Team: 121

**Case No. 2024-CR-319**

**IN THE**

**SUPERIOR COURT**

**OF THE STATE OF STETSON**

**PINELLA COUNTY**

**JUDICIAL DISTRICT**

September 1, 2024

**State of Stetson,**

*Prosecution*

**v.**

**Jay Cameron,**

*Defendant*

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DEFENSE’S MEMORANDUM OF LAW**

**IN SUPPORT OF DEFENSE’S MOTION TO DISMISS**

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**TABLE OF CONTENTS**

INTRODUCTION.................................................................................................. 1

STATEMENT OF FACTS...................................................................................... 1

ARGUMENT......................................................................................................... 4

1. Jay Cameron, Whether Engaged in Illegal Activity or Not, had a Right to defend himself under Stetson's “Stand Your Ground” Law because he Fulfilled his Duty to Retreat……………………………………………..... 4
	1. “Stand Your Ground” Laws Entitle One to Immunity From Prosecution Even if One is in the Commission of a Crime…….….. 5
	2. Jay Cameron Fulfilled his Duty to Retreat, as There was No Safe Way For him to Run Away…………………………………..……. 9
2. Mr. Cameron Had the Right to Stand His Ground As He Was Not the Aggressor in the Event that Led to the Shooting....................................... 11
	1. The Interactions that Occurred on August 6, 2022, Can be Viewed as Separate Events with Individual Aggressors................................... 11
	2. Mr. Wilson is the Initial Aggressor of the Shooting Since He Chose to Arm Himself and Pursue Mr. Cameron into the Breezeway……......14
	3. Mr. Cameron had Reasonable Belief that Mr. Wilson Planned to Use Force Against Him, Making Mr. Wilson the Initial Aggressor.........16

CONCLUSION.................................................................................................... 19

**TABLE OF AUTHORITIES**

CASES

*Cruz v. State*, 189 So. 3d 822 (Fla. Dist. Ct. App. 2015)......................... 11, 12, 13

*Garcia v. State*, 286 So. 3d 348 (Fla. App. 2019).................................................. 9

*Jenkins v. State*, 942, 91 (Fla. App. 2006).............................................................. 9

*Jimenez v. State*, 353 So. 3d 1286 (Fla. App. 2023)................................... 5, 6, 8, 9

*State v. Chavers*, 230 So. 3d 35 (Fla. Dist. Ct. App. 2017)............................... 7, 8

*State v. Church*, 229 N.C. 718 (1949)............................................................ 15, 16

*State v. Floyd*, 186 So. 3d 1013 (Fla. 2016)......................................................... 14

*State v. Harris*, 717 S.W.2d 23 (Mo. Ct. App. 1986)............................................. 9

*State v. Jones*, No. W2018-02180-CCA-R3-CD, 2020 Tenn. Crim. App. LEXIS 204 (Crim. App. 2020)........................................................................................... 9

*State v. Rivera*, 204 A.3d 4 (2019)........................................................... 17, 18, 19

*State v. Skelly*, 3 A.3d 1064 (2010)...................................................................... 17

*Thompson v. State*, 257 So. 3d 573 (Fla. Dist. Ct. App. 2018)...................... 14, 15

*Thompson v. State,* 552 So. 2d 264 (Fla. App. 1989)........................................... 10

STATUTES

Fla. Stat. 776.012(2)....................................................................................... 5, 6, 7

Stetson Stat. 776.012.......................................................................................4, 5, 8 Stetson Stat. 790.01(2).................................................................................... 9

# **INTRODUCTION**

The Motion to Dismiss should be granted as Jay Cameron was expressing his right to self-defense under Stetson’s ‘Stand Your Ground’ statute. Mr. Cameron was not engaged in criminal activity nor the initial aggressor of the altercation that led to the shooting. Mr. Cameron was legally entitled to carry a weapon and was not trying to conceal he had one. Mr. Cameron made efforts to inform those around him that he had a gun through his movements and words. Additionally, it was Mr. Wilson, not Mr. Cameron, who was the initial aggressor of the shooting. Mr. Cameron made repeated efforts throughout the day to end his encounters with Mr. Wilson before they could turn violent. It was Mr. Wilson who, by his admission, chose to arm himself with a gun and pursue Mr. Cameron after he had walked away from their previous encounter. Mr. Wilson’s actions led Mr. Cameron to believe he was in danger of physical force reasonably and established Mr. Wilson as the initial aggressor of the shooting. Accordingly, we respectfully request this Court grant the defendant’s Motion to Dismiss based on ‘Stand Your Ground’ law immunity.

