Team No. 118

**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.*

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



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# Introduction

This Court should deny Jay Cameron’s Motion to Dismiss. Defendant, Jay Cameron, requests immunity from prosecution for his actions on August 6, 2022. Under Stetson’s Stand Your Ground (“SYG”) law, it is essential that such immunity is not extended beyond its intended protective scope. Defendant is barred from asserting this defense because he was participating in criminal activity at the time of the shooting, and, even if he was not, because he was the aggressor in this incident.

First, Defendant was actively participating in criminal activity by carrying a concealed weapon without a license to do so. Even if Defendant was not attempting to hide his weapon, Defendant did not have the weapon in plain sight or alert others that he had a gun.

Next, Defendant is not entitled to immunity because he attacked Ryan Wilson, thus provoking the use of force against himself. Defendant was the initial aggressor and had both the opportunity and requirement to retreat before the use of force.

Defendant was not acting in self-defense. Instead, he initiated a confrontation and fired the first shots. Defendant’s use of deadly force is not justified, and he did not have the right to stand his ground. This Court should deny Defendant’s Motion to Dismiss.

# Statement of Facts

**Premeditated confrontation.** Around 9:00 am on August 6, 2022, Jay Cameron called his brother Greg and asked him to meet him at the Boals Motel in Stetson. R. at 19, 29. Immediately upon arrival, Jay and Greg departed room 1077 of the Motel and headed on foot to get breakfast at a nearby restaurant. R. at 19, 29. As Jay and Greg walked through the parking lot of the Motel, Jay saw another motel patron, Ryan Wilson (“Ryan”), sitting outside of room 1045. R. at 19, 29. As he walked by Ryan, Defendant, unprompted, stated, “This will be my turf soon.” R. at 45, 57. Ryan then stood and asked if Defendant was speaking to him, to which Defendant replied, “Damn right—just wait.” R. at 6.

**No immediate threat.** At approximately 10:30 am, Jay and Greg Cameron returned to the Motel. R. at 20, 33, 46, 58. Ryan was still seated outside room 1045. R. at 20, 33. As Defendant walked past Ryan, he had his right hand in the front pocket of his sweatshirt and, with his left hand, made threatening gestures directly in Ryan’s direction. R. at 34, 47, 58, 59. Ryan became, “...on edge…because I wasn’t sure what was about to happen.” R. at 59.

Ryan did not respond to Defendant. R. at 47, 59. Defendant proceeded to enter the breezeway. R. 22, 34, 47, 60. Ryan believed Defendant’s aggressive behavior was “threatening to kill [him].” R. at 60. Unarmed and feeling threatened that Defendant was going to kill him, Ryan borrowed a gun from a friend, Tony. R. at 60. Fearing for his life, Ryan cautiously peered around the corner to observe Jay’s movements. R. at 47, 60.

**Use of force.** Instead of proceeding to his room, Defendant turned around and fired his semi-automatic handgun at Ryan, striking him in the chest. R. at 47, 60. After being struck by Defendant, Ryan returned fire and turned his back to flee. R. at 47, 60. As Ryan, with his back turned and fleeing, tried to distance himself from the violent gunfire, Defendant fired a second shot, hitting him once more. R. at 23, 36, 48, 61. Having been struck by two bullets, Ryan collapsed to the ground (R. at 23, 36, 48, 61), dropping the weapon he had borrowed in a desperate attempt for protection. R. at 23, 36.

**Escaping the scene.** Although he was struck and bleeding, Defendant instructed his brother to grab the gun Ryan had used. R. at 23, 37, 49. Ryan was left lying unconscious in the Boals Motel parking lot. R. at 61. Jay and Greg Cameron continued to room 1077 with both semi-automatic weapons. R. at 23, 38. After disposing of both weapons, Defendant, severely wounded and aggressively bleeding, fled the scene with his brother. R. at 24, 38.

# Standard of Review

Under Stetson law, an individual is justified in using deadly force only if they have a reasonable belief that such force is necessary to prevent imminent death or great bodily harm. This is outlined in Stet. Stat. § 776.012. The law does allow for the use of deadly force without a duty to retreat, but this protection is only afforded to those who are not engaged in criminal activity, are in a place where they have a legal right to be and are not the initial aggressor. § 776.012; Stet. Stat. § 776.041. While Stet. Stat. § 776.032 provides immunity from criminal prosecution for individuals who justifiably use deadly force under the statute, this immunity is not automatic.

