TEAM NO. 123

Case No. 2024-CR-319

**IN THE**

**SUPERIOR COURT OF THE STATE OF STETSON**

**PINELLA COUNTY JUDICIAL DISTRICT**

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

STATE OF STETSON

v.

JAY CAMERON

*Defendant*.

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

**MOVANT’S MEMORANDUM OF LAW**

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

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*Attorneys for Jay Cameron*

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**INTRODUCTION**

Defendant Jay Cameron, by and through his undersigned counsel, hereby files this Motion to Dismiss for Statutory Immunity from Prosecution, pursuant to §§ 776.012 and 776.032, Stet. Stat., and respectfully requests that this court dismiss the charges of attempted murder in the second degree and carrying a concealed weapon, and in support thereof, states as follows:

**STATEMENT OF FACTS**

 Jay is 26 years old and a resident of the Boals Motel in Pinella County, Stetson. R. 18-19. On August 6, 2022, at approximately 9:00am, Jay met his brother Greg Cameron at the Boals Motel to have breakfast. R. 19. Upon walking into the parking lot of the Boals Motel, Jay encountered a local drug dealer, Ryan Wilson. R. 20. Mr. Wilson is 38 years old and a self-professed entrepreneur and convicted felon. R. 56-57. Mr. Wilson has a reputation for violence and an extensive criminal record with multiple arrests and four convictions for violent crimes such as aggravated battery, battery as well as narcotics. R. 24, 63-64.

Mr. Wilson and Jay verbally quarreled. R. 20, 32, 45, 57. Mr. Wilson verbally threatened Jay “You’re a dead man walking.” R. 20. After returning from breakfast, Jay purposely used both body language and verbal cues to make evident that he had a legally owned firearm; he did so specifically to deter Mr. Wilson from physical violence. R. 21. Jay walked towards the breezeway of the motel where Mr. Wilson was standing and noticed Mr. Wilson with his hand in his pocket holding what appeared to be a gun in a “ready” pose. R. 22. Jay continued walking into the breezeway, away from Mr. Wilson, when he heard a voice yell “Yo watch, he’s a dead man.” R. 23. Jay turned around to defend himself. R. 23. Mr. Wilson fired first. R. 23. Both Mr. Wilson and Jay shot back and forth a few times. R. 23. Jay was shot by Mr. Wilson in the right side of his stomach, and Mr. Wilson was shot by Jay in the left shoulder area. R. 23. Mr. Wilson stumbled and began to spin his body; however, he continued to hold his gun pointed in Jay’s direction, posing an ongoing threat to Jay. R. 23. Jay fired his gun once more, hitting Mr. Wilson in the back, at which point Mr. Wilson dropped his gun. R. 23. Jay instructed Greg to recover the gun in order to prevent Mr. Wilson or any members of his crew from grabbing it. Both Jay and Greg ran through the breezeway and into their hotel room. R. 23. After the shooting, Greg drove Jay to the Hillsborough County Medical Center at approximately 1:30pm. R. 17.

 Officer Michelle Hernandez of the Petersburg Police Department responded to a shots fired call at the Boals Motel at approximately 10:30am. R. 5. Upon investigation, Officer Hernandez obtained a statement from Kenny Gray, a member of Mr. Wilson’s crew, who witnessed the shooting incident. R. 6. Mr. Gray solicited money in exchange for a narrative regarding the incident; Officer Hernandez paid Mr. Gray $100. R. 5, 7. In exchange for an additional $50, Mr. Gray agreed to a further formal interview at the Petersburg Police Department. R. 7, 44. During this interview, Mr. Gray indicated that he was friends with Mr. Wilson. R. 44. Mr. Gray corroborated elements of Jay’s account of events - namely that Jay was visibly holding a firearm and that Jay walked by Mr. Wilson into the breezeway at which point Mr. Wilson followed Jay. R. 47.

 Officer Hernandez also interviewed Greg at the Hillsboro Medical Center. R. 28. Greg further corroborated that Jay’s actions were taken in self-defense. R. 31. Greg indicated that Mr. Wilson initiated physical provocation by throwing his hands in the air, aggressively and loudly stating to Jay, “Let’s F\*\*king go!” and showing a gun in his hand. R.34. At that point, Jay was walking away from Mr. Wilson, towards the breezeway, and was not looking in Mr. Wilson’s direction. R. 34.