# **STATEMENT OF FACTS**

On August 6th in Petersburg, Stetson Ryan Wilson and Jay Cameron were involved in an altercation that resulted in both of them being hospitalized. That morning, Mr. Cameron woke up at 9 am in his room at the Boals Motel, a local motel that he frequented. (Cameron at 19). That morning, Mr. Cameron had plans with his brother to get breakfast and left the motel to meet him. (Cameron at 20). On the way to breakfast, Mr. Cameron walked past Mr. Willison, another frequent resident of the Boals Motel. (Cameron at 20); (Cameron at 30).

Mr. Wilson is known in the community for being a dangerous individual. (Cameron at 20). In addition to his four arrests and two convictions for battery, Mr. Wilson is a known drug dealer who was convicted of possessing and selling narcotics. *Id.*; Exhibit 12. While Mr. Cameron was leaving for breakfast that day, he exchanged words with Mr. Wilson, who threatened him, stating that he was “a dead man walking.” (Cameron at 20). Subsequently, Mr. Wilson's associate, Kenny Gray, saw him stuff something that looked like a gun in his front pocket. (Police Report at 6)

Due to Mr. Willison's reputation for violence, Mr. Cameron was shaken by the interaction. *Id.* Upon returning to the motel with his brother, Mr. Cameron attempted to prevent Mr. Wilson from attacking him by informing him that he was carrying a weapon. (Cameron at 21). He did so by making a gesture of a gun and exclaiming “Pop-pop” as he walked by Mr. Wilson and his associates Kenny Gray and Tony D. *Id.* Based on how Mr. Cameron was walking, Mr. Gray knew that Mr. Cameron was carrying a gun. (Gray at 47). Mr. Wilson himself also suspected that Mr. Cameron was in possession of a weapon. (Wilson at 25).

As Mr. Cameron walked by Mr. Wilson, he noticed Mr. Wilson was holding something in his pocket. (Cameron at 22). Mr Cameron also heard someone exclaim, “Yo watch, he's a dead man walking,” and “He’s done.” (Cameron at 22-23). As he walked past Mr. Wilson and entered the breezeway of the motel, Mr. Cameron’s heart was racing, as he was sure Mr. Wilson was going to kill him. (Cameron at 22) The breezeway led to a long, narrow hallway with no exits and tall walls on both sides. Exhibit 8. Mr. Camero drew his weapon, preparing to defend himself. (Cameron at 23). At the same time, Mr. Wilson retrieved a gun from his associate Tony D. (Wilson at 60)

As Mr. Cameron suspected, Mr. Wilson began to fire, and upon seeing Mr. Wilson’s gun, Mr. Cameron returned fire in a desperate attempt to protect himself. (Cameron at 23, 25)*.* After being shot himself in the stomach, Mr. Cameron managed to subdue and disarm Mr. Wilson.(Cameron at 23). Once Mr. Wilson was no longer capable of firing at him, he instructed his brother to pick up Mr. Wilson’s weapon to ensure that no one else could use it to harm him. *Id.*

Now bleeding, delirious, and terrified, Mr. Cameron needed to seek medical attention. (Cameron at 24). Not wanting to create panic at the hospital, Mr. Cameron decided to drop Mr. Wilson and his guns off at his motel room before proceeding to the hospital. *Id.* As Mr. Cameron began to slip in and out of consciousness, his brother proceeded to drive him to Hillsboro County Medical Center, where the hospital staff proceeded to treat his wounds. *Id.*

