

Docket No. 2024-CR-319

---

---

**IN THE  
SUPERIOR COURT OF THE STATE OF STETSON  
PINELLA COUNTY JUDICIAL DISTRICT**

---

STATE OF STETSON

v.

JAY CAMERON,

*Defendant.*

---

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

---

## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	iii
INTRODUCTION .....	1
STATEMENT OF FACTS .....	1
ARGUMENT .....	4
I.    JAY CAMERON WAS NOT ENGAGED IN CRIMINAL CONDUCT PURSUANT TO STET. STAT. § 776.012. ....	5
A. <i>Jay was not carrying a concealed firearm pursuant to § 790.01(2).</i> ..	5
B. <i>Jay's carrying a concealed weapon would not be "criminal activity" pursuant to Section 776.012 because there is no "causal nexus" between the allegedly unlawful activity and Jay's need to use deadly force</i> .....	6
1. <i>A literal construction of "criminal activity" produces absurd results.</i> .....	7
2. <i>The statute's clear meaning requires a "causal nexus" between a defendant's criminal conduct and need for self-defense.</i> ....	8
II.   JAY CAMERON WAS NOT THE INITIAL AGGRESSOR .....	10
A. <i>None of Jay's conduct prior to the shooting constitutes a forceful action or a threat of deadly force.</i> .....	11
1. <i>The separate confrontation before breakfast is irrelevant to the issue of the initial aggressor</i> .....	12
2. <i>None of Jay's actions or words upon returning to the motel constitute a forceful action or a threat of deadly force.</i> ....	14
a. <i>Jay's "finger gun" gesture and "Pop pop" statement</i> .	14
b. <i>A "throat-slashing" gesture</i> .....	15

B. <i>Ryan Wilson was the first person to initiate a forceful action and threaten imminent deadly force</i> . . . . .	17
CONCLUSION . . . . .	18
INTEGRITY CERTIFICATION . . . . .	19
CERTIFICATE OF SERVICE . . . . .	19

## TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>Dawkins v. State,</i>	
252 P.3d 214 (Okla. Crim. App. 2011) . . . . .	7
<i>Edwards v. Att’y Gen.,</i>	
2020 U.S. App. LEXIS 7193 (11th Cir. 2020) . . . . .	15-17
<i>Fuller v. State,</i>	
231 So. 1207 (Ala. Crim. App 2015) . . . . .	9
<i>Kizart v. State,</i>	
811 S.W. 137 (Tex. App. 1991) . . . . .	14-16
<i>Mayes v. State,</i>	
744 N.E.2d 390 (Ind. 2001) . . . . .	7-8
<i>Miles v. State,</i>	
162 So. 3d 169 (Fla. Dist. Ct. App 2015) . . . . .	7
<i>People v. Brown,</i>	
33 125 N.E.3d 808 (N.Y. 2019) . . . . .	10-11, 14-16
<i>People v. Smith,</i>	
552 N.E.2d 1061, 1062 (Ill. App. Ct. 1990) . . . . .	12-14
<i>State v. Booker,</i>	
2020 Tenn. Crim. App. LEXIS 226 (Tenn. Crim. App. 2020) . . . . .	8-9
<i>State v. Booker,</i>	
656 S.W.3d 49 (Tenn. 2022) . . . . .	8-9
<i>State v. Brothers,</i>	
2012 Ariz. App. Unpub. LEXIS 1097 (Ariz. Ct. App. 2012) . . . . .	4, 16

*State v. Johnson,*

2023 Ala. LEXIS 144 (Ala. 2023) . . . . . 10-11, 13, 16-17

*State v. McLymore,*

868 S.E.2d 67 (N.C. 2022) . . . . . 5, 8-9

*Thompson v. State,*

257 So. 3d 573 (Fla. Dist. Ct. App 2018) . . . . . 12-13

## **STATUTES**

§ 776.012, Stet. Stat. (2022) . . . . . 4-7, 10, 15, 18

§ 776.032, Stet. Stat. (2022) . . . . . 18

§ 790.01(2), Stet. Stat. (2022) . . . . . 5-6

## **SECONDARY SOURCES**

IMMINENT, Black's Law Dictionary (12th ed. 2024) . . . . . 13

## INTRODUCTION

This Court should grant Jay Cameron's Motion to Dismiss because he had the right to stand his ground when defending himself against Ryan Wilson's deadly attack.