 As part of her investigation, Officer Hernandez recovered two semi-automatic handguns from a search of the room registered to Jay at the Boals Motel on August 6, 2022. R.11. Officer Hernandez also recovered narcotics including 2,224 pills of M30 of oxycodone, 405.6 grams of methamphetamine and 1.1 grams of crack-cocaine from a search of the room registered to Mr. Wilson. R. 11, 15.

 One week after the incident, Officer Hernandez interviewed Mr. Wilson with his attorney present. R. 54. Mr. Wilson was charged with Felon in Possession of a Firearm and Felony Possession with Intent to Traffic Narcotics as a result of the investigation stemming from the shooting incident. R. 54. Mr. Wilson agreed to be interviewed and is hoping to receive leniency toward his charges as a result of cooperation. R. 55. Mr. Wilson indicated he was familiar with Jay prior to the incident and corroborated that Jay appeared to have been holding what could have been a gun prior to the shooting. R. 59. Mr. Wilson stated that Jay walked into the breezeway and that Mr. Wilson lost sight of him. R. 60. According to Mr. Wilson, at this point a friend of his, Tony D, handed Mr. Wilson a gun and Mr. Wilson followed Jay to see where Jay was going. R. 60. Mr. Wilson acknowledged that as a convicted felon, he cannot carry a firearm. R. 57.

 On August 22, 2022, the State of Stetson’s Attorney’s Office filed a Long-Form Information against Jay charging him with one count of attempted murder in the first degree and one count of carrying a concealed weapon in the first degree. R. 67. Jay was arraigned on July 15, 2024, with the case continued to October 3, 2024. R. 71. This motion to dismiss indictment based on statutory immunity in the State of Stetson follows.

**ARGUMENT**

Jay was engaged in justifiable self-defense covered under Stetson General Statutes § 776.012 and § 776.032 when he used deadly force to defend himself against aggression from Ryan Wilson. Under § 776.012, “A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.” Under § 776.032, Jay has statutory immunity from prosecution as he reasonably believed deadly force was necessary to prevent imminent death or great bodily harm from Mr. Wilson.

According to Stetson’s Stand Your Ground Law, once the defendant has presented a prima facie claim of self-defense immunity, the burden is on the State to prove by clear and convincing evidence that the defendant is not immune from criminal prosecution. The State cannot do so because the evidence shows the exact opposite - that Jay reasonably believed deadly force was the only way he could defend himself.

1. **Jay was not engaged in unlawful activity at the time of the shooting and is entitled to immunity under the justifiable self-defense provision of Stetson’s Stand Your Ground law**

Jay was legally carrying his firearm openly and conspicuously so as to deter conflict and potential violence. Regardless, Jay’s use of a firearm was necessary for self-defense and thus legally justified. The plain meaning of Stetson’s Stand Your Ground statute as applied to Jay covers his actions taken in self-defense without the qualifiers that apply to a separate, “no retreat” provision. Lastly, any ambiguity in the applicability of qualifiers in the Stand Your Ground statute must be construed strictly in Jay’s favor, entitling him rightfully to immunity.

1. **Jay Was Legally Carrying A Firearm In A Manner Designed To Openly Deter Violence And Was Not In Violation Of Stetson’s Concealed Carry Statute**

 Jay is entitled to immunity from prosecution under §§ 776.012 and 776.032 because he was not carrying his firearm in violation of § 790.01(2). A firearm is concealed if it is carried about a person in a manner designed to conceal the existence of the firearm from the ordinary sight or knowledge of another person. § 790.01(2). The Florida Supreme Court has defined the term “ordinary sight of another person” as “the casual and ordinary observation of another in the normal associations of life.” *Ensor v. State*, 403 So. 2d 349, 354 (Fla. 1981). Whether a weapon is concealed within the meaning of a concealed carry statute is not always for the trier of fact to resolve, and the focus should remain on the manner in which the weapon is carried. *Dorelus v. State*, 747 So. 2d 368, 371 (Fla. 1999).

