing the first punch."  *See State v. Haley,* 2024-Ohio-2303, ¶ 108 (Ct. App.). The purpose of the initial aggressor exception is to prevent immunity for a person that created the situation that necessitated the use of deadly force. *See id.* The Court must determine who the initial aggressor is by looking at the sequence of events. *People v. Brown*, 147, 125 N.E.3d 808, 812 (2019).

Certain jurisdictions use a similar standard to Stetson: the initial aggressor is the party who first "provoked" the conflict. *See* *e.g.* Kan. Stat. Ann. § 21-5226(c); *State v. Nichols*, 2002-Ohio-415 (Ct. App.). In those jurisdictions, courts often find that the initial aggressor was the party who first displayed aggressive behavior and threatened the other’s life, i.e., provoked the confrontation. *See e.g.* *State v. Dukes*, 481 P.3d 184, 192 (Kan. Ct. App. 2021); *Haley* at ¶ 112 (Ohio Ct. App.) (ruling that the defendant was the initial aggressor *the moment* when he entered the home and started screaming and yelling obscenities at the victim). Courts may also look at the “victim’s” actions in conjunction with the defendant’s actions to determine whether the defendant was the initial aggressor. *See e.g.* *Dukes,* 481 P.3d at192; *Haley* at ¶ 121(Ohio Ct. App.).

In *Dukes*, the court started its analysis of who was the initial aggressor the *night before* the shooting. 481 P.3d at192. The court specifically considered that the night before the shooting, the “victim” had sent the defendant death threats and other threatening messages. *Id.* at 187. Then, on the day of the shooting, the “victim” cornered the defendant at his truck and verbally assaulted the defendant. *Id.* The defendant drew his weapon and pointed it at the “victim” as a deterrent, however, the “victim” went to his car to grab his own gun. *Id.* at 188. After seeing that the aggressor was armed, the defendant began shooting. *Id.*

Similar to the defendant in *Dukes,* Mr. Cameron was not the initial aggressor because he was not the first to exhibit aggressive behavior. On the morning of August 6, 2022, Mr. Cameron was walking to breakfast when Mr. Wilson initiated contact and told Mr. Cameron to “keep [his] distance, or else” and that he was “a dead man walking.” (J. Cameron Tr. 20:54-57).  In response, Mr. Cameron attempted to de-escalate the situation by physically leaving the premises. (J. Cameron Tr. 20:61-62). When Mr. Cameron returned almost an hour later, he attempted to keep his head down and avoid Mr. Wilson. (J. Cameron Tr. 21:64-65). Comparatively, Mr. Wilson stood outside his motel room with his hand in his pocket—visibly holding a gun. (J. Cameron Tr. 22:87-92). Just like the defendant in *Dukes*, Mr. Cameron used his possession of a firearm in an attempt to deter Mr. Wilson from attacking him. (J. Cameron Tr. 21:73-76); *see also* *Dukes,* 481 P.3d at187. However, Mr. Cameron was not successful in deterring Mr. Wilson, and instead, Mr. Wilson followed Mr. Cameron into the breezeway with his own weapon *drawn* before shooting Mr. Cameron. (G. Cameron Tr. 34:143). Only after seeing Mr. Wilson fire his weapon did Mr. Cameron shoot back and stand his ground. (J. Cameron Tr. 23:110). For these reasons, Mr. Cameron is entitled to immunity under Stetson’s Stand Your Ground laws.

1. Mr. Cameron Would Still Qualify for Immunity Regardless of if he Was an Initial Aggressor

Should this Court find that Mr. Cameron was the initial aggressor, which the Defense refutes, he would still qualify for Stand Your Ground immunity. Section 776.041(2)(a)-(b) provides two situations where an initial aggressor would still be immune for prosecution for standing their ground. Specifically, an initial aggressor is immune from prosecution where they exhaust all reasonable means of escape, or second, an initial aggressor who makes a good faith effort to withdraw from physical contact is also entitled to immunity under Stetson law. § 776.041(2)(a)-(b).

* 1. Mr. Cameron had an objectively reasonable belief that he was in imminent danger or great bodily harm, and he exhausted all reasonable means of escape

An initial aggressor can still claim immunity where he or she (1) “reasonably believes that he or she is in imminent danger of death or great bodily harm” and (2) has exhausted all reasonable means of escape.” Stetson Gen. Stat. § 776.041(2)(a). Both inquiries involve an analysis of the totality of circumstances surrounding the situation. *See Wyche v. State*, 17 So. 3d 898, 907–08 (Fla. Dist. Ct. App. 2015).