When prosecution is initiated against a defendant who claims to have acted under the SYG statute, the defendant must file a motion to dismiss in accordance with Stet. Stat. § 3.190(b). While Stetson lacks relevant case law, the statutory language for SYG immunity and the standards of review in Florida closely align with those in Stetson.[[1]](#footnote-1) Therefore, this Brief primarily relies on Florida case law.

The State bears the burden of proving that the defendant is not entitled to this immunity. Through clear and convincing evidence, the State must establish either that the defendant’s belief in the necessity of using deadly force was not reasonable; that the defendant was the aggressor; or that the defendant engaged in criminal activity, thus disqualifying them from this immunity. *Hart v. State*, 308 So. 3d 655, 657 (Fla. Dist. Ct. App. 2020). Clear and convincing evidence is evidence that “creates in the mind of the fact-finder a firm conviction, without hesitancy, regarding the truth of the State’s allegations.” *In re* *Inquiry Concerning Davey*, 645 So. 2d 398, 404 (Fla. 1994).

When reviewing circumstantial evidence presented in an evidentiary hearing, the judge must review the evidence in the light most favorable to the State. *Gosciminski v. State*, 132 So. 3d 678, 710 (Fla. 2013). “The State is not required to rebut every possible variation of events inferred from the evidence, but only to introduce competent evidence.” *Id*. “Once that threshold burden is met, it becomes the [factfinder’s] duty to determine whether the evidence is sufficient to exclude every reasonable hypothesis of innocence beyond a reasonable doubt.” *Id.*

In evidentiary hearings, the factfinder-judge must “assess the credibility of each witness” and then “resolve conflicts in the evidence” accordingly. *Airsman v. Airsman*, 179 So. 3d 342, 346 (Fla. Dist. Ct. App. 2015). If a party’s witnesses are not credible, a finding of clear and convincing evidence for that party would be erroneous. *Searcy v. State*, 285 So. 3d 956, 958 (Fla. Dist. Ct. App. 2019).

Here, the State must provide clear and convincing evidence that Defendant was not justified in using deadly force. The State meets this burden.

# Argument

## Defendant is not entitled to immunity because he was participating in criminal activity by concealing a firearm.

Under Stetson’s SYG law, a person engaged in criminal activity does not have the right to stand their ground. Stet. Stat. §776.012. Defendant’s Motion to Dismiss should be denied because Defendant was participating in criminal activity and therefore is unable to seek immunity under Stetson’s SYG law.

Defendant was in violation of Stetson’s Concealed Carry Statute because he carried a firearm in a manner designed to conceal the existence of the firearm from the ordinary sight and knowledge of all. “A person who is not licensed to carry a concealed firearm and who carries a concealed firearm on or about his person commits a felony of the third degree.” Stet. Stat. §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*. Defendant concedes that he was carrying a firearm but argues that it was not “concealed” from the ordinary sight or knowledge of all witnesses.

### Defendant’s gun was concealed from the ordinary sight of the witnesses.

A firearm is concealed if it cannot be seen in “the casual and ordinary observation of another in the normal associations of life,” and the firearm is physically on the person or readily accessible to him. *Ensor v. State*, 403 So. 2d 349, 354 (Fla. 1981). The critical question is whether an individual, standing near a person with a firearm, may by “ordinary observation” know the questioned object to be a firearm. *Id.* at 355. To determine whether the weapon was concealed from ordinary sight, a trial court can evaluate if the weapon was covered by another object. *Dorelus v. State*, 747 So. 2d 368, 371 (Fla. 1999). A person carrying a weapon under his coat may be carrying a concealed weapon. *State v. Joseph*, 506 So.2d 493, 494 (Fla. Dist. Ct. App. 1987). Absolute invisibility is not a necessary element to a finding of concealment. *Ensor*, 403 So. 2d at 354.