At around 10:30 am that same day, officers arrived at the Boals Motel after reports of gunshots in the area. (Police Report at 5). Upon arriving at the scene, EMTs treated Mr. Wilson and transported him to Petersburg General Hospital, where he would subsequently make a full recovery. (Police Report at 5); (Wilson at 55). Officer Michelle Hernadez began investigating the scene where he met Mr. Gray. (Police Report at 5) After cajoling Mr. Gray into speaking with him with a hundred and fifty dollars, officer Hernandez subsequently interviewed Mr. Cameron, Mr. Cameron's brother Greg Cameron, Mr. Gray, and Mr. Wilson. (Police Report at 5,7).

# **ARGUMENT**

## **Jay Cameron, Whether Engaged in Illegal Activity or Not, had a Right to defend himself under Stetson's “Stand Your Ground” Law because he Fulfilled his Duty to Retreat.**

Mr. Cameron was justified in his use of deadly force when defending himself from his attacker, Mr. Wilson. Per Stetson's “Stand Your Ground” statute, a person is justified in using deadly force if they believe it is necessary to prevent imminent death to themselves or another. Stetson Stat. 776.012. 776.012 provides:

A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity, is in a place where he or she has a right to be, and is not the aggressor. *Id.*

Two possible statutory realities can be derived from the language above. The first is that if one is engaged in criminal activity, they are barred from using deadly force to protect their life, lest they be subject to prosecution for an act of self-preservation. The other is that if one is engaged in criminal activity, one must fulfill a duty to retreat before resorting to deadly force.

While no Stetson precedent exists to guide this court as to which one of these two possible interpretations of 776.012 to adopt, other jurisdictions with similarly worded “Stand Your Ground” laws have addressed this issue before. Pursuant to Florida’s interpretation of its similarly worded “Stand Your Ground” law, Mr. Cameron is entitled to protect himself with deadly force even if he was in the commission of an unlawful act because he fulfilled his duty to retreat.

### **“Stand Your Ground” Laws Entitle One to Immunity From Prosecution Even if One is in the Commission of a Crime.**

In *Jimenez v. State*,Florida’s Second District Court of Appeals held that even though the defendant had admitted to engaging in an unlawful act, the defendant could still receive immunity under Florida's “Stand Your Ground” statute (Fla. Stat. 776.012(2)). 353 So. 3d 1286, 1288 (Fla. App. 2023). In *Jimenez,* the state charged the defendant with attempted manslaughter. *Id.* at 1287. The defendant argued that he was immune from prosecution under Florida's “Stand Your Ground” statute. *Id.* The State argued that because the defendant admitted to carrying a concealed firearm without a license, he was in the commission of an illegal act and was ineligible as a matter of law for immunity. *Id.*

The appeals court reasoned that the operative provision of the law was Florida Statute 776.012(2), which stated:

A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be. *Id.*

Thecourt explained that the language in 776.012(2) states that a person engaged in unlawful activity must retreat before resorting to deadly force but could resort to deadly force and be immune from prosecution if the duty to retreat is fulfilled. *Id.* The court reasoned that the operative factor in determining if a defendant who engaged in illegal activity had an immunity claim under 776.012(2) was whether or not the defendant fulfilled his duty to retreat. *See id.* The court further reasoned that barring someone from immunity just because they were involved in illegal activity would be a departure from the essential requirements of 776.012(2). *Id.*

Conversely, in *State v. Chavers,* the court held that a defendant was not immune from prosecution under 776.012(2) because he was engaged in criminal activity. 230 So. 3d 35, 39 (Fla. Dist. Ct. App. 2017). In *Chavers*, the defendant was charged with second-degree murder when he filed a motion to dismiss based on immunity under 776.012(2). *Id.* at 36. On appeal, the state argued that because the defendant was carrying a concealed carry without a license, he was engaged in criminal activity and could not receive immunity under 776.012(2). *Id.* at 36. The court here reasoned that the legislature intended for the use of deadly force to be a more scrupulous standard than the use of nondeadly force. *See Id*. at 39.

