

IN THE CIRCUIT COURT OF THE SEVENTH CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO: 2024 CF 000296

v.

HUNTER DETHEROW,  
Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION TO GRANT IMMUNITY  
FROM PROSECUTION**

**THIS CAUSE** came before the Court upon the defendant's Motion to Grant Immunity (DIN 77) filed on February 3, 2025. After reviewing the Motion, and after having heard the testimony and hearing the argument of counsel at the hearing on February 27, 2025, the Court makes the following findings of fact:

1. While the defendant, Hunter Detherow, did not initially raise a *prima facie* case of self-defense immunity in his written motion, he did present a *prima facie* claim of self-defense immunity at February 27, 2025 hearing.

2. On March 17, 2024, the defendant was at the Circle K located at 1201 Palm Harbor Parkway, Palm Coast, Florida. The defendant advised after earlier helping a homeless man that lived nearby at the Circle K, he sat down at one of the picnic benches outside the Circle K to read his bible.

3. After nightfall, the defendant saw two individuals drive up toward him on their electric bikes. One of the men ran into the Circle K while the larger of the two (Mr. Gross)<sup>1</sup> stood by the bikes to guard them. The defendant left the bench he was sitting on to throw a wrapper away in a trash can near Mr. Gross. He approached Mr. Gross guarding the bikes, smiled and engaged in conversation to break the ice.

4. The defendant was conversing with Mr. Gross about the electric bikes when Mr. Gatrell, who had earlier entered the Circle K, exited the Circle K and joined the conversation with Mr. Gross and the defendant.

5. According to the defendant who was seated on a bench, Mr. Gatrell insisted on sitting

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<sup>1</sup> The defendant was 22 years old, of slight build and approximately 5'11". Mr. Gross was 49 years old, 5'10" and weighed approximately 220 lbs. Mr. Gatrell was 51 years old, smaller and shorter in stature.

next to him.

6. While the individuals were at the picnic bench, Mr. Gatrell was drinking some sort of mixed cocktail drink and Mr. Gross was drinking a Four Loco Beer. The mixed cocktail drink was later identified as a sex on the beach with a 10% alcohol content. There was no evidence presented that the defendant had been drinking or had consumed any alcoholic beverages.

7. All parties represented that the initial encounter was friendly in nature. The defendant testified that Mr. Gatrell and Mr. Gross began having some side bar conversations with one another. He also noted an odd sexual comment that Mr. Gatrell made to the defendant. The defendant began to feel “creeped out” by Mr. Gatrell based upon the sexual statements and the way he was looking at the defendant. The defendant described the “weird vibes”, and that Mr. Gatrell went behind the Circle K to go pee. Mr. Gatrell and Mr. Gross both later testified that Mr. Gatrell went back into the Circle K to buy some nuts to feed a raccoon.

8. After the defendant asked Mr. Gross about his religious beliefs, Mr. Gross began to become belligerent and aggressive toward him. Mr. Gross waved his hands around making the defendant uncomfortable. The defendant claimed that Mr. Gross was coming toward him and scared him. Mr. Gross was leaning across the table toward the defendant.

9. When Mr. Gatrell came back from the Circle K, the defendant thought it was a good idea to divert the conversation away from Mr. Gross and asked Mr. Gatrell about his religious beliefs<sup>2</sup>.

10. Mr. Gross and Mr. Gatrell then began to inquire about the defendant’s religious beliefs.

11. Mr. Gross and Mr. Gatrell began to speak more amongst themselves as the conversation continued. The defendant testified that he stepped back and that seemed to encourage Mr. Gross and Mr. Gatrell to ratchet up the rhetoric. The two started “egging the defendant on”.

12. The defendant relayed how important his religion is to him and Mr. Gatrell started laughing at the defendant and pointed at Mr. Gross and said, “He’ll destroy you.” Mr. Gatrell was relaying that Mr. Gross would destroy the defendant. Mr. Gross corroborated this version of events.

13. There are two charges in the instant case against the defendant, Felony Battery and

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<sup>2</sup> While there was no evidence presented as to the defendant’s mental acuity, he appeared to either be slow as to picking up on social cues or to otherwise not pick up on warning signs as quickly as the general population. This is not to suggest he appears to be incompetent.

Aggravated Battery with a Deadly Weapon/Bodily Harm.

(Felony Battery)

14. The defendant was charged with committing felony battery against Mr. Gatrell. Since the physical altercation begins with Mr. Gatrell, the Court will begin its analysis regarding the felony battery charge.