Neither Ryan nor Kenny saw the gun in Defendant’s hoodie. Ryan noticed Defendant walking by with his hand in the front pocket of his sweatshirt. R. at 58. Ryan said it appeared Defendant was holding an object in his hand under his sweatshirt. *Id*. However, Ryan did not know what Defendant was holding under his sweatshirt. *Id*. Ryan guessed that Defendant may have been holding his phone and mentioned that it crossed his mind that it could have been a gun. R. at 59. Even though Kenny said that it looked like Defendant was probably holding a gun, he could not see that it was a gun. R. at 47. Ryan further explained that he didn’t believe Defendant “was going to be stupid enough to pull a gun on me in broad daylight.” R. at 59. Therefore, in the normal associations of life – a Saturday morning in broad daylight – Ryan could not see that Defendant had a gun through casual and ordinary observation.

Here, Defendant’s gun was covered by another object, his hoodie. R. at 21. Defendant even testified, “my gun was in the front pocket of my hoodie.” *Id*. Although witnesses testified that they saw an object in Defendant’s hoodie (R. at 47, 58), absolute invisibility is not a necessary element to a finding of concealment. Even if Defendant argues that he had no intention of hiding the gun, the standard for concealment is not whether the gun was completely hidden, but whether it was concealed from ordinary observation. Defendant's actions, whether intentionally or accidentally, fall into the definition of concealment.

 Since none of the witnesses, by ordinary observation, saw for certain that the questioned object in Defendant’s hoodie was a firearm, this Court should deny Defendant’s Motion to Dismiss.

### Ryan did not have knowledge that Defendant was carrying a gun on his person.

Even if this Court finds that Defendant did not carry the firearm in a manner designed to conceal it from the ordinary sight of all witnesses, Defendant did carry the firearm in a manner designed to conceal the existence of the firearm from the *knowledge* of all witnesses. Knowledge means “actual” knowledge. Fla. Stat. §671.209 (2024). The Supreme Court of the United States has defined actual knowledge to mean, “what it says: knowledge that is actual, not merely a possible inference from ambiguous circumstances.” *Intel Corp. Inv. Policy Comm. v. Sulyma*, 589 U.S. 178, 183-84 (2020).

Ryan did not have actual knowledge that Defendant was concealing a firearm under his hoodie. As Defendant was walking by him at the motel, Defendant made “some weird movement with his left hand,” at Ryan. R. at 59. However, Ryan could not tell what Defendant was signaling with his hand. *Id*. Next, Defendant muttered a few words, but Ryan could not decipher what he said. *Id*. To claim that Defendant’s hand movement and muttered words were enough for the witnesses to have actual knowledge that he was carrying a gun would merely be an inference from ambiguous circumstances. Neither Defendant’s weird hand movement nor muttered words were enough for Ryan to have actual knowledge that Defendant was carrying a firearm on his person.

Given the evidence presented, the State has met its clear and convincing evidentiary burden. Since Defendant carried a firearm on his person in a manner designed to conceal the existence of the firearm from both the knowledge and ordinary sight of Ryan, this Court should deny Defendant’s Motion to Dismiss.

## Defendant is not entitled to immunity because he was the aggressor.

The SYG immunity provided through § 776.032 applies only when “the person using or threatening to use the deadly force is not engaged in a criminal activity, is in a place where he or she has a right to be, and is not the aggressor.” § 776.012.

In reviewing motions for SYG immunity, courts apply an objective standard by examining the facts and determining if a reasonable person would have believed that deadly force was necessary. *Montanez v. State,* 24 So. 3d 799, 803 (Fla. Dist. Ct. App. 2010). “The trial court must determine whether, based on the circumstances as they appeared to the defendant, a reasonable and prudent person situated in the same circumstances and knowing what the defendant knew would have used the same force as did the defendant.” *Garcia v. State*, 286 So. 3d 348, 351 (Fla. Dist. Ct. App. 2019). Deadly force is justified only when the danger appears so real that a reasonable person would believe it was the only way to avoid harm. *Id.* at 352.

If an individual provokes the use of force, they must retreat or withdraw before claiming protection under the SYG statute. *Wyche v. State,* 170 So. 3d 898, 905 (Fla. Dist. Ct. App. 2015).

### No reasonable threat existed because Defendant was the aggressor and cannot justify his actions as self-defense.

An aggressor has no right to “stand his ground” and use the immunity provided by § 776.012. An initial aggressor is specified as someone who “initially provokes the use or threatened use of force against himself or herself.” § 776.041(2). “A person may not invoke the right to stand his or her ground unless he or she is ‘attacked.’” *State v. Floyd*, 186 So. 3d 1013, 1020 (Fla. 2016). An initial aggressor’s behavior is a catalyst that starts a domino effect where the “sequence of events that flow from the aggressor’s own violence.” *Perkins v. State*, 576 So. 2d 1310, 1314 n.8 (Fla. 1991).