Florida law distinguishes between immunity for deadly versus non-deadly force and applies different duties to retreat depending on the type of force used. *Id*. When non-deadly force is being used, the legislature does not make any distinction if the person is defending themselves while engaged in unlawful activity or not. Fla. Stat. 776.012(1). Alternately, when one uses deadly force, there is no duty to retreat, and defendants have a right to stand their ground if they are not engaged in criminal activity. Fla. Stat. 776.012(2).

The court reasoned that because the legislature wrote different requirements for retreat depending on whether the force used was deadly or not, 776.012(2) required the defendant not to be engaged in an unlawful activity when defending himself to have immunity. *Id.* at 39. The court additionally reasoned that because some Florida statutes had a duty to retreat to provide immunity while others did not, depending on the circumstances of the encounter, the legislature intended to inextricably link the requirements for the duty to retreat to the requirements for immunity. *See id.*

 Unlike Florida’s stand-your-ground statute, Stetson’s statute does not have different retreat requirements for the use of deadly or non-deadly force. Stetson Stat. 776.012. In fact, the Stetson legislature has not passed any legislation that addresses the use of non-deadly force or disguises retreat requirements based on the situation. So, the reasoning that the court used in *Chavers* cannot be applied in Stetson as it relies heavily on a statutory scheme that does not exist in this state. *See* 230 So. 3d at 39.

Conversely, like the defendant in *Jimenez,* Mr. Cameron was accused of attempting to kill his attacker, and the state is claiming Mr. Cameron is unable to avail himself of immunity due to being involved in illegal activity due to allegedly carrying a concealed weapon without a license. 353 So. 3d at 1287; (Arainment Transcript at 72-73); Exhibit 1. Like in *Jimenez,* the state in the current case is misstating the law as the operative requirement that a defendant must fulfill if they are engaged in unlawful activity is whether or not they fulfilled their duty to retreat. 353 So. 3d at 1287.

Unlike the defendant in *Jimenez*, Mr. Cameron did not concede that he was in possession of concealed carry when he was attacked, and the state did not proffer any evidence to prove a *prima facie* case. If, in the future, the prosecution is able to prove a *prima facie* case for a violation of Stetsen statute 790.01(2), however, it would be irrelevant to Mr. Cameron's immunity claim per the holding in *Garcia* and *Jimenez* as long as he fulfilled his duty to retreat. 286 So. 3d at 351; 353 So. 3d at 1288. Therefore, Mr. Cameron is able to avail himself of immunity from prosecution under 776.012 as long as he has fulfilled his duty to retreat.

### **Jay Cameron Fulfilled his Duty to Retreat, as There was No Safe Way For him to Run Away.**

Jay Cameron fulfilled his duty to retreat before he resorted to deadly force when Mr. Willison attempted to murder him. A duty to retreat exists only when retreat is practical. *State v. Harris*, 717 S.W.2d 23, 236 (Mo. Ct. App. 1986). A duty to retreat does not necessarily mean that a person cannot protect themselves with force but rather that they must have tried to avoid the use of force if possible. *State v. Jones*, No. W2018-02180-CCA-R3-CD, 2020 Tenn. Crim. App. LEXIS 204 (Crim. App. 2020). Additionally, a defendant is not required to jeopardize their safety to fulfill a duty to retreat but rather must take steps consistent with their safety to avoid the taking of life. *Jenkins v. State*, 942, 914 (Fla. App. 2006)

 For example, in *Thompson v. State,* the court held that a defendant's use of deadly force was justified because retreat was futile. 552 So. 2d 264, 266 (Fla. App. 1989). In *Thompson*, the defendant testified that there was no way for him to retreat when he was being attacked because if he had tried to run, his attacker would have been able to catch him. *Id.* at 265. The court reasoned that the defendant's testimony without any rebuttal evidence was enough to prove that retreat was futile. *Id.* at 266. The compilation of both a relentless attacker and the defendant being outnumbered made it so that the defendant had no option but to fight. *See id.* at 267.

