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| **IN THE SUPERIOR COURT OF THE STATE OF STETSON**  **COUNTY OF PINELLA** |
| Case No. 2024–CR–319 |
| STATE OF STETSON  v.  JAY CAMERON,  *Defendant*. |
| **MOVANT’S MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS** |

/s/ 119

*Attorneys for Defendant*

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# INTRODUCTION

This Court should grant Mr. Cameron’s Motion to Dismiss because Mr. Cameron complied with Stetson’s “Stand Your Ground” (“SYG”) statute when he defended himself—he is immune from prosecution.

Stetson law guarantees its citizens the right to defend themselves. A person who responds to deadly force by protecting himself should not be prosecuted for simply ensuring his safety. However, legal obligations differ if he was in a place where he did not have the right to be, was engaged in unlawful activity, or was the aggressor in the event resulting in the use of force. *See* Stetson Stat. § 776.012 (2022).

It is undisputed that Mr. Cameron, walking toward his motel room, was in a place he had every right to be.

The State must then prove by clear and convincing evidence that Mr. Cameron engaged in unlawful activity or initiated the conflict *and* did not satisfy the duty to retreat.

Mr. Cameron acted lawfully. He did not conceal his firearm but carried it in a manner designed to make its existence known. Mr. Cameron responded to aggression—he did not elicit it. Even if this Court disagrees, Mr. Cameron fulfilled his alternative obligation to retreat. Reasonably believing himself at risk of imminent death, he had no reasonable means of escape.

Both the situation and the law required certain actions of Mr. Cameron. He did what he had to do.

# STATEMENT OF FACTS

On August 6, 2022, Jay Cameron woke up and decided to get breakfast. R. 19:24–25. But the streets of Stetson were tough because of men like Ryan Wilson. R. 20:41–42. Afraid to encounter Wilson alone, Mr. Cameron invited his big brother, Greg Cameron, to join him. R. 19:24–26, 38–40. Greg arrived at the Boals Motel, where Mr. Cameron stayed, and they headed to breakfast. R. 19:24, 29:34–35.

Even walking to breakfast with his brother, Mr. Cameron could not avoid Wilson, who waited outside his own room all morning. R. 20:54, 62–63. No one came in or out of the Boals Motel without Wilson’s knowledge or approval. R. 45:31–35, 56:54–55.

No sooner had Mr. Cameron entered the parking lot than Wilson threatened, “Keep your distance, or else.” R. 20:54–55. Wilson additionally warned, “You’re a dead man walking.” R. 20:57.

Mr. Cameron knew Wilson was a man of his word when it came to threats, having seen Wilson pull guns on others. R. 20:45–46, 48–50. Afraid Wilson would follow through that morning, Mr. Cameron and Greg finally left for breakfast. R. 20:58–61. Forty-five minutes later, Mr. Cameron and Greg returned to the motel—Wilson still stationed outside his room with backup, Kenny Gray and Tony. R. 20:62, 49:126–31.

While still on the opposite side of the parking lot, Mr. Cameron indicated he was armed by making a gun with his left hand and saying, “Pop pop.” R. 34:135–36, 151–52. Mr. Cameron feared Wilson would attack if he did not indicate he was armed. R. 21:76–77. Mr. Cameron carried his firearm, a large .40 caliber, army model gun, in the front pocket of his hoodie to ensure his safety. R. 21:70–71, 76–77; Ex. 5. Gray noted that Mr. Cameron carried the gun. R. 47:67–68. Wilson, however, was convinced Mr. Cameron would never pull a gun on him. R. 59:115–17.

Despite the tension, Mr. Cameron never departed from his path to the breezeway. R. 21:84; Ex. 8. As Mr. Cameron passed by, Wilson watched Mr. Cameron “like a hawk.” R. 33:123–24. As Mr. Cameron turned toward the breezeway, he saw Wilson holding something in his pocket—a gun. R. 21:84–22:88.

Mr. Cameron heard two words: “You’re done.” R. 22:102. Heart racing and convinced Wilson was going to kill him, Mr. Cameron continued toward the breezeway. R. 22:106–09. Mr. Cameron finally reached what he thought was the safety of the breezeway when he heard, “Yo watch, he’s a dead man.” R. 22:108–23:110.