 There is no dispute that Jay was carrying his firearm *in a manner* designed to be open, visible and obvious. In fact, Jay carried the firearm expressly to deter the potential for violence. R. 21 (“The only way to keep [Mr. Wilson] away from me was to let him know I was armed.”) This is corroborated by Greg, who states that “Jay needed to let Wilson know that he was armed so that Wilson would think twice before making a move.” R. 33. Importantly, the visibility of Jay’s firearm was also apparent to both of the State’s witnesses. Mr. Gray stated that “[i]t looked like [Jay] was holding a weapon - probably a gun.” R. 47. When questioned further, Mr. Gray elaborated that “I know what it looks like when someone’s packing.” R. 47. Mr. Wilson himself also admits that “it crossed my mind that [Jay’s firearm] could have been [a gun].” R. 59. In *Carpenter v. State*, 593 So. 2d 606 (Fla. Dist. Ct. App. 1992), a Florida Appellate Court held that a motion to dismiss a concealed weapons charge should have been granted because the defendant made no effort to conceal the weapon and part of the handgun was visible to a police officer who immediately recognized it as a handgun. That is precisely the case here. Jay’s firearm was apparent and recognizable to the ordinary sight of all witnesses to the incident.

 Jay was not in violation of the Stetson Concealed Carry statute at the time of the incident.

1. **Even If This Court Determines That Jay’s Firearm Was Concealed, Justification Rendered Jay’s Possession Of The Firearm At The Time Of The Incident Lawful**

 Assuming *arguendo* that Jay was carrying a concealed firearm in violation of § 790.01(2), § 776.012 is not a strict liability statute precluding Jay’s ability to claim immunity.

 Alabama, Florida and Louisiana courts have all correctly held that justification or necessity authorizes the legal use of a firearm for self-defense. *State v. Blache*, 480 So. 2d 304, 308 (La. 1985); *Fuller v. State*, 231 So. 3d 1207, 1217 (Ala. Crim. App. 2015); *Mungin v. State*, 458 So. 2d 293, 297 (Fla. Dist. Ct. App. 1984). Specifically, the Louisiana Supreme Court held that “when a felon is in imminent peril of great bodily harm, or reasonably believes himself or others to be in such danger, he may take possession of a weapon for a period no longer than is necessary or apparently necessary to use it in self-defense, or in defense of others. In such situation justification is a defense to the charge of felon in possession of a firearm.” *Blache*, 480 So. 2d at 308. The Alabama Criminal Appeals Court similarly has held “unlawful possession of a firearm is a not a strict-liability offense” and that an individual “who is barred from possessing a gun should be able to act in self-defense.” *Fuller*, 231 So. 3d at 1217. Specifically, even if Jay’s possession of a firearm was in violation of the law, his use of it became legal for the immediate need to defend his life. *Diggs v. State*, 168 So. 3d 156, 162 (Ala. Crim. App. 2014) (“possession of a firearm [is] justified at the moment it [becomes] necessary for [one’s] self-defense”). Similarly, a Florida Appellate Court ruled that the necessity defense is available to someone ordinarily statutorily barred from possession of a weapon where he is the “victim of aggression.” *Mungin*, 458 So. 2d at 297.

 There is no dispute that, just prior to the incident, Jay walked *past* Mr. Wilson into the breezeway. R. 22. Both Mr. Gray and Mr. Wilson concede that Jay walked into the breezeway, and that it was Mr. Wilson who followed Jay, not *vice-versa*. R. 47, 60. Mr. Wilson was the initial aggressor. *See* discussion *infra* Part II.A. Jay’s actions, taken in self-defense, render his possession of his firearm, even if concealed, lawful. As such, Jay can rightfully avail himself of immunity conferred by §§ 776.012 and 776.032 because self-defense justification meant that he was not in violation of Stetson’s Concealed Carry law § 790.01(2) at the time of the incident.

1. **Regardless, Stetson’s Stand Your Ground Law Creates Statutory Immunity For Justifiable Self-Defense Which Does Not Contain Qualifying Language Included In A Separate “No Retreat” Provision**

 The immunity conferred by Stetson’s Stand Your Ground statute reads as applicable to two separate and distinct situations: the first outlines common law self-defense where deadly force is justified only if no retreat is possible, and the second outlines a separate scenario where retreat is not required for statutory immunity. The State incorrectly conflates the second, “no retreat” scenario as encompassing the entire statute.