Like the defendant in *Thompson,* Mr. Cameron had no option but to fight for his life because there was no safe way for him to retreat. Mr. Cameron was in a narrow hallway with walls to both sides of him. *See* Exhibit 8. His attacker, Mr. Wilson, was firing at him from one end of the hallway, which left Mr. Cameron with two options. *See Id.* The first was that he could turn his back to Mr. Cameron and run the length of the hallway, fully exposing himself to being shot and likely killed. The second was he could return fire, hoping to survive long enough to get out of the situation and get to a hospital. Because there was no way Mr. Cameron could retreat without jeopardizing his safety, Mr. Cameron fulfilled his duty to retreat.

## **Mr. Cameron Had the Right to Stand His Ground As He Was Not the Aggressor in the Event that Led to the Shooting**

### **The Interactions that Occurred on August 6, 2022, Can be Viewed as Separate Events with Individual Aggressors.**

Before deciding who an initial aggressor is, one must first establish which event started the altercation at question. If there are several interactions leading up to the altercation in question, the court looks only at who the initial aggressor was of the final event in which the altercation took place. *Cruz v. State*, 189 So. 3d 822, 827 (Fla. Dist. Ct. App. 2015). In determining which interactions count as separate events the court looks towards whether there is a clear ending to each interaction. *Id.*

 The first event was the early morning encounter that took place in the parking lot. The basic facts of the morning encounter are agreed upon by both parties. Mr. Cameron and his brother were in the motel parking lot, walked past Mr. Wilson, the two exchanged words, after which Mr. Cameron disengaged from the conversation and left the premises with his brother. (Cameron at 20, Wilson at 57). As the Cameron brothers left the motel premises entirely for nearly an hour following their interaction with Mr. Wilson, it can be viewed as a separate event and the initial aggressor of this incident is not relevant to the shooting that occurred or the issue at hand.

 The second event was the second interaction in the parking lot that took place later in the morning. Mr. Cameron and his brother returned to the motel’s premises, when they encountered Mr. Wilson in the parking lot once more. (Cameron at 20, Wilson at 58). Mr. Cameron, while walking towards his room, made a few words and a motion to Mr. Wilson, who also made a motion in response. (Cameron at 21, Wilson at 59). Accordingly, Mr. Cameron once again removed himself from the area and the encounter by leaving the parking lot and heading into the breezeway. (Cameron at 21). Following the logic established in *Cruz*, as discussed below in relation to the third event, Mr. Cameron removing himself from the immediate area can be viewed as the end of this encounter, and so the aggressor in this event is also not relevant to the current issue.

 Finally, we turn to the main altercation in the breezeway. Mr. Cameron, following the second event that took place in the parking lot, headed into the breezeway to go back to his room. (Cameron at 21). Unbeknownst to Mr. Cameron, Mr. Wilson decided to arm himself with a gun and chose to pursue Mr. Cameron into the breezeway. (Wilson at 60). Shots occurred shortly after. (Cameron at 23, Wilson at 60). Cruz v. State can show the significance of this event. 189 So. 3d 822 (Fla. Dist. Ct. App. 2015). In *Cruz*, the court held that Cruz was unable to use a ‘Stand Your Ground’ defense as he was deemed the initial aggressor and unable to claim self-defense. *Id.* at 824. Cruz had been drinking, and a fight had erupted outside an apartment, during which Cruz was grabbed by the throat and later threatened by a rock in two separate altercations. *Id.* at 824-25. Cruz later stabbed two of the perpetrators from the fight and defended his actions by claiming self-defense, stating that the victims had started the fight by fiercely attacking him. *Id.* at 825. The court denied Cruz’s claim, stating that the first encounter ended when the fight did and by Cruz leaving to get the knife, he became the initial aggressor in the altercation that led to the stabbings. *Id.* at 827. Given that the shooting in the breezeway led to the charges at issue here today, it is the aggressor in this final event that is of concern to the issue of Mr. Cameron’s immunity, similar to *Cruz,* where the court looked to who started the altercation that led to the stabbings, not just who started the first encounter.