* + 1. Mr. Cameron had an objectively reasonable belief that he was in imminent of great bodily harm

For a defendant to have a reasonable fear of harm, the appearance of danger must be so real that a reasonably cautious person would have believed that using force was the only way to avoid imminent harm. *See Viera v. State*, 163 So. 3d 602, 605 (Fla. Dist. Ct. App. 2015). Courts apply a mixed subjective and objective, reasonable person standard to the defendant’s fear of imminent harm. *See* *State v. Walker*, 966 P.2d 883, 885 (Wash. 1998). This standard requires the courts to consider the facts and circumstances as the defendant perceived them. *See* *State v. Marr*, 765 A.2d 645, 652 (Md. 2001); *State v. Quevedo*, 357 So. 3d 1249, 1253 (Fla. Dist. Ct. App. 2023) (citing *Mobley v. State*, 132 So. 3d 1160, 1164-65 (Fla. Dist. Ct. App. 2014). The truthfulness of the facts does not matter, “*so long as a reasonable person in the defendant's position could also reasonably perceive the facts or circumstances in that way*.” *Marr*, 765 A.2d at 652 (emphasis in original)*; see also Bouie v. State,* 292 So. 3d 471, 481 (Fla. Dist. Ct. App. 2020).

When considering Mr. Cameron’s reasonable fear, the Court must give weight to Mr. Cameron’s knowledge of Wilson’s reputation. *See Smith v. United* States, 161 U.S. 85, 88–89 (1896). In *Smith*, the defendant claimed to have acted in self-defense when he shot an unarmed man. *Id.* at 88. In support of his defense, the defendant presented evidence that the man was not only larger and “more powerful,” but had a reputation of being “a quarrelsome and dangerous person” of which the defendant was aware. *Id.* The Supreme Court held that these facts were relevant in determining whether the defendant reasonably feared death or serious bodily injury. *Id.* at 89.

Mr. Cameron is approximately six-feet tall and weighs 175lbs, not of large stature. (Case file at 68). Comparatively, Mr. Wilson is fourteen years older than Mr. Cameron and has a violent reputation. (R. Wilson Tr. 55:37; J. Cameron Tr. 18:11; J. Cameron Tr. 19:28). Mr. Cameron and his brother were aware of Mr. Wilson’s violent reputation before the incident on August 6, 2022, namely, Mr. Wilson’s extensive criminal history of incidents involving physical violence—including using a gun. (Ex. 12; J. Cameron Tr. 20:45–52). People within the community, including the Camerons, knew that Mr. Wilson was a known drug dealer and very territorial of his operation at the Motel. (Case file at 6, ¶1; J. Cameron Tr. 20:45–52). As shown, Mr. Wilson's threats of violence to others were so certain that his victims often refused to cooperate with the police out of fear for their safety. (J. Cameron Tr. 20:45–52; Ex. 12).

Much like the U.S. Supreme Court did in *Smith*, this Court must consider these facts—known to Mr. Cameron—in determining whether Mr. Cameron believed he was in imminent danger. 161 U.S. at 89. Mr. Cameron had prior knowledge of Mr. Wilson’s dangerous reputation, which played a substantial part in his decision to use force to defend himself. (J. Cameron Tr. 20:45–52; Ex. 12). Additionally, just seconds before Mr. Cameron decided to defend himself, he heard a voice yell something from behind: he heard, “He’s done[,]” and “Yo watch out man!” (J. Cameron Tr. 22:102, 108–09). Thus, Mr. Cameron reasonably believed his life was in danger and only used force because it was necessary to protect himself.

* + 1. Mr. Cameron exhausted all reasonable means of escape

The Defendant need only exhaust all *reasonable* possible avenues of escape. Stetson Gen. Stat. § 776.041(2)(a) (emphasis added). Whether a defendant exhausted all reasonable means of escape before resorting to force depends on the totality of the circumstances. *See* *Thomas v. State*, 918 So. 2d 327, 330 (Fla. Dist. Ct. App. 2005); *see also State v. Hardy*, 390 P.3d 30, 39 (Kan. 2017) (holding a defendant exhausted all reasonable means of escape even if not physically trapped). A court considers escape exhausted when there are no reasonable options to avoid harm, and the defendant is trapped before using force. *Smith v. State*, 387 So. 3d 495, 496 (Fla. Dist. Ct. App. 2024) (finding where the defendant had exhausted all *reasonable* means of escape, he was justified to use deadly force).

While Mr. Cameron was not the initial aggressor, he exhausted all reasonable means of escape prior to his use of force. Prior to the shooting, Mr. Cameron, hearing Mr. Wilson’s threat, “[He’s] a dead man walking” and knowing his violent behavior, chose to walk away. (J. Cameron Tr. 20:57)*.* Almost an hour later, when Mr. Cameron attempted to return to his motel room, Mr. Wilson pulled out a gun and followed Mr. Cameron into the breezeway: a straight, narrow hallway with little room to move and no place to shelter. (J. Cameron Tr. 22:108–09; Ex. 8).The only route for Mr. Cameron to escape was straight ahead, when he heard Mr. Wilson coming up behind him to shoot him. (J. Cameron Tr. 23:110). Mr. Cameron had no reasonable options: he would have had to make it to the end of the breezeway and around the corner before Mr. Wilson could pull the trigger. Mr. Wilson was right on Mr. Camerons tail and would have shot Mr. Cameron in the back if he was running away. Mr. Cameron’s only option was to turn around and face the threat, or hope that Mr. Wilson had a bad shot.

