

STATE OF FLORIDA,

v.

HUNTER DETHEROW,

Defendant.

CASE NO.: 2024 00296 CFFA
JUDGE DAWN D. NICHOLS

**MOTION TO GRANT IMMUNITY FROM PROSECUTION AND
REQUEST FOR EVIDENTIARY HEARING**

COMES NOW the Defendant, Hunter Detherow, by and through the undersigned attorney, pursuant to Florida Rules of Criminal Procedure 3.190(b), and hereby moves this Honorable Court for an order declaring that the Defendant is immune from prosecution and therefore dismiss the Information filed in this cause. As grounds for this Motion, the Defendant states as follows:

I. The Defendant is charged by Information with one count of Aggravated Battery (Deadly Weapon Bodily Harm) in violation of Florida Statute 784.045(2) and 784.045(1)(a) and one count of Felony Battery in violation of Florida Statute 784-041(1).

2. This Motion seeks dismissal of the Information pursuant to the immunity provisions of Section 776.032, Florida Statutes, relating to justified use of force. This statute creates an immunity from prosecution for those who use force as permitted in Florida's self-defense statutes. The Defendant contends that the alleged use of force in this case was reasonably justified and therefore immunizes him from prosecution.

3. This issue may be raised prior to trial. This Motion will require an evidentiary hearing, and the Court must determine once the defendant raises a prima facie claim of self-defense immunity, whether the State can meet its burden of proving by clear and convincing evidence that said immunity does not apply.

STATEMENT OF FACTS

On March 17, 2024, at approximately 11:56pm, Detective Held received a call from Corporal Smith in reference to a stabbing that occurred at Circle K at 1201 Palm Harbor Parkway. Upon receiving the 911 call, Deputy Mistretta responded to 11 Clear Court to contact the reporting party Jeffrey Gartrell and David Gross Jr. Deputy Mistretta observed Gross to have a laceration on the left side of his neck, lacerations to his left back shoulder, and a puncture wound on the left side of his abdominal area. Gartrell advised he was not stabbed but was struck multiple times. Deputy Mistretta did not observe any stab wounds on Gartrell, but observed a contusion on his lower right back, a bruise on his right side, and two red marks on the center of his chest.

Flagler County Sheriff's Office Crime Scene Investigators responded to Circle K and processed the scene. Outside in the parking lot and picnic areas were areas of blood. There was an empty four (4) inch knife sheath located in the grass area along with a pair of yellow glasses later identified to belong to Gross.

Detective Held conducted a recorded interview with Gartrell while at 11 Clear Court. Gartrell advised that he and Gross were sitting down outside the Circle K and having a discussion with Hunter Detherow. The topic of religion has been brought up in the conversation. Gross cut

Hunter off when Hunter tried to speak of his religious views. A verbal argument ensued, and a fight broke out. Gross and Gartrell left the scene on their electric bicycles to 11 Clear Court where they discovered possible injuries.

Detective St. Johns responded to Halifax hospital and made contact with Gross. Gross gave a synopsis of the events similar to that of Gartrell. Contact was made with Detherow in which he requested an attorney and questioning ceased.

MEMORANDUM

The Defendant contends that immunity from prosecution is warranted in this case and that the Information should be dismissed. Florida Statutes section 776.032(1), reads as follows:

A person who uses or threatens to use force as permitted ins. 776.012, s. 776.013, or s. 776.031 is justified in such conduct and is immune from criminal prosecution and civil action for the use or threatened use of such force by the person, personal representative, or heirs of the person against whom the force was used or threatened, unless the person against whom force was used or threatened is a law enforcement officer, as defined ins. 943.10(14), who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

Section 776.032(4), Florida Statutes reads as follows:

In a criminal prosecution, once a prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial immunity hearing, the burden of proof by clear and convincing evidence is on the party seeking to overcome the immunity from criminal prosecution provided in subsection (1).

Section 776.012(1), Florida Statutes reads as follows:

A person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the

other's imminent use of unlawful force. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.

Section 776.012(2), Florida Statutes reads as follows:

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. 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.

CONCLUSION

The Defendant asks this Court to conduct an evidentiary hearing in this matter. The Defendant asserts that the evidence presented at a hearing will demonstrate that the facts and circumstances constitute lawful self-defense that qualifies him for statutory immunity from prosecution.

WHEREFORE the Defendant requests an evidentiary hearing to determine the entitlement of immunity from prosecution and dismiss the Information in this case.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to:
Flagler State Attorney Office, Assistant State Attorney, at eserviceflagler@sao7.org, and to the
defendant, on February 3, 2025.

/s/ Courtney C. Davison

Courtney C. Davison

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