The prosecution may argue that given all three events occurred on the same day, between the same people, that they should be viewed as one singular altercation. However, the prosecution would be wrong in this case. The interactions took place over the course of several hours, and the first two events had distinct ends where one party chose to disengage from the encounter and leave the area where the disagreements took place. This Court should follow the holding in *Cruz v. State*, and rule that the third encounter must be viewed as a separate event given the fact that it took place in a different area, after the previous two events had consciously been concluded, and Wilson had chosen to acquire a weapon in between the second and third events.

### **Mr. Wilson is the Initial Aggressor of the Shooting Since He Chose to Arm Himself and Pursue Mr. Cameron into the Breezeway.**

Having now established that it was the third event that led to the altercation in question, the issue of who the initial aggressor in that event was must now be answered. When it comes to defining what an initial aggressor is there are two main definitions. Turning first to the Florida definition, Florida courts have deemed the initial aggressor to be the person who initially provokes the use of force against themselves. *State v. Floyd*, 186 So. 3d 1013, 1021 (Fla. 2016). By choosing to arm himself and follow Mr. Cameron into the breezeway, Mr. Wilson became the initial aggressor of the altercation that led to the shooting.

 The key element of identifying an initial aggressor is whether they provoke the use of force. *Thompson v. State* expanded on this element by requiring the initial aggressor to use “force or the threat of force” to initially provoke the use of force against themself. 257 So. 3d 573, 581 (Fla. Dist. Ct. App. 2018). In *Thompson*, the court held that Thompson was unable to raise the affirmative defense of self-defense under its ‘Stand Your Ground’ statute. *Id.* at 576. Thompson was an employee at a market where he had a disagreement with another employee over seasoning, which led to a physical altercation. *Id.* Following the altercation, Thompson left the fight, retrieved a sword, and returned to stab the other employee. *Id.* The court argued that by leaving the fight to acquire a weapon, Thompson became the initial aggressor upon his return. *Id.* at 579. Similar to *Thompson*, where Thompson retrieved a weapon and initiated a second encounter, Mr. Wilson, by his own admission, made the conscious choice to arm himself with a gun after the second encounter with Mr. Cameron in the parking lot. (Wilson at 60). It is likely that a reasonable person who was followed by a man with a gun would view the man in that scenario as threatening to use force. Mr. Wilson, of his own free will, chose to pursue and re-engage with Mr. Cameron in a new area. *Id.* In doing so Mr. Wilson became the individual who initially started that interaction.

Taking the logic of *Thompson* into consideration proves Mr. Wilson fulfills the definition of an aggressor, however his position as the aggressor of the altercation is further supported by Mr. Cameron’s repeated, conscious choices to disengage from Mr. Wilson in every event. In *State v. Church*, the Court held that a person who provokes or continues an argument that leads to serious injury can be considered the aggressor, even if someone else started the fight. 229 N.C. 718, 722 (1949). The Court reasoned that while the victim started the altercation, Church became and remained the aggressor when he pursued the fleeing victim. *Id.* at 722. Applying the logic of *Church*, in the two events that occurred in the parking lot it was always Mr. Cameron who chose to end the encounter by leaving the immediate area, which one can argue is a version of “fleeing”. (Cameron at 20-21, Wilson at 57, 59-60). Mr. Cameron could have stayed and escalated the situation, but both times he instead chose to end the interaction before anything major could happen. It was Mr. Wilson who pursued Mr. Cameron into the breezeway in order to continue their altercation. (Wilson at 60). Mr. Cameron is the one who did his best to keep the bloodshed to a minimum once the shooting occurred, as once Mr. Wilson was on the ground, Mr. Cameron refrained from firing any more shots and instead collected Mr. Wilson’s weapon. (Cameron at 23). Furthermore, he once again ended the altercation altogether by leaving the area to seek necessary medical attention. *Id.* The holding of *Church* shows that Mr. Wilson is the one who continued the encounter, not Mr. Cameron.