Mr. Cameron had only two options: turn around and engage or run down the narrow breezeway with his back to whomever was approaching. Ex. 8. Merely to defend himself, Mr. Cameron turned around and drew his gun. R. 23:110–11. His eyes met a pistol locked on him. R. 23:113–15. Wilson before him—gun drawn. R. 23:113–15, 25:161–62.

From the narrow confines of the breezeway, Wilson and Mr. Cameron exchanged fire. R. 23:113–15, 25:161–62. Mr. Cameron was surrounded. A wall to one side. Stairs to the other. An armed Wilson before him. A narrow breezeway behind. R 22:107–09. In a matter of seconds, Wilson shot Mr. Cameron in the stomach. R. 23:118–19. Afraid for his life, Mr. Cameron returned fire twice until Wilson dropped his gun. R. 23:114–15, 119–25. Mr. Cameron did not want to die. R. 24:138.

Blood poured from Mr. Cameron’s stomach. R. 38:241–42. Mr. Cameron could not get himself to safety, so his big brother stepped in. R. 38:247–52. Despite Mr. Cameron losing blood and going in and out of consciousness, Greg took him to a hospital as far away as safely possible to ensure Wilson and his gang would not follow them and retaliate. R. 38:249–39:254.

# ARGUMENT

# Stetson’s Stand Your Ground statute entitles Mr. Cameron to immunity because he complied with the law.

Under Stetson’s SYG statute, a person’s use of deadly force is justifiable when he “reasonably believes . . . such force is necessary to prevent imminent death or great bodily harm.” Stetson Stat. § 776.012 (2022). One who uses such force does not have a duty to retreat but has the right to “stand his or her ground.” *Id.* Stetson so values its citizens’ safety that a person who uses force to defend himself under § 776.012 is immune from prosecution. § 776.032. However, if an individual engaged in unlawful activity, Stetson law imposes a duty to retreat. § 776.012. If that duty is met, the individual may still claim immunity.

This portion of the statute requires (1) that an individual did not engage in unlawful activity, *or* (2) that an individual who engaged in unlawful activity satisfied the duty to retreat. *Id.*

This Court should find that Mr. Cameron did not engage in unlawful activity. Even if this Court finds otherwise, Mr. Cameron satisfied the duty to retreat and now properly claims immunity.

## **Mr. Cameron complied with the law because he carried his firearm in a manner designed to make its existence known.**

In Stetson, a firearm is concealed if a person carries it “in a manner designed to conceal the existence of the firearm from the ordinary sight or knowledge of another person.” Stetson Stat. § 790.01(2) (2022). To decide whether an individual concealed a firearm, courts consider factors like whether the accused used his body to conceal the firearm and how much a firearm is “covered by another object.” *Dorelus v. State*, 747 So. 2d 368, 368 (Fla. 1999). Courts also consider the nature of the weapon, given that large weapons are more difficult to hide from “ordinary sight” than small ones. *Id.* at 372.

Stetson’s definition of “concealed firearm” largely mirrors Florida’s definition. *See* Fla. Stat. § 790.001(3) (2024). Florida’s interpretation is, therefore, persuasive. Florida courts ask “whether an individual, standing *near* a person with a firearm” would observe that the individual carried a firearm. *Ensor v. State*, 403 So. 2d 349, 354 (Fla. 1981) (emphasis added), *superseded on other grounds by statute*, 1982 Fla. Laws 334.

There is, however, one important difference between the Stetson and Florida statutes. In Stetson, it is essential to determine whether the individual *intended* to conceal the firearm. The legislative choice to use the word “designed” in the statute indicates that an individual must have “plan[ned],” “schem[ed],” “purpos[ed],” or “intend[ed]” to conceal the existence of the firearm. Stetson Stat. § 790.01(2) (2022); *Design*, *Black’s Law Dictionary* (11th ed. 2019). Florida law does not fundamentally require intent, but Florida courts still give weight to whether an accused intended to conceal the weapon. *State v. Marsh*, 138 So. 3d 1087, 1090 (Fla. Dist. Ct. App. 2014).

This Court must consider two questions: (1) whether Mr. Cameron carried his firearm in an obvious manner, and (2) whether Mr. Cameron intended to conceal the firearm.