Jay is entitled to Stand Your Ground ("SYG") Immunity from prosecution because (1) Jay was conspicuously carrying a handgun; (2) Jay's carrying of a handgun did not cause Jay's need to use force; and (3) Jay did not resort to deadly force until Wilson first threatened and used deadly force. Because Jay, while reasonably believing his life was in danger, was not engaged in criminal conduct and was not the initial aggressor while standing his ground, this Court must grant Jay's motion to dismiss.

## STATEMENT OF FACTS

**The Defendant.** Jay Cameron is a 24-year-old member of the Stetson community. Case File ("CF.") 18. Jay is someone with an altruistic heart who aims to improve the wellbeing of his community. CF. 31. He is a law-abiding citizen and hates violence. CF. 21-23; 31. However, on August 6, 2022, while staying at the Boals Motel, Jay was forced to defend his life against a deadly attack. CF. 19, 23.

**The Aggressor.** Ryan Wilson is a 38-year-old drug-dealer who causes chaos within the Stetson community. CF. 20, 43. Wilson maintains a reputation on the Stetson streets as a violent, domineering man. CF. 19-20, 30. Jay has witnessed

Wilson pull guns on people, get into bar fights, and otherwise scare the community. CF. 20. Wilson's tendency for violence led him to carrying out a deadly attack against Jay. CF. 20, 23.

**The Escalating Tension.** On August 6, Jay woke up around 9:00 a.m. and decided to get some breakfast. CF. 19. Jay felt it would be safer to walk to breakfast with someone else given the Stetson streets are "tough." CF. 19-20. So Jay asked his brother, Greg Cameron, to accompany him when leaving the motel for breakfast. CF. 19. Jay and Greg walked by Wilson in the motel parking lot. CF. 20. Wilson and Jay then engaged in a small argument. CF. 20, 32, 45-46, 57. Wilson asserted to Jay that the Boals Motel was Wilson's turf. CF. 29. Additionally, Jay and Greg are both adamant that Wilson threatened Jay with words like, "Keep your distance, or else," and, "You're a dead man walking." CF. 20, 32. Jay was shaken by this. CF. 20. Not wanting any escalation, Jay and Greg walked away from Wilson and left the motel. *Id.*

**The Shooting.** Jay and Greg returned to the motel forty-five minutes later. *Id.* The two saw Wilson stationed immediately beside the breezeway leading to Jay's room. CF. 16, 20. Jay entered the motel parking lot with his head down to try to avoid being spotted or confronted by Wilson. CF. 20-21. But Greg noticed that Wilson was already "watching Jay like a hawk." CF. 33.

Jay was conspicuously carrying a gun for protection in the front pocket of his hoodie. CF. 21. However, Jay wanted to ensure that Wilson knew he was armed. *Id.* So as Jay approached the breezeway, he used his hand to make the shape of a gun pointed up in the air and uttered, “Pop pop.” *Id.* He then continued walking toward the breezeway. *Id.*

Wilson responded by raising his hands in the air and shouting, “Let’s f\*\*\*ing go!” CF. 34. Jay had previously noticed that Wilson had his hand in his pocket and was holding a black object that Jay believed was a gun—and which Greg clearly identified as a gun. CF. 22, 34. Jay then watched Wilson pull the black object out of his pocket. CF. 22. Jay feared that Wilson was preparing to kill him, and his fear worsened when he heard one of Wilson’s friends snicker, “He’s done.” *Id.* Jay’s heart rate picked up. *Id.* After Jay entered the breezeway, he believed he heard someone yell, “Yo, watch! He’s a dead man.” CF. 22-23. Jay turned around and drew his gun. CF. 23. He then saw Wilson’s gun pointed back at him. *Id.*

Wilson shot at Jay multiple times, with one bullet striking Jay in the stomach. CF. 23, 36. Jay had no choice but to shoot back at Wilson for his own protection. *Id.* Wilson was shot in his left shoulder, causing him to spin backward and to the left. *Id.* Wilson remained a threat to Jay since Wilson’s gun was still in his right hand, pointed directly toward Jay. *Id.* So Jay shot again and hit Wilson in the corner of his back. CF. 23, 43. Wilson then dropped his gun. CF. 23. Jay told

Greg to grab the gun so Wilson could not keep shooting. CF. 23, 37. The two brothers then retreated to safety. *Id.*