 Florida courts have correctly made consistent distinctions between lawful use of deadly force in common law self-defense scenarios and “stand your ground” no-retreat statutes that contain statutory immunity language similar to Stetson. For example, a Florida Appellate Court held that “[a] defendant is not foreclosed from defending himself simply because he is in a place where he does not have the right to be, but he must first attempt to retreat from the situation if he can do so safely.” *Garcia v. State*, 286 So. 3d 348, 352 (Fla. Dist. Ct. App. 2019). The same court recognized that an individual’s unlawful possession of a concealed firearm did not preclude the ability to claim immunity under a self-defense provision similar to § 776.012. *Jimenez v. State*, 353 So. 3d 1286, 1288 (Fla. Dist. Ct. App. 2023) (“Even though Mr. Jimenez's motion admitted that he was engaged in unlawful activity, he also alleged that the circumstances precluded any ability to retreat or otherwise terminate the encounter before resorting to deadly force”).

 Jay was engaged in self-defense. His ability to retreat was precluded by the fact that he was not the initial aggressor. *See* discussion *infra* Part II.A. Similar to Florida, this Court should not confuse the immunity conferred by § 776.012 for justifiable self-defense with the immunity conferred under a separate, distinct “no retreat” provision. Here, Jay could not retreat and therefore his use of deadly force in self-defense is justifiable and immune from criminal prosecution.

1. **Any Confusion In Statutory Interpretation Must Be Construed In Favor Of Jay**

 This Court should not permit statutory ambiguity to the detriment of Jay. While the plain meaning of § 776.012 clearly indicates that Jay can avail himself of the statute’s self-defense provision; any argument to the contrary must be resolved according to the rule of lenity in his favor.

 ​The rule of lenity is a principle that ambiguities in criminal statutes are to be resolved in favor of the defendant. *See* *Leocal v. Ashcroft*, 543 U.S. 1, n.8 (2004) (“Because we must interpret the statute consistently, whether we encounter its application in a criminal or noncriminal context, the rule of lenity applies.”). This principle has roots in jurisprudence stretching back for over two centuries. *See* *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76 (1820) (“In criminal cases, a strict construction is always to be preferred; and if there be doubt, that is of itself conclusive”). In Florida, an Appellate Court held that similarly argued incongruities in a comparable statute should be interpreted in favor of the accused. Specifically, the Court held that “[t]here is no clear indication anywhere in the chapter that the right to seek immunity from prosecution under section 776.012 is limited to those not engaged in unlawful activity.” *Hill v. State*, 143 So. 3d 981, 986 (Fla. Dist. Ct. App. 2014). The Court continued, holding that “any ambiguity created by contradictory language in sections 776.012(1) and 776.013(3) requires that these provisions of the criminal code be strictly construed most favorably to the accused.” *Id.*

 The rule of lenity forestalls any argument from the State that Jay cannot claim immunity on the basis that he was engaged in criminal activity as outlined in the second sentence of § 776.012. Therefore, the only relevant analysis should be whether Jay was engaged in self-defense where he could not retreat nor otherwise terminate the encounter before resorting to deadly force.

1. **Jay Cameron was not the initial aggressor and IS ENTITLED TO immunity under STETSON’S stand your ground law**

Mr. Wilson was the initial aggressor during the altercation between him and Jay. Jay reasonably believed that he was in imminent danger from Mr. Wilson because Mr. Wilson made the first physical movements by pursuing Jay. Jay believed that Mr. Wilson was armed, and was aware of Mr. Wilson’s reputation for violence. Under § 776.012 Jay was under no duty to retreat because he was not the aggressor. Even if there was a duty to retreat, Jay had no other avenue of escape by the time Mr. Wilson turned the corner into the breezeway. Lastly, because Jay treats the motel as his residence, he is justified in using deadly force under the Castle Doctrine.

1. **Ryan Wilson Was The Aggressor And Therefore Jay’s Response Is Protected By Stetson’s Immunity Law**