Mr. Cameron carried his firearm in a manner that made its existence obvious. In *Marsh*, the court determined there was sufficient evidence that an individual concealed a firearm when he hid it in a truck’s wheel well. *Id.* at 1089. The officer who ultimately found the firearm only discovered it because he inspected the area and “got a good angle.” *Id.* at 1090–91. Mr. Cameron, however, carried his large, .40 caliber, army model firearm at the front of his person. Mr. Cameron noticeably carried the firearm, satisfying the obvious requirement.

The firearm was obvious even to those standing a sizeable distance away from Mr. Cameron. While the firearm in *Marsh* could only be found through a purposeful inspection and a “good angle,” Mr. Cameron’s firearm stood out to bystanders. An individual standing near the truck in *Marsh* likely would not have noticed the firearm without a unique angle. In this case, bystanders noticed Mr. Cameron’s gun from all the way across the parking lot. Gray believed Mr. Cameron carried a firearm. Wilson himself admitted Mr. Cameron might have a gun. Common sense dictates that had they been *near* Mr. Cameron they would have clearly recognized the firearm.

Mr. Cameron did not intend to conceal the firearm—he announced that he carried the gun. In *Marsh*, the court emphasized the accused’s body language as he hid by the truck, which indicated that he had not only hidden the weapon but intended to do so. *Id.* Mr. Cameron used his body and words to broadcast that he carried a firearm.

Mr. Cameron indicated that he was armed in three ways. First, he held his gun in a manner only a gun would be held. Second, he made the shape of a gun with his left hand. Third, he said, “Pop pop.” Each indication individually demonstrates that he carried a firearm. Together, it is undeniable that Mr. Cameron intended to make his gun’s existence known.

Mr. Cameron did not just carry the firearm in a manner *designed* to indicate its existence to others. That would have been sufficient. He *made* its existence apparent. He clearly complied with the law. Mr. Cameron did not conceal his firearm.

## **Even if this Court finds that Mr. Cameron concealed his firearm, he still properly claims immunity under the Stand Your Ground statute.**

Multiple states allow an individual to claim immunity under SYG laws even if the individual engaged in unlawful activity, and this Court should do the same. *Ex parte Johnson*, No. SC–2023–0251, 2023 WL 8658886, at \*5 (Ala. Dec. 15, 2023); *Garcia v. State*, 286 So. 3d 348, 351–52 (Fla. Dist. Ct. App. 2019). Florida jurisprudence is particularly persuasive because its SYG statute is identical to Stetson’s. *See* Fla. Stat. § 776.012 (2024). Florida jurisprudence indicates that an individual engaged in unlawful activity may claim immunity if he fulfilled his duty to retreat “consistent with his own safety.” *Garcia*, 286 So. 3d at 351–52.

In *Jimenez v. State*, 353 So. 3d 1286, 1291 (Fla. Dist. Ct. App. 2023), the court determined that the accused rightfully sought immunity under Florida’s SYG statute even though he concealed carried without a license because he alleged he “had no ability to retreat.” *Id.* at 1287. The accused could not retreat when the shootout spanned only a matter of seconds. *Id.* Mr. Cameron, likewise, could not safely retreat when the conflict with Wilson lasted mere seconds. Further, any direction Mr. Cameron attempted to escape would have increased the likelihood of death. As discussed further below, Mr. Cameron fulfilled any duty to retreat.

Because Mr. Cameron complied with the law, he is entitled to immunity under the SYG statute. Even if this Court finds that Mr. Cameron engaged in unlawful activity, he fulfilled any duty to retreat.

# Mr. Cameron properly claims immunity because Wilson initiated the aggression, and, even if Mr. Cameron initiated the aggression, he satisfied Stetson Statute § 776.041.

The accused must satisfy two requirements to claim immunity under the Stetson SYG statute: (1) the accused did not engage in unlawful activity (as discussed above), and (2) the accused was not the initial aggressor. Stetson Stat. § 776.012 (2022).

If the accused was not the initial aggressor, he may properly claim immunity, and this Court need not further analyze the accused’s conduct. Stetson law, however, provides that even if the accused was the initial aggressor, he may claim immunity if he satisfies two additional requirements: (1) the accused reasonably believed he was in imminent danger of death or bodily harm, and (2) the accused exhausted every reasonable means of escape. § 776.041(2)(a).