Jay began bleeding out and experiencing excruciating pain due to his gunshot wound. CF. 24. He then became half-conscious. *Id.* Jay and Greg remained scared for their lives, fearing that Wilson or his friends would come after them. CF. 24, 38. With this threat in mind, Greg drove Jay to the furthest hospital from the motel that he could before Jay's condition became too critical. CF. 24, 38-39. The brothers were able to reach a distant hospital outside of Pinella County, where Jay was able to receive medical care for his potentially fatal gunshot wound. *Id.*

#### **ARGUMENT**

Under Stetson law, one may use or threaten the use of deadly force when one reasonably believes such force “is necessary to prevent imminent death or great bodily harm . . . .” Stet. Stat. § 776.012 (“Section 776.012”). Such a person is immune from criminal prosecution when standing one's ground—thus having no duty to retreat—so long as (a) they were not engaged in criminal activity, and (b) they were not the initial aggressor in the confrontation. *Id.*

Here, Jay Cameron only resorted to deadly force against Ryan Wilson because Jay reasonably believed Wilson would use deadly force against him, and Wilson ultimately *did* use deadly force against him. CF. 22-23. Because Jay had this reasonable belief required by Section 776.012 before resorting to deadly force,

Jay must be granted total immunity from prosecution for two reasons. One, Jay was not engaged in criminal conduct per Section 776.012 since he was not carrying a concealed firearm, nor did Jay's manner of carrying a firearm cause his sudden need to use force. CF. 21. And two, Jay was not the initial aggressor to the confrontation per Section 776.012 since Wilson was the first person to initiate a forceful action and to threaten imminent deadly force. CF. 22-23.

**I. JAY CAMERON WAS NOT ENGAGED IN CRIMINAL CONDUCT PURSUANT TO STET. STAT. § 776.012.**

On the morning of August 6, 2022, Jay was legally carrying a firearm in a conspicuous manner. CF. 21. And even if Jay had been carrying a concealed firearm, Jay is still entitled to immunity because there was no “causal nexus” between Jay's conduct and his sudden need to use deadly force. *State v. McLymore*, 868 S.E.2d 67, 70 (N.C. 2022). Therefore, Jay was not engaged in criminal activity that would waive a claim for SYG immunity. CF. 21-23; Stet. Stat. § 776.012.

**A. Jay was not carrying a concealed firearm pursuant to Stet. Stat. § 790.01(2).**

Under Stetson Law, while it is true that a person who is not licensed to carry a concealed firearm and who carries a concealed firearm on or about their person commits a felony of the third degree. Stet. Stat. § 790.01(2) (“Section 790.01(2)”). “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.” *Id.*

Here, Jay’s gun was not illegally concealed because it was within the “ordinary knowledge” of other persons in the motel parking lot. CF. 21, 33-34, 47; Stet. Stat. § 790.01(2). Jay was carrying a large, .40-caliber handgun. CF. 21. One witness and friend of Wilson’s, Kenny Gray, claims to have “street smarts” and to “know what it looks like when someone’s packing [a gun].” CF. 47. And, drawing from that knowledge, Gray admitted that Jay’s posture made “[i]t look[] like [Jay] was holding a weapon—probably a gun[.]” CF. 47; 58. In addition, Jay gestured the shape of a gun with his left hand and uttered, “Pop pop” in Wilson’s direction. CF. 21, 34. Therefore, because Jay’s firearm was within the “ordinary knowledge” of other persons in the parking lot, Jay’s firearm was not concealed. CF. 21, 33-34, 47; Stet. Stat. § 790.01(2).

**B. Jay's carrying a concealed weapon would not be “criminal activity” pursuant to Section 776.012 because there is no “causal nexus” between the allegedly unlawful activity and Jay’s need to use deadly force.**

Even if this court finds that Jay was unlawfully carrying a firearm in a concealed manner, such conduct would not qualify as “criminal activity” under a reasonable construction of Section 776.012.

Under Stetson law, an individual has no duty to retreat and is entitled to stand one's ground with the use of deadly force when one “is not engaged in

criminal activity.” Stet. Stat. § 776.012. “Criminal activity” is not defined in the statute, and no clarification is given on whether criminal activity alone imposes a duty to retreat or whether such activity must cause one's need for self-defense. So, in the absence of Stetson precedent on the issue, other states’ application of similar statutes should guide this Court.