Under §776.041, an initial aggressor cannot claim immunity under the Stand Your Ground Law. An initial aggressor is someone who provokes or causes the use of force against themselves. *See* *Thompson v. State*, 257 So. 3d 573, 581 (Fla. Dist. Ct. App. 2018). “Standing alone, ‘aggression’ is itself a powerful term defined as ‘[a]n unprovoked attack; the first attack in a quarrel; an assault; an inroad.’” *Torres v. Parkhouse Tire Serv., Inc.*, 26 Cal. 4th 995, 1005 (2001). Mr. Wilson was the initial aggressor here because his threat of force he was going to use on or towards Jay was so great that anyone in Jay’s situation would reasonably believe they were in imminent danger of death or great bodily harm. Jay’s reasonable belief of the fact that imminent harm will come to him is not unfounded. His beliefs are reinforced by Mr. Wilson’s actual criminal record which involves multiple arrests and convictions for crimes of violence. R. 20, 63. Mr. Wilson has a reputation around the Boals Motel. R. 6, 20. Jay knows Mr. Wilson had been engaged in violent gun altercations before, which is why he was armed and called his brother for breakfast. R. 20. Jay's body language in the video surveillance footage makes clear that he was aware of the threat that Mr. Wilson posed. From saying the words "pop pop" to making hand gestures of a gun, Jay clearly exhibited his feelings of nervousness around Mr. Wilson. R. 21.

“When character evidence is being offered to establish whether the defendant's fear was reasonable in a self-defense claim, it is being used subjectively to determine the defendant's state of mind and his beliefs regarding the danger he was in.” *State v. Matthews*, 289 Neb. 184, 192 (2014). When character evidence is used for this determination, “the defendant must have known of the incidents or reputation which makes up the character evidence” at the time of the altercation. *Id*.at192-93. In *Mohler v. State*, 165 So. 3d 773, 775 (Fla. Dist. Ct. App. 2015),the court held that specific acts of violence were admissible as character evidence to bolster a defendant’s argument about reasonable belief of imminent danger. Here, Jay can identify and has knowledge of Mr. Wilson’s violent reputation. Jay knows about Mr. Wilson’s threats to other guests at the motel, his territorial nature, his involvement in bar fights, and his history of pulling guns on people. R. 19, 20. This justifies Jay’s reasonable belief that imminent harm was quickly approaching, if not already present. “Reputation evidence of the victim is admissible as circumstantial evidence to prove that the victim acted consistently with his or her reputation for violence. However, specific acts of violence, if known by the defendant, are admissible to prove that the accused was reasonably apprehensive of the victim and that the defensive measures of the accused were reasonable.” *Mohler*, 165 So. 3d at 775.

Mr. Wilson’s act of pursuing Jay into the breezeway constitutes an act of aggression; an act that is corroborated by every witness in this case. R. 22, 34, 47, 60. For something to be imminent it must be “ready to take place, near at hand, impending, hanging threateningly over one’s head, [and/or] menacingly near.” *Henley v. State*, 493 S.W.3d 77, 89 (Tex. Crim. App. 2016). “Logically then, if conduct is ‘immediately necessary’ to avoid harm that is imminent, that conduct is needed right now.” *Id*. When juxtaposed to what was until then just a verbal quarrel, combined with Jay’s awareness of Mr. Wilson’s reputation for violence, Jay reasonably believed he was in imminent danger. Mr. Wilson established the first physical act of aggression by pursuing Jay into the breezeway.

Nothing about Jay’s demeanor was intended to provoke Mr. Wilson. Jay was not asking for a fight or a confrontation but was trying to remain unharmed by Mr. Wilson. Mr. Wilson is described as a violent, threatening, and fighting individual, terms that are used to “‘describe physical acts of aggression’: conduct that is either physical force or ‘immediately likely’ to produce physical force.” *State v. Hosley*, 282 Or. App. 880, 885 (2016). By the time Jay walks into the breezeway, he has passed Mr. Wilson without an issue. Mr. Wilson’s pursuit of Jay contributes to Jay’s reasonable belief that he is in imminent danger. When Mr. Wilson pursues Jay into the breezeway, a person who is actively walking away from him, Mr. Wilson is displaying an overt act of aggression. An overt act “is defined as one ‘done in pursuance and manifestation of an intent or design.’” *In re Foster*, 426 N.W.2d 374, 378 (Iowa 1988). Mr. Wilson is the first aggressor and therefore, Jay is justified in his response.

1. **Jay Had No Duty To Withdraw, As He Was Not The Aggressor, Nor Could He Retreat If He Were**

Jay is entitled to immunity under § 776.012 as he had exhausted every reasonable means to escape under § 776.041. When Jay returned to the motel, he attempted to deter potential conflict with Mr. Wilson by openly displaying that he was in possession of a firearm. Despite this, Mr. Wilson continues to threaten the use of force against Jay when he follows Jay into the breezeway while Jay is walking away.