This Court should grant Mr. Cameron’s Motion to Dismiss for three reasons: First, Mr. Cameron did not engage in unlawful activity that precludes him from immunity. Second, Mr. Cameron was not the initial aggressor. Third, even if Mr. Cameron was the initial aggressor, he reasonably feared imminent death or bodily harm and had no reasonable means of escape.

## **Mr. Cameron only initiated a verbal exchange with Wilson, whereas Wilson initiated the only physical altercation.**

Absent any binding caselaw in Stetson, this Court should adopt the initial aggressor definition recognized in most jurisdictions. To determine the initial aggressor, courts typically identify the person who attacks or threatens to do so without another’s attempt to attack. *Mojica v. Fischer*, No. 00 Civ. 8933RJHKNF, 2005 WL 2230450, at \*8 (S.D.N.Y. Sept. 12, 2005). These courts recognize that one who strikes the first blow is not necessarily the initial aggressor because, “One who reasonably believes that another person is about to use deadly physical force upon him need not wait until he is struck or shot. He may in such circumstances use deadly physical force defensively.” *Id.*

### **Mr. Cameron merely indicated to Wilson he could defend himself, which is insufficient to make him an initial aggressor.**

Several jurisdictions recognize mere words or insults as aggression only if the accused intended to cause an altercation or reasonably expected that his words would provoke a belligerent response. *E.g.*, *Ruth v. State*, 581 P.2d 919, 921 (Okla. Crim. App. 1978) (holding that mere words never justify an assault as self-defense); *State v. Kee*, 431 P.3d 1080, 1083 (Wash. Ct. App. 2018) (“[W]ords alone cannot be the provoking conduct that justifies a first aggressor.”). Other courts find that words are sufficient to provoke an altercation when combined with ongoing aggressive conduct that indicates the accused is ready to attack. *See, e.g.*, *Commonwealth v. Mouzon*, 53 A.3d 738, 751 (Pa. 2012). Only a credible threat can make one an initial aggressor—anything less will not suffice.

In *Kee*, the appellate court held that the trial court erred when its initial aggressor instruction did not indicate that words alone, even threats, do not suffice to make one an initial aggressor. 431 P.3d at 1083. When it was unclear who delivered the first blow after the accused threatened the victim saying, “[D]o you want me to ‘F’ you[r] little butt up?” the court held that the jury should have been instructed that words alone do not make one the initial aggressor. *Id.* Alternatively, in *Mouzon*, the court reinstated the judgment against the accused because his words combined with his conduct initiated the deadly confrontation. 53 A.3d at 740, 751. Because the accused approached two women who rebuked him, continued to harass and follow the women, and threatened to kill the women, the court reasoned that the accused’s conduct demonstrated that he was willing and able to act on his threats. *See id.* at 751.

Mr. Cameron could not be the initial aggressor because his interactions with Wilson were mere words not matched by conduct sufficient to initiate an altercation. If the accused in *Kee* could threaten to “‘F’ [victim’s] little butt up” without becoming an aggressor, certainly Mr. Cameron could not be the initial aggressor when he only said, “Pop pop.” Those words alone do not constitute aggression.

Further, Mr. Cameron’s singular gesture with his left hand in the shape of a gun does not constitute conduct that elevates his words to aggression. When Mr. Cameron gestured with his left hand, he intended to ensure Wilson knew he was armed, not that he intended to attack. By his own admission, Wilson was convinced Mr. Cameron would not pull a gun on him. Unlike the accused in *Mouzon* who directly threatened to kill the women in the bar, Mr. Cameron never stated that he wished to kill or harm Wilson. Mr. Cameron never directly approached nor physically contacted Wilson in the parking lot. Nothing indicates that Mr. Cameron directed his path toward Wilson. At all times, Mr. Cameron continued toward the breezeway to return to his room. Unlike the accused in *Mouzon* who harassed, followed, and threatened to kill the women, Mr. Cameron’s conduct was limited to a single gesture. Absent additional aggressive conduct that indicated Mr. Cameron’s threat was credible, Mr. Cameron could not be the initial aggressor.

Because Mr. Cameron’s words and gestures did not suffice to constitute aggression, this Court should find that Mr. Cameron was not the initial aggressor.