15. According to the defendant, Mr. Gatrell threatened him several times. The defendant according to all parties said, “Don’t threaten me ever again.” At that point Mr. Gatrell allegedly made an angry face at the defendant and then swung a foot and a half long 4-inch-wide black metal hydro flask at the defendant.

16. The defendant kicked the metal hydro flask away. The hydro flask hit Mr. Gatrell causing him to slip back off the bench onto his back. While Mr. Gatrell denies swinging the hydro flask at the defendant, neither Mr. Gatrell nor Mr. Gross were able to pinpoint how the physical altercation started. The defendant clearly and concisely relayed the events that led up to the physical altercation, including how Mr. Gatrell initiated the physical contact. The defendant’s version of events that Mr. Gatrell fell onto his back from the picnic bench is corroborated by the bruising on Mr. Gatrell’s back shown in the photos introduced at the hearing. The defendant also advised that he slipped on some wet leaves and fell to the ground next to Mr. Gatrell. Fearing further attack, the defendant hit at Mr. Gatrell’s face.

17. The court finds, based upon the credibility of the parties and the evidence presented that Mr. Gatrell initiated the physical encounter, and the defendant was acting in self-defense. The State has not met its burden of proof by clear and convincing evidence to overcome defendant’s claim of immunity from prosecution for the felony battery charge.

(Aggravated Battery Deadly Weapon/Bodily Harm)

18. While the defendant was still engaged in the physical altercation with Mr. Gatrell, Mr. Gross charged the defendant.

19. As the defendant was trying to push Mr. Gross away with his left hand, Mr. Gross picked up the defendant and slammed him to the ground.

20. Mr. Gross began to bear hug the defendant, placing his arms under the defendant’s arms. According to Mr. Gross, he had the defendant pinned down. According to both Mr. Gross and the defendant, Mr. Gross was on top of the defendant and bear hugging the defendant tightly against him. Mr. Gross weighed 220 pounds, and the defendant weighed between 120 – 140

pounds. The defendant has a slight build while Mr. Gross is stocky in build.

21. The defendant was being held so tightly that he was unable to get up from Mr. Gross' bear hold. Mr. Gross added that he was swinging the defendant back and forth.

22. The defendant felt panicked and tried to break the bear hug to escape. The defendant was trying to get out of the hold and to get away. The defendant was having difficulty breathing and felt that he was choking out. The defendant tried to "tap out" but Mr. Gross would not loosen his hold on the defendant. The defendant felt that he was starting to lose consciousness while Mr. Gross continued to strengthen his hold and constrict the defendant's ability to breathe. The defendant remembered he had a knife on him and was in fear for his life.

23. The defendant did his best to get out of the hold before resorting to using the knife. He believed using the knife was his means of escape. The initial use of the knife was not enough to get Mr. Gross to release the defendant<sup>3</sup>.

24. The defendant used the knife again which caused Mr. Gross to release the defendant who then ran away.

25. Neither Mr. Gross's<sup>4</sup> version of events nor Mr. Gatrell's<sup>5</sup> version of events relaying that the defendant started the initial physical encounter were plausible or believable. Of the three participants involved in the altercation, the defendant's recitation of the events was the most clear and concise.

26. The State has not met its burden of proof by clear and convincing evidence to overcome defendant's claim of immunity from prosecution for the aggravated battery charge.

It is, therefore, **ORDERED AND ADJUDGED** that the defendant's Motion to Grant Immunity and Dismissal is hereby **GRANTED as to both the Felony Battery and Aggravated Battery charges** and the Information is hereby **DISMISSED**.

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<sup>3</sup> Mr. Gross received several cuts from the knife which required numerous stiches and staples. For some reason, Mr. Gross did not realize he had been stabbed until he later arrived at Mr. Gatrell's home.

<sup>4</sup> Mr. Gross' testimony, when it was audible, seemed to be inconsistent regarding his own recollection of events as well as when compared to the events relayed by Mr. Gatrell and the defendant.

<sup>5</sup> Mr. Gatrell's overall testimony was less than credible. He testified that he had many health issues and volunteered that he also suffers from double vision "all the time". One would think this impaired sight might make it difficult for him to testify as to what he saw regarding the events in question. Additionally, it seems improbable that he would be able to ride an electric bike for long distances or perform half the physical feats he accomplished that day if he in fact suffered the laundry list of ailments to which he testified.

**DONE AND ORDERED**, in Chambers in Bunnell, Flagler County Florida.

3/10/2025 1:23 PM 2024 CF  


e-Signed 3/10/2025 1:23 PM 2024 CF 000296

Dawn D. Nichols  
Circuit Judge

cc: Melissa L. Clark, Assistant State Attorney  
Courtney C. Davison, Assistant Public Defender