A Florida Appellate court has noted that “to justify the use of deadly force, the appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force.” *Garrett v. State*, 148 So. 3d 466, 468 (Fla. Dist. Ct. App. 2014). This is such a situation. Here, Jay was confronted with a gun pointed at him which automatically makes his situation extremely dangerous. “[R]etreat is required only when the defendant can do so in complete safety.” *State v. Marbury*, 2004-Ohio-1817, ¶ 22 (Ct. App.); *see* *Garcia*, 286 So. 3d at 351-352. A gun is not like a baseball bat or a knife which are easier to retreat from safely, as suggested in *Marbury*; whereas “running away from a person who brandishes a gun generally offers little or no opportunity for complete safety.” *Id*.

Once Mr. Wilson began shooting, there was no other avenue of escape for Jay. “Where a defendant has retreated to the wall or retreat would be futile, deadly force is justifiable” which implies that Jay should receive the immunity laid out in § 776.012 as no additional means of retreat were possible. *See* discussion *supra* Part I.C. *Dorsey v. State*, 74 So. 3 521, 526 (Fla. Dist. Ct. App. 2011); citing *Thompson v. State*, 552 So. 2d 264, 266 (Fla. Dist. Ct. App. 1989); *State v. Rivera*, 719 So. 2d 335, 338 (Fla. Dist. Ct. App. 1998). In order for him to defend his own life, he needed to immediately respond to the active threat coming his way. Jay could not turn around and run away as doing so would require him to turn his back on his attacker. When one is attacked in a way that “is so sudden, fierce, and violent, that a retreat would not diminish but increase his danger, he may instantly kill his adversary without retreating at all.” *Beard v. U.S.*, 158 U.S. 550, 560 (1895); *See also* *Wiggins v. Utah*, 93 U.S. 465, 478 (1876). Therefore, because Jay had exhausted every reasonable means to retreat when Mr. Wilson pursued him, his use of force is justifiable.

1. **In The Alternative, Jay Is Entitled To The No Retreat Immunity Of The Castle Doctrine As The Motel Was His Home**

Jay does not have a duty to withdraw as he is in a place where he is rightfully allowed to be and individuals do not have a duty to retreat while at their residence. “The notable exception to the duty to retreat was the castle doctrine, which did not require a person to retreat when attacked in his or her home.” *State v. Smiley*, 927 So. 2d 1000, 1001-02 (Fla. Dist. Ct. App. 2006). For the purposes of Jay’s situation, the Boals Motel can be recognized as his residence or dwelling. Under Florida statute § 776.013, a residence is defined as “a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.” Fla. Stat. § 776.013.

The Boals Motel qualifies as Jay’s residence because he resides there temporarily and treats it as his temporary housing as he has no permanent housing. Therefore, it is a place where Jay has the right to be. He was not trespassing, was recorded as a lawful resident of the motel, and was not involved in any other unlawful activity while at the motel. *See* discussion *supra* Part I.A. Consequently, there was no duty for Jay to retreat when he was “feloniously assaulted in a place where [he] ha[d] a right to be.” *State v. Allery*, 101 Wash. 2d 591, 598 (1984).

1. **The State Should Not Be Able To Defeat Jay’s Claim Of Immunity Solely Because Of Alleged Disputes Of Material Fact**

 Stand Your Ground laws have been passed in other states to establish a true immunity and not merely an affirmative defense. *Peterson v. State*, 983 So. 2d 27, 29 (Fla. Dist. Ct. App. 2008). This Court should not permit the State to defeat a claim of statutory immunity simply because the State claims a dispute of material fact. Indeed, a Florida Appellate court correctly rejected such an argument, expressly asserting that a trial court “may not deny a motion simply because factual disputes exist.” *Id.*

 Here, Jay has properly raised a prima facie case of immunity covered under the intent and plain meaning of the Stetson Stand Your Ground law. The burden has shifted to the State to prove by clear and convincing evidence that Jay is not entitled to such immunity. However, on both law and critical evidence, the State is unable to meet its burden.

**CONCLUSION**

WHEREFORE, Defendant respectfully prays this Honorable Court enter an Order granting the defendant immunity from prosecution and dismissing the charges against him.

Respectfully Submitted,

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*Attorneys for Jay Cameron*