### **Wilson initiated the shooting after Mr. Cameron exited the parking lot.**

When determining the initial aggressor, courts consider whether a single altercation or multiple altercations occurred. *See, e.g.*, *Thompson v. State*, 257 So. 3d 573, 581 (Fla. Dist. Ct. App. 2018). If multiple altercations occurred, then courts do not consider merely who initiated the first altercation in a series of altercations but who initiated the *particular* altercation at issue. *Id.* Wilson initiated the shooting.

In *Thompson*, the appellate court upheld the trial court’s ruling that the accused was the initial aggressor of a second altercation between the accused and the victim. *Id.* After the first altercation, in which the victim initially laid hands on the accused, the accused walked away and the victim walked to his vehicle because he thought the fight was over. *Id.* The accused returned outside with a sword twenty seconds later and stabbed the victim in the intestines. *Id.* at 576–77. The court held that the accused was the initial aggressor of the second altercation because he armed himself and pursued the victim after the victim indicated he was prepared to leave. *Id.* at 581.

Only one physical altercation occurred at the Boals Motel—the shooting. The first altercation, if it can be considered an altercation, was merely words and a gesture. After the exchange in the parking lot, Mr. Cameron proceeded to the breezeway to return to his room. Even if that exchange was provocative aggression, it ended when Mr. Cameron entered the breezeway.

Mr. Cameron exited Wilson’s view with his back to Wilson. He clearly indicated the situation was over. Wilson, however, is like the accused in *Thompson* who after the end of an altercation armed himself and pursued the victim less than a minute later. Wilson was either already armed or retrieved a gun immediately before he followed Mr. Cameron. When Wilson pursued Mr. Cameron, Mr. Cameron was out of sight with his back to the parking lot. Nothing in the record indicates that Mr. Cameron waited for Wilson in the breezeway. Rather, Wilson pursued Mr. Cameron into the breezeway and cornered him. The first to be seen of Wilson in the breezeway is his gun. The first to be seen of Mr. Cameron is his back. Wilson posed a credible threat. Therefore, Wilson initiated the shooting.

Because Wilson armed himself and pursued Mr. Cameron after Mr. Cameron left the parking lot, this Court should find that Wilson­­—not Mr. Cameron—was the initial aggressor.

## **Even if Mr. Cameron initiated the aggression, he reasonably feared imminent death or bodily harm and had no reasonable means of escape.**

This Court should find that Mr. Cameron was not the initial aggressor. However, even if this Court disagrees, Mr. Cameron may still properly claim immunity if he reasonably feared his imminent death or bodily harm and exhausted every reasonable means of escape. Stetson Stat. § 776.041 (2022). Mr. Cameron satisfied both requirements.

### **Mr. Cameron reasonably feared imminent death or bodily harm because Wilson followed him into the breezeway with a deadly weapon drawn.**

Courts apply an objective standard in determining whether an accused reasonably feared imminent death or bodily harm. *Huckelby v. State*, 313 So. 3d 861, 866 (Fla. Dist. Ct. App. 2021). Courts assess whether a reasonable and prudent person in the same circumstances as the accused would have used the same force the accused used. *Id.* The danger to the accused need not have been actual but real enough to justify the accused’s belief that the danger could only be avoided by using deadly force. *State v. Floyd*, 186 So. 3d 1013, 1015 (Fla. 2016). A victim’s reputation in the community as a “violent and dangerous character” is a factor in determining whether the accused reasonably feared imminent death or bodily harm. *Coker v. State*, 212 So. 2d 648, 650 (Fla. Dist. Ct. App. 1968). The nature, not the result, of the force makes it deadly. *Garramone v. State*, 636 So. 2d 869, 871 (Fla. Dist. Ct. App. 1994). Deadly force occurs when the “natural, probable, and foreseeable consequences” of one’s acts are death. *Id.* A firearm is, by definition, a deadly weapon. *Id.*

In *Little v. State*, 111 So. 3d 214, 218 (Fla. Dist. Ct. App. 2013), the appellate court held that the accused was justified in his use of force when he responded to the victim drawing and pointing two guns at him. After the accused escaped into a nearby home and pulled out his gun, he was forced to return outside to the victim who had previously drawn two guns and threatened to shoot the accused. *Id.* at 216–18. The accused had to pass by the victim. *Id.* at 217. The victim then raised his guns and pointed them at the accused. *Id.* The court held that the accused was justified in shooting the victim because the accused responded to the victim’s threat of deadly force. *Id.*