**1. A literal construction of “criminal activity” produces absurd results.**

Under statutes similar to Stetson’s, some states have candidly interpreted that almost *any* unlawful conduct by a defendant—including the unlawful carrying of a firearm—waives the right to stand one's ground regardless of causation. *Dawkins v. State*, 252 P.3d 214 (Okla. Crim. App. 2011) (the possession alone of an illegally sawed-off shotgun waived a defendant's SYG claim); *Miles v. State*, 162 So. 3d 169 (Fla. Dist. Ct. App 2015) (a felon's illegal, concealed carrying of a firearm waived his SYG claim).

But as other jurisdictions have interpreted, such a strict, contextless interpretation of “criminal” or “unlawful” activity cannot be applied consistently and would produce absurd results. *Mayes v. State*, 744 N.E.2d 390 (Ind. 2001) (noting the absurdity of a literalist approach to Indiana's “contemporaneous criminal conduct” exception to self-defense). Under that reading of SYG statutes, an individual attacked while driving an unregistered vehicle, while in possession of marijuana, while being illegally parked, or even while being late on filing taxes

could plausibly be barred from standing one's ground because that person would, in a literal sense, be engaged in "unlawful" or "criminal" activity while using or threatening deadly force. *Id.*; *State v. Booker*, 2020 Tenn. Crim. App. LEXIS 226, 89-90 (Tenn. Crim. App. 2020), *rev'd on other grounds*, 656 S.W.3d 49 (Tenn. 2022). So it simply cannot be the case that *any* criminal conduct—even conduct wholly unrelated to a defendant's need to use force—waives the right to stand one's ground. *Mayes*, 744 N.E.2d at 393.

It should be presumed that state legislatures have written laws that can be applied logically, and not in such a manner as will produce absurd results. *Id.* at 393. Thus, when "a literal interpretation of the language of a statute will lead to absurd results, or contravene the manifest purpose of the Legislature," the clear, intended purpose behind a statute must prevail. *McLymore*, 868 S.E.2d 67 (N.C. 2022) (quoting *Mazda Motors of Am., Inc. v. Sw. Motors, Inc.*, 250 S.E.2d 250, 253 (N.C. 1979)). Accordingly, this Court should reject such a strict interpretation of "criminal activity."

**2. The statute's clear meaning requires a "causal nexus" between a defendant's criminal conduct and need for self-defense.**

Several states have recognized that "criminal" or "unlawful" conduct exceptions in SYG statutes require some causal relationship between a defendant's

criminal conduct and the need to use force. This accords with the clear purpose behind a “criminal conduct” exception to a SYG defense.

In Tennessee, courts are required to establish “a causal nexus between [the] defendant's unlawful activity and his . . . need to engage in self-defense” before a jury can be instructed that a defendant had a duty to retreat. *Booker*, 2020 Tenn. Crim. App. LEXIS 226, 89-90 (Tenn. Crim. App. 2020), *rev'd on other grounds*, 656 S.W.3d 49 (Tenn. 2022).

Alabama courts take the same approach. In *Fuller v. State*, the trial court refused a jury instruction for the defendant's self-defense claim of standing his ground because the defendant's unlawful possession of a weapon as a felon triggered Alabama's “not engaged in an unlawful activity” exception to SYG immunity. 231 So. 1207, 1211-1213 (Ala. Crim. App 2015). The Court of Criminal Appeals, however, found that the trial court erred in not establishing that the defendant's unlawful activity “*relate[d] to or contribute[d] to*” the situation requiring the need to use force. *Id.* at 1217 (emphasis added).

And North Carolina courts apply the same standard. In North Carolina, deadly self-defense ““is not available to a person who used defensive force and who . . . [w]as attempting to commit, committing, or escaping after the commission of a felony.”” *McLymore*, 868 S.E.2d at 70 (quoting N.C. Gen. Stat. § 14-51.4(1)). When ruling on self-defense claims, the Supreme Court of North Carolina has held

that the state must prove an “*immediate causal nexus* between a defendant’s attempt to commit, commission of, or escape after the commission of a felony and the circumstances giving rise to the defendant’s perceived need to use force.” *Id.* at 70 (emphasis added).