A defendant is not entitled to immunity under claims of self-defense when “he is defending himself from the violence that he provoked in the first instance.” *Bouie v. State*, 292 So. 3d 471, 477 (Fla. Dist. Ct. App. 2020). The SYG law is designed to allow for self-defense without the need to retreat, but it does not authorize aggressive actions or the escalation of a confrontation. *State v. Canto*, No. F10-36620, 2013 WL 2645517, at \*7 (Fla. Cir. Ct. June 12, 2013).

#### Defendant’s provocation – verbally threatening Ryan and firing the first shot – clearly establishes him as the aggressor.

In *Brown v. State*, the court defined deadly force as justifiable if “retreat would be futile.” 454 So.2d 596 (Fla. Dist. Ct. App. 1984). The defendant in *Brown* was granted immunity for shooting the victim-assailant because the defendant was being pursued. The defendant in *Brown* “did what he could to extricate himself from the situation. . . The evidence is clear that the defendant fired the second and fatal shot because there was no alternative, because [the assailant] had closed in on him and had defendant turned to run, [the assailant] would have been on him.” *Id*. at 599.

Here, although the victim, Ryan, peered around the corner, Defendant was not being pursued by the victim. R. at 60. Ryan did nothing to justify Defendant’s use of deadly force. Unlike in the case of *Brown*, the facts here demonstrate that Defendant was the initial aggressor. Moreover, Defendant never saw the victim carrying a weapon and lacks evidence to support his claims that Ryan posed an imminent threat. R at 22. Defendant's statements to Stetson police further demonstrate the absence of any such threat:

Defendant:

7 I could see Wilson standing there with his hand in his

8 pocket and he was holding something. It was obviously a gun.

Officer:

9: Could you see it was a gun?

Defendant:

10: Not specifically, but it was obviously a black object, and

11: his hand was right on it–no need to hold a cell phone like

12: that. It was like he was ready.

Officer:

13: Did he pull it out and point it at you?

Defendant:

14: Not really. I mean, I saw his arm move and he pulled an

15: object out of his pocket. I couldn’t see what it was…”

R at 22.

On August 6, 2022, Defendant repeatedly instigated the use of force against himself through a series of deliberate provocations, culminating in the discharge of a firearm at Ryan. Defendant’s conduct was not merely provocative but blatantly threatening, as evidenced by his verbal and physical actions that were specifically designed to intimidate.

According to the testimonies of Ryan and a corroborating witness, Kenny Gray, Defendant made multiple direct verbal threats to Ryan, stating, “This will be my turf soon.” R. at 45, 57. This statement alone was a clear indication of Defendant's intent to claim dominance over the area, setting the stage for an inevitable confrontation. Defendant's subsequent actions only escalated the situation further.

By making aggressive and violent gestures with his hand and using verbal threats, Defendant created a scenario that ***any*** reasonable person would interpret as a serious threat to their life. Further, as highlighted above, his appearance—wearing a hood and concealing one hand in his sweatshirt pocket—was a deliberate choice to enhance the perceived danger, as he attempted to appear intimidating, giving Ryan justifiable cause to be concerned for his safety.

It is true that arguments alone “are insufficient to constitute adequate provocation” for the use of deadly force. *Reed v. State*, 287 So. 3d 606, 609 (Fla. Dist. Ct. App. 2019). But Defendant did in fact use more than his words. Regardless of awareness of the presence of any weapons, Defendant’s aggressive actions started long before the first bullet was shot.

From the outset, Defendant demonstrated a pattern of escalating aggression, beginning with a call to his brother:

Officer:

38: Why did you get breakfast with him that day?

Defendant:

39: Strength in numbers.

R. at 19.

Defendant had no reasonable basis to use deadly force but drew his gun anyway. He fired the first shot, followed by another as Ryan attempted to flee. R. at 61. Finally, Defendant took the firearm Ryan had borrowed in self-defense and left him for dead. R. at 23. Each act of aggression was initiated by Defendant, while any actions taken by Ryan were purely defensive.