### **Mr. Cameron had a Reasonable Belief that Mr. Wilson Planned to Use Force Against Him, Making Mr. Wilson the Initial Aggressor.**

 Regarding the second definition of what an initial aggressor is, one must turn towards Connecticut law. The Connecticut Appeals Court defines an initial aggressor as the individual that first acts in a way that “creates a reasonable belief in another person's mind that physical force is about to be used upon that other person.” S*tate v. Rivera*, 204 A.3d 4, 26 (2019) (citing *State v. Skelly*, 3 A.3d 1064 (2010)). Here, Wilson’s known behavior and past, as well as his choice to arm himself, would cause a reasonable person to believe that they are in danger of facing physical force.

In applying the Connecticut definition of initial aggressor, the court must determine whether a person had reasonable belief that they were in danger of physical force being used on them. In S*tate v. Rivera*, the court held that Rivera was the initial aggressor as his actions caused reasonable belief that he was going to exert physical force on the tow truck operator. *Id.* In *Rivera*, a tow truck operator came to tow Rivera’s car which led to a verbal altercation between the two. *Id.* at 10. Rivera then went into his garage and retrieved a metal pipe, which upon seeing the truck operator believed Rivera intended to use against him. *Id.* at 11. The operator then sprayed Rivera with pepper spray, Rivera pulled out a knife, and the altercation ended after the operator drove off and called the police. *Id.* The Court reasoned that Rivera’s actions would reasonably allow the operator to believe he was in danger of physical force, and thus made Rivera the initial aggressor of the incident. *Id.* at 26.

Comparing *Rivera* to the facts of this case, it is clear that Mr. Cameron had reasonable belief that Mr. Wilson planned to use physical force upon him. Firstly, like how Rivera armed himself with a pipe before returning to the encounter, Wilson armed himself with a gun before entering the breezeway. *Rivera*, 204 A.3d at 26. (Wilson at 60). As Mr. Wilson entered the breezeway, several witnesses confirm that someone yelled something which caused Mr. Cameron to turn around and spot Mr. Wilson holding a gun. (Cameron at 22, 25). Just like in *Rivera*, where the truck operator saw Rivera holding the pipe and believed that he was in danger of its use, upon seeing the gun Mr. Cameron reasonably believed that Mr. Wilson planned to shoot him. *Rivera*, 204 A.3d at 26. A reasonable belief that is further supported by the known history of Mr. Wilson’s character as a dangerous drug dealer who has carried a weapon before. (Gray at 46, Cameron at 19-21).

Regardless, the prosecution may argue that it was Mr. Wilson who in fact had reasonable belief of physical force being used on him by Mr. Cameron. This claim, however, can easily be dismissed by statements made By Mr. Wilson himself. In his interview with Detective Hernandez, Mr. Wilson was asked if he thought that Mr. Cameron was carrying a gun in the parking lot. (Wilson at 59). While he admitted the thought crossed his mind, Mr. Wilson clearly stated that he did not believe that Mr. Cameron was carrying a gun nor that Mr. Cameron would have pulled out a gun to use. *Id.* These statements show that Mr. Wilson did not have the necessary reasonable belief, as defined in *Rivera*, needed to show that he was in danger of physical force. *Rivera*, 204 A.3d at 26. Following the reasoning described above, if this Court applies the Connecticut definition of an initial aggressor then the Court should find Mr. Wilson to be the aggressor of the shooting.

# **CONCLUSION**

For the foregoing reasons, the Defendant, Jay Cameron, respectfully requests that this Court grant the Defendant’s motion to dismiss due to immunity under Stetson’s “Stand Your Ground” statute. Mr. Cameron is entitled to stand his ground as he (1) was not engaged in criminal activity (2) was not the initial aggressor.

**Dated:** September 1, 2024

Respectfully Submitted,

*/s/ Team 121*

*Attorneys for Defense*