Here, in no way did Jay’s permitless possession of a concealed weapon *cause* his need to use force. Rather, Jay’s sudden need to use deadly force was caused exclusively by Wilson’s initiation of an imminent deadly threat. *See* II(B), *infra*. If Jay’s alleged concealed carrying of a firearm did not cause his need for self-defense, Jay was not engaged in “criminal activity” under Section 776.012 and must, therefore, be entitled to statutory immunity from criminal prosecution.

## **II. JAY CAMERON WAS NOT THE INITIAL AGGRESSOR.**

In matters of deadly self-defense, the “initial aggressor” is the first person in a confrontation to have initiated “forceful action” or to have threatened deadly force. *People v. Brown*, 125 N.E.3d 808, 321 (N.Y. 2019); *State v. Johnson*, 2023 Ala. LEXIS 144, 11 (Ala. 2023). More specifically, an initial aggressor is “someone who engaged in a ‘forceful action or procedure,’ as in an ‘unprovoked attack,’ against another. *Johnson*, 2023 Ala. LEXIS 144 at 11. An initial aggressor does not encompass someone who simply ‘created [a] controversy’ or verbally confronted someone else. *Id.* at 12 (quoting *Gaines v. State*, 137 So. 3d 357, 361 (Ala. Crim. App. 2013)).

This makes sense, because verbal confrontations are unfortunately common in daily life. From time to time, ordinary people start verbal arguments, and sometimes those arguments escalate into mild threats. But starting an argument or making vague threats alone will not make someone the initial aggressor should that argument actually escalate to deadly force. *Id.* Something more is required. *Id.* So when a gun becomes involved in a verbal altercation, New York courts have held that a party's "imminent threat to use a gun constitute[s] the threat of deadly force even if the gun is never fired . . . ." *Brown*, 125 N.E.3d at 811. "The first person to make such an imminent threat," the court in *Brown* continued, "is the initial aggressor with respect to deadly physical force." *Id.*

A person thus becomes the initial aggressor in a deadly confrontation when that person either (a) first engages in a *forceful* action that goes beyond a mere verbal confrontation, or (b) first threatens to use deadly force. *Johnson*, 125 N.E.3d at 812–13; *Brown*, 125 N.E.3d at 812. And being the first to draw a handgun constitutes the initial threat of deadly force, even if the other actor started a verbal confrontation. *Id.*

**A. None of Jay's conduct prior to the shooting constitutes a forceful action or a threat of deadly force.**

At Jay's arraignment, the State claimed that "the evidence in this case shows the defendant was the aggressor," but provided no elaboration. CF. 73. In the absence of a definitive argument by the state, it appears the state would have two

baseless grounds for arguing that Jay was the initial aggressor, namely, (1) that Jay was responsible for the initial confrontation earlier that morning, and (2) that Jay's gesture of either a "finger-gun" or "throat-slashing" would constitute aggression. Neither of these facts could suffice to make Jay the initial aggressor.

**1. The separate confrontation before breakfast is irrelevant to the issue of the initial aggressor.**

In *People v. Smith*, the decedent provoked a fight with the defendant when he demeaned the defendant, called the defendant a "punk," and ultimately pushed the defendant. 552 N.E.2d 1061, 1062 (Ill. App. Ct. 1990). This initial fight was broken up shortly after it started, and the defendant went home. *Id.* However, five to ten minutes later, the defendant returned displaying a loaded firearm. *Id.* at 1063. The defendant again fought with the decedent, but this fight ended with the defendant's shooting and killing the decedent. *Id.* at 1062–63.

At trial, the defendant claimed that the decedent was the initial aggressor because the decedent's taunting and pushing the defendant provoked the original fight *Id.* at 1063. But the trial court found that the defendant's returning with a loaded weapon only a few minutes later "'started the whole thing over. . ..'" *Id.* at 1065. The Court of Appeals affirmed and approved the trial court's finding that the two fights were two separate confrontations warranting separate analyses of the initial aggressor. *Id.* at 1063–65. Thus, provoking an initial fight, separated by a

period of time, is not relevant to the initial aggressor in a later fight. *Id.*; *Thompson v. State*, 257 So. 3d 573 (Fla. Dist. Ct. App 2018).

Here, Wilson and Gray alleged that forty-five minutes before the shooting, Jay remarked to Wilson, “This will be my turf soon.” CF. 57. Wilson claimed that Jay also said to him, “Wait and see, old man.” *Id.* This simply cannot make Jay the initial aggressor for two reasons.