Ryan’s actions were a reasonable response to a situation where his life was clearly at risk. His decision to keep an eye on the defendant by peering around the corner was a prudent measure in response to Defendant's behavior. It is imperative to emphasize that at no point did Defendant respond to any immediate or reasonable danger. Instead, he was the instigator, actively seeking to provoke a deadly confrontation.

In his account, Defendant attempts to construct a false narrative, claiming, “...I heard a voice behind me yell something–it sounded like ‘Yo watch, he’s a dead man.’ So, I turned around and drew my gun.” R. at 23. However, this statement is contradicted by the only other witness who heard anything prior to the shooting, Defendant’s own brother, who stated, “I yelled, ‘Yo watch out man!’” R. at 34. Defendant's attempt to portray the victim as the aggressor is not credible and is contradicted by the evidence.

Defendant’s statement is not just a mere discrepancy; it is calculated and designed to take a premeditated act of violence and turn it into a desperate act of self-defense. For instance, surveillance footage shows Ryan moments before the shooting, simply standing by his motel door. R. at 16. Additional surveillance footage captured Defendant pulling his weapon and shooting Ryan first. R. at 16. His attempt to manipulate the facts is a clear indication of his guilt.

Statements provided by Defendant’s brother evidence Defendant’s nature: “Damn kid thinks he’s invincible…he wants to be like the neighborhood Robin Hood.” R. at 31. Legal precedents clearly delineate what constitutes non-aggressive behavior eligible for a SYG defense. The standard for this immunity does not permit justice to be removed from the four corners of the law and placed into the hands of vigilantes. Defendant's conduct was not in line with the legal standards set forth for the justified use of force in self-defense, further solidifying the argument that the SYG defense is wholly inapplicable in this case.

### No statutory exceptions apply.

Statutory justifications for the use of deadly force are provided in § 776.012. Exceptions are contained in § 776.041(2), which states that “[s]uch force or threat of force is so great that the person reasonably believes that he or she has exhausted every reasonable means to escape such danger other than the use or threatened use of force which is likely to cause death or great bodily harm to the assailant; or (b) in good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use or threatened use of force, but the assailant continues or resumes the use or threatened use of force.” § 776.041(2)(a)(b).

Because Defendant was the aggressor, he had a duty to retreat even if he felt there was a risk of death or great bodily harm and if he could safely do so. *Garcia v. State*, 286 So. 3d at 351. Defendant was not in reasonable fear of danger and failed to withdraw; he cannot use the SYG defense exceptions for the use of deadly force.

#### 1. Defendant had no reasonable fear of harm; Ryan was not an imminent threat.

The justification for the use of force under § 776.041(2) must be assessed using the objective, reasonable person standard, which is the same measure applied to claims of justifiable use of deadly force. *Bouie v. State*, 292 So. 3d at 481. This standard requires evaluating the defendant’s actions based on how the circumstances appeared to them at the time. *Montanez v. State*, 24 So. 3d at 803. The central question is whether a reasonable and prudent person, in the same situation as the defendant, would have believed that the use of deadly force was necessary to prevent imminent death, great bodily harm, or the imminent commission of a forcible felony. *Bouie*, 292 So. 3d at 481.

Courts have held that a SYG jury instruction was appropriate when a defendant stabbed another person in reaction to being punched and choked by that individual. *Gonzalez v. State*, No. 6D23-509, 2024 WL 1689215, at \*6 (Fla. Dist. Ct. App. Apr. 19, 2024). In contrast to *Gonzalez’s* situation, where the use of deadly force was evaluated based on an immediate and ongoing threat to his life, the facts at hand present a markedly different situation. Defendant initiated a confrontation with Ryan by making provocative statements and gestures suggesting violence. Unlike *Gonzalez*, who was attacked and reacted out of perceived necessity, Defendant escalated the situation without any immediate threat to his safety.