Because it was the only reasonable option, Mr. Cameron drew his weapon and turned around. (J. Cameron Tr. 23:110–11). Even then, Mr. Cameron did not fire his gun until he saw Mr. Wilson shoot his gun first. (J. Cameron Tr. 23:113). Upon Mr. Wilson firing the first shot, Mr. Cameron was left with only one option—to try to protect himself from the imminent threat of death or serious bodily harm. Despite his best efforts, Mr. Cameron still suffered serious bodily harm.

* 1. Mr. Cameron withdrew from physical contact

To claim the second initial aggressor exception, the defendant must withdraw from contact in good faith. Stetson Gen. Stat. § 776.041(2); *see also State v. Hicks*, 891 S.E.2d 235, 241 (N.C. 2023). Contemporaneous and provoking verbal conduct can render an attempt to withdraw from physical conduct as not in good faith. *See State v. Collins*, 461 P.3d 828, 838 (Kan. 2020).

In *Collins*, the defendant, who had drawn a knife during an altercation with three unarmed women, retreated but continued to verbally provoke the women as he withdrew. *Id.* at 833. The court found that the defendant’s withdrawal was not in good faith because it was accompanied by verbal taunting. *Id.* at 838; *cf.* *State v. Stephens*, 853 S.E.2d 488, 496 (N.C. Ct. App. 2020) (the defendant's retreat from the “victim's” front door to his vehicle, while the “victim” moved inside the house for his gun, demonstrated a clear and good-faith physical withdrawal).

Mr. Cameron walked away from Mr. Wilson to withdraw from the altercation, not once but twice. Unlike the defendant in *Collins*, Mr. Cameron withdrew in good faith. On the morning of August 6, 2022, Mr. Cameron first came into contact with Mr. Wilson, and Mr. Wilson threatened Mr. Cameron’s life. (J. Cameron Tr. 20:54-55). Mr. Cameron walked away and went to breakfast with his brother. (J. Cameron Tr. 20:61-62).

When Mr. Cameron tried to return to his motel room, Mr. Cameron again ran into Mr. Wilson. (J. Cameron Tr. 20:64-65). Unlike the defendant in *Collins*, Mr. Cameron did not continue provoking Mr. Wilson: as discussed, the gesture and “[p]op pop” was to put Mr. Wilson on notice that he was armed and deter any violence. 461 P.3d at 833; (J. Cameron Tr. 20: 73-76). Mr. Cameron’s conduct of walking away from Mr. Wilson twice without escalating the situation shows that Mr. Cameron was withdrawing in good faith. *See* *Stephens*, 853 S.E.2d at 496. Unfortunately, Mr. Wilson followed him into the breezeway with a gun and shot at Mr. Cameron, forcing Mr. Cameron to justifiably use force in response. (J. Cameron Tr. 22: 108-09). As such, even if this Court should find Mr. Cameron was the initial aggressor, which the Defense refutes, Mr. Cameron made a good faith effort to withdraw, and clearly showing his desire to withdraw. Therefore, Mr. Cameron would still qualify for immunity pursuant to Stetson’s Stand Your Ground laws.

**CONCLUSION**

For the reasons stated above, this Court should grant the Defendant’s Motion to Dismiss and find that Mr. Cameron is entitled to Stand Your Ground immunity. Mr. Cameron was justified in using or threatening deadly force because he reasonably believed it necessary to prevent imminent death or serious harm. Mr. Cameron was not engaged in unlawful activity but was lawfully open-carrying a gun to protect himself from Mr. Wilson, a known violent drug dealer also staying at the Motel. Mr. Cameron was not the initial aggressor but was forced to reacted when Mr. Wilson chased him into the breezeway with a gun and shot him. Even if this Court finds Mr. Cameron to be the initial aggressor, he would still qualify for immunity because he believed the threat from Mr. Wilson was so severe that there was imminent danger of death or serious harm, and no other reasonable means of escape existed. Additionally, Mr. Cameron withdrew from the confrontation by walking away, but Mr. Wilson persisted, cashing Mr. Cameron into the breezeway and shooting Mr. Cameron. Mr. Cameron's actions in response to Mr. Wilson were justified under the Stand Your Ground laws, and he should be granted immunity from criminal prosecution.

|  |  |
| --- | --- |
| Dated: September 1, 2024 | Respectfully submitted,  |
|   |  By: /s/ Team 114  Attorneys for Movant-Defense  |