First, the initial aggressor is the first person to threaten *imminent* deadly force. *Johnson*, 2023 Ala. LEXIS 114 at 11–12. Here, Jay’s comments can neither be characterized as an imminent threat, nor as a threat of deadly force. “*Wait and see*,” and, “[t]his will be my turf *soon*,” by their own terms, pertain to possible, future action—not certain, imminent action. IMMINENT, Black's Law Dictionary (12th ed. 2024) (imminent is defined as “[t]hreatening to occur immediately,” “dangerously impending,” or “[a]bout to take place.”) (emphasis added). Further, these comments are not threats of deadly force, especially when they are or would have been said as Jay was walking away from Wilson *Id.*; *Johnson*, 2023 Ala. LEXIS 114 at 11–12. Therefore, such a non-imminent, non-deadly “threat” cannot stand as the initial aggression. *Johnson*, 2023 Ala. LEXIS 114 at 11–12.

Second, *Smith* makes clear that even if this Court finds that Jay initiated the earlier confrontation, when Jay removed himself from the confrontation for a period of time, Jay ““started the whole thing over.”” *Smith*, 552 N.E.2d at 1063.

In *Smith*, the decedent first aggressed the defendant with physical force, yet the defendant unquestionably became the initial aggressor when, after leaving for a mere five to ten minutes, he returned to the decedent carrying a weapon. *Id.* at 1062. Ten minutes was enough in *Smith* to reset the analysis of the initial aggressor. *Id.* Here, therefore, the forty-five minutes separating Jay's initial statement and the shooting must reset the consideration of who was the initial aggressor. *Id.*; CF. 20, 46, 58.

**2. None of Jay's actions or words upon returning to the motel constitute a forceful action or a threat of deadly force.**

There is mixed testimony on Jay's gesture toward Wilson upon entering the parking lot. Jay stated that he made a "finger gun" gesture into the air and exclaimed, "Pop, pop," which is corroborated by Greg's account. CF. 21, 34. Gray did not see the gesture at all. CF. 47. But Wilson claimed Jay made a "throat-slashing" gesture with his thumb. CF. 60. Whichever gesture was actually made is immaterial, as neither would constitute a threat of deadly force.

**a. Jay's "finger gun" gesture and "Pop pop" statement.**

Jay's use of a finger gun gesture, accompanied by uttering, "Pop pop," does not constitute a forceful action or a threat of deadly force.

A "finger gun" gesture pointed into the air does not amount to an imminent threat of deadly force. Instead, an imminent threat of deadly force requires an actual act of aggression. *Kizart v. State*, 811 S.W. 137 (Tex. App. 1991) (pulling a

knife during a confrontation constitutes an imminent threat of deadly force); *People v. Brown*, 33 N.Y.3d 316 (2019) (drawing a gun on another constitutes an imminent threat of deadly force.). But here, Jay only gestured a “finger gun” into the air and uttered “Pop, pop.” CF. 21. This conduct is nowhere near the level of *imminent* or *deadly* as drawing an actual knife or gun, so it simply cannot make Jay the initial aggressor to deadly force. *Kizart*, 811 S.W. 137, 138-139 (Tex. App. 1991); *Brown*, 33 N.Y.3d 316, 322 (2019). And, crucially, Jay’s “finger gun” gesture was immediately followed by his walking away from Wilson. CF. 21.

Furthermore, in *Stetson*, the question of the right to use deadly force concerns whether there is a “reasonable belief” that such force is necessary to protect against death or serious bodily injury. Stet. Stat. § 776.012. Jay’s conduct did not induce such a reasonable belief on Wilson’s part. A reasonable person simply would not believe that the use of a “finger gun” gesture aimed into the air, while uttering “Pop pop,” before walking away from that person places one at risk of death or serious bodily injury. This gesture and comment, therefore, cannot make Jay the initial aggressor with respect to deadly force.

**b. A “throat-slashing” gesture.**

Even if this court credits Wilson’s account that Jay made a “throat-slashing” gesture, or determines that the question of this “throat-slashing” gesture is one of fact, a “throat-slashing” gesture simply does not amount to an *imminent* threat of

deadly force. CF. 60; *Brown*, 33 N.Y.3d 316, 322; *Edwards v. Att’y Gen.*, 2020 U.S. App. LEXIS 7193, 8 (11th Cir. 2020).