The court in *Snow v. State* denied the defendant’s motion to dismiss asserting SYG immunity. *Snow v. State*, 352 So. 3d 529, 537 (Fla. Dist. Ct. App. 2022). The victim “stepped out of the vehicle when Snow blindsided him with a punch. The two men tussled and, eventually, Fairley put Snow on the ground on his back. As Snow started to get up, he pulled the firearm out of his pocket and shot Fairley once in the chest.” *Id*. Snow failed to demonstrate a reasonable belief that force was necessary after he and instigated the fight by “us[ing] language to indicate a desire to fight…” and throwing the initial punch. *Id.*

Defendant’s situation mirrors that of *Snow* in critical ways. Defendant approached Ryan at the motel and verbally threatened him, saying, “This will be my turf soon,” which was a clear provocation. R. at 57. Just as in *Snow*, where defendant escalated the situation by using language indicating a desire to fight, Defendant’s return to the scene with his hood up and hand in his pocket signaled his readiness for violence.

Defendant cannot reasonably claim self-defense when he was the one who initiated the confrontation and escalated it to the point of deadly violence. Just as in *Snow*, Defendant’s actions disqualify him from this immunity.

Defendant made absolutely no effort to de-escalate the situation before resorting to shooting the victim not only once, but a second time as the victim was physically turning away, attempting to flee from Defendant.

#### Even if Defendant reasonably believed he was in harm’s way, he ignored his obliged duty to retreat.

A duty to retreat means the defendant is required to use *every reasonable means* to avoid the danger consistent with their safety before resorting to deadly force. *Jimenez v. State*, 353 So. 3d 1286, 1288 (Fla. Dist. Ct. App. 2023) (emphasis added). “A person under attack has a duty to ‘retreat to the wall’ before taking a life; the person must have used all reasonable means in his power, consistent with his own safety, to avoid the danger and to avert the necessity of taking human life.” *Jenkins v. State*, 942 So. 2d 910, 914 (Fla. Dist. Ct. App. 2006). These standards of retreat reflect the principle that an individual who instigates the original threat of harm forfeits the privilege of using force without first attempting to withdraw. *Garcia*, 286 So. 3d at 351.

Defendant’s actions on August 6, 2022, demonstrated that he was the one who escalated the situation through verbal threats and menacing gestures. By provoking the encounter, the defendant forfeited any immediate claim to self-defense without first attempting to de-escalate the situation by retreating. The law consistently holds that when the aggressor feels threatened by a situation they initiated, their first obligation is to withdraw from the confrontation rather than stand their ground and use force. *Floyd*, 186 So. 3d at 1021. “Simply translated, then, the statute says that a person does not get to claim that he was acting in self-defense if he is defending himself from violence that he provoked in the first instance.” *Bouie v. State*, 292 So. 3d at 477.

Defendant disregarded his duty to retreat. Deadly force is justified only when necessary to prevent imminent danger. If the first shot could arguably be considered self-defense, any perceived threat was clearly eliminated when Ryan turned and fled. By shooting him a second time, Defendant's actions went beyond self-defense and became an act of aggression, violating the principles of necessary force. This failure to retreat, despite having initiated the confrontation, undermines any claim Defendant might have to justify his actions as self-defense.

# Conclusion

This Court should deny Defendant’s Motion to Dismiss. The standard for this immunity is designed to uphold the rule of law, ensuring that justice is administered through legal channels rather than being usurped by individuals taking the law into their own hands. It prevents justice from being distorted by personal vendettas or vigilante actions, thereby preserving the integrity and fairness of the legal system.

Defendant was engaged in criminal activity, initiated the confrontation, escalated the situation, and resorted to deadly force without attempting to withdraw or explore alternative options. Defendant failed to fulfill his legal obligations and forfeited any legitimate self-defense claim. The evidence clearly and convincingly supports the conclusion that Defendant’s actions were unjustifiable, and any claim of self-defense is without merit.

DATED, this 1st day of September 2024.

Respectfully submitted,

 /s/ Team # 118

 Attorneys for the State of Stetson

1. *See e.g*., *State v. Bass*, 224 N.J. 285, 309, 132 A.3d 1207, 1221 (2016); *State v. Denton*, 2023-313 (La. App. 3 Cir. 11/29/23), 374 So. 3d 1157, 1166, *writ denied,* 2023-01683 (La. 6/19/24), 386 So. 3d 316; *State v. DeLeon*, 536 P.3d 892 (Kan. Ct. App. 2023); *State v. Whipple*, 501 S.W.3d 506, 515 (Mo. Ct. App. 2016); *Lozano v. State*, 636 S.W.3d 25, 31 (Tex. Crim. App. 2021). [↑](#footnote-ref-1)