Mr. Cameron reasonably feared imminent death or bodily harm because Wilson was a violent man with a deadly weapon. Wilson prepared to shoot Mr. Cameron as soon as Wilson reached the breezeway. Like the accused in *Little* who feared the victim because of previous threats, Mr. Cameron feared Wilson because Wilson previously threatened Mr. Cameron and others. Although Wilson’s previous threats were not made the same day, this Court should consider what Mr. Cameron knew about Wilson at the time of the incident. Just as in *Little*, in which the accused knew the victim to be violent, Mr. Cameron and the Stetson community knew Wilson to be violent. Mr. Cameron had seen Wilson pull guns on others. In *Little*, the accused did not draw his weapon until the victim raised his guns. Similarly, Mr. Cameron did not raise his weapon until Wilson approached with his gun drawn. Only after Wilson shot did Mr. Cameron return fire—two shots in rapid succession.

Consequently, Mr. Cameron reasonably feared imminent death or bodily harm because he saw Wilson, known to be violent and dangerous, approaching him with a deadly weapon. Mr. Cameron countered the threat of deadly force with deadly force because he had no reasonable alternative.

This Court should, therefore, find that Mr. Cameron’s force was justified because he reasonably feared imminent death or bodily harm.

### **Mr. Cameron could not reasonably escape without increasing his risk of death or bodily harm.**

An accused must “*exhaust[] 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.” § 776.041(2)(a) (emphasis added). An accused does not have an absolute duty to retreat, he simply must pursue reasonable alternatives to deadly force. *Drennen v. State*, 311 P.3d 116, 128–29 (Wyo. 2013). If retreating would increase the danger to an accused, he need not retreat. *Garrett v. State*, 148 So. 3d 466, 469 (Fla. Dist. Ct. App. 2014). Rather, the accused may respond with justifiable force. *Id.* When a threat is imminent, retreat is futile. *Id.* at 472–73.

In *Rodriguez v. Heath*, 138 F. Supp. 3d 237, 250–51 (E.D.N.Y. 2015), the court held that there was reasonable evidence that the accused could not retreat with complete safety. The accused was trapped in an alleyway between the armed assailant at one side and one of the assailant’s friends at the other side. *Id.* at 244. The accused could only have approached the armed assailant at one end of the alleyway or escaped through an alleged small gap in a fence at the other end. *Id.* at 251. The court rejected those options because both endangered the accused. *Id.*

Mr. Cameron could not escape without exposing himself to further harm. Like the accused in *Rodriguez* who faced danger no matter where he turned, Mr. Cameron faced increased risk in running either toward or away from Wilson. Like the alleyway in *Rodriguez*, the narrow breezeway trapped Mr. Cameron. If Mr. Cameron attempted to run past Wilson, Mr. Cameron surely would have died or been seriously injured. If Mr. Cameron ran away from Wilson down the narrow breezeway, Wilson likely would have shot him in the back. Even if Mr. Cameron dove behind the stairs, the stairs provided no protection because there were gaps between each step. If Mr. Cameron escaped up the stairs, he would have had to run at a slower rate, with his back turned to Wilson, and away from his room. That is not reasonable escape. The only ways Mr. Cameron might have escaped were dangerous and unreasonable.

Given that any alternative to returning deadly force with deadly force would have increased Mr. Cameron’s risk of death or bodily harm, this Court should find that even if Mr. Cameron was the initial aggressor, he satisfied his statutory duty to retreat. He could not escape at all.

# CONCLUSION

Mr. Cameron did what he had to do. He is entitled to immunity.

Mr. Cameron complied with the law by carrying his firearm in a manner designed to make its existence known. Mr. Cameron did not initiate the altercation that resulted in his hospitalization. Even if this Court finds to the contrary on either of these points, Mr. Cameron reasonably feared imminent death or bodily harm, and he could not reasonably escape.

This Court should, therefore, grant Mr. Cameron’s Motion to Dismiss.

Respectfully submitted,

/s/ Team 119

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