No reported cases answer directly whether the use of a “throat-slashing” gesture alone renders one the initial aggressor to deadly force. However, in virtually all cases where courts found an individual was the initial aggressor for threatening to cut another’s throat, the aggressor also had an *actual* knife. *See, e.g., Kizart*, 811 S.W. 137 (Tex. App. 1991) (the defendant’s self-defense claim was rejected when, while trying to take a victim’s gas money, the defendant produced a knife and threatened to slash the victim’s throat); *State v. Brothers*, 2012 Ariz. App. Unpub. LEXIS 1097 (Ariz. Ct. App. 2012) (it was reasonable to find the roommate was the “initial aggressor” when, after threatening to cut the defendant’s throat, the roommate began walking toward the kitchen to grab a knife). Such findings reinforce the rule that the force threatened must actually be *imminent* and *deadly* to make one the initial aggressor. *Johnson*, 2023 Ala. LEXIS 114 at 11-12.

Here, making a “throat-slashing” gesture would not render Jay the initial aggressor. *Id.* First, Jay did not have an actual knife that would tie such a gesture to a *real* threat of death or bodily harm. CF. 60. Thus, the gesture does not constitute the “imminent threat of deadly force” necessary to make Jay the initial aggressor. *Johnson*, 2023 Ala. LEXIS 114 at 11-12. And second, by Wilson’s own account, Jay made the gesture and then “walked into the breezeway,” after which Wilson

lost sight of Jay. CF. 60. This makes it clear that Jay's gesture was not communicating an immediate intent to kill Wilson, especially since the gesture was followed by Jay retreating rather than attacking. *Id.*; *Johnson*, 2023 Ala. LEXIS 114 at 11-12. The facts here fail to support that Jay was making an imminent, deadly threat against Wilson.

**B. Ryan Wilson was the first person to initiate a forceful action and to threaten imminent deadly force.**

Here, Wilson initiated forceful actions against Jay and made the first imminent threat of deadly force between the two of them. CF. 22–23. Jay did not resort to deadly force until he was already threatened by Wilson and forced to act in self-defense against Wilson's aggression. *Id.*

Wilson was staring Jay down from the moment Jay entered the motel parking lot. CF. 33. Then, while Jay was walking past Wilson, Wilson pulled out a black object that Greg positively identified as a handgun. CF. 34. This was the first time in the confrontation that either party displayed a gun. *Id.* Because the first person in a verbal confrontation to produce a gun is the first person to threaten deadly force, Wilson was therefore the first person to threaten imminent deadly force. *Johnson*, 2023 Ala. LEXIS 114 at 11–12. Because the first person to threaten imminent deadly force in a confrontation is the initial aggressor, Wilson became the initial aggressor to the confrontation by first displaying his gun alone. *Edwards*, 2020 U.S. App. LEXIS 7193 at 8; *Johnson*, 2023 Ala. LEXIS 114 at 11-12.

Wilson's status as the aggressor is bolstered when comparing Wilson's aggressive behavior to Jay's defensive behavior. Wilson displayed a handgun in a threatening manner while Jay was retreating toward his motel room. CF. 34. It was only then, while Jay's back was still turned, that Wilson charged the corner with his gun drawn. *Id.* Wilson's aggressive act forced Jay to resort to deadly force, as Jay did not reach for his own gun until (1) Wilson's gun was already pulled; (2) after one of Wilson's friends snickered, "He's done;" and (3) after Greg shouted, "Yo, watch out man!" CF. 22, 34. Thus, Jay was met with an imminent threat of deadly force, and reasonably believed that he would suffer death or serious bodily injury. CF. 22. Under Stetson law, Jay was therefore entitled to use deadly force and stand his ground. Stet. Stat. § 776.012; Stet. Stat. § 776.032.

### **CONCLUSION**

For the foregoing reasons, Jay Cameron respectfully requests that this Court grant his Motion to Dismiss, thereby affirming his right to stand his ground when defending himself against Ryan Wilson's deadly attack.

## INTEGRITY CERTIFICATION

*See Addendum A.*

## CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing Memorandum of Law was delivered by email by 5:00 p.m. EST on September 1, 2024, to [nptc@law.stetson.edu](mailto:nptc@law.stetson.edu).

*See Addendum A.*

Respectfully Submitted,

/s/ Team 115

Attorneys for the Defendant