The Shot Heard Around the World

The Self-Defense Case in the Trial of the State of Florida v. George Zimmerman

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Preamble
Trayvon Martin could have been me.[1]

Those words, first uttered by President Barack Obama, have now become iconic when discussing the shooting death of 17-year-old Trayvon Martin. The masses watched the proceedings and awaited the fate of George Zimmerman, the 29-year-old man charged in the murder of Martin. With many both intellectually and emotionally invested in the case's outcome, it would take the jury a little more than 16 hours to deliberate and come back with a ruling – a ruling that came as dissatisfaction to many who desperately sought justice for the family of the slain teen.

On July 13, 2013, a six-woman jury acquitted George Zimmerman of the murder of Trayvon Martin – in large part thanks to poor prosecutorial work by the State of Florida and the state's broad self-defense provisions. Thus, this article will explore the *Zimmerman* decision from this context. Particularly, this article will consider the jury instructions and examine Florida's state laws on self-defense contained therein, including what makes a killing "justifiable" under Florida self-defense law. As part of Florida self-defense law, this article also will touch upon the Florida's "stand your ground" law and explore this concept within the grander scheme of American self-defense jurisprudence.

"We the People…"
The Case of the
State of Florida v. George Zimmerman

The Facts: What Happened?

While serving a ten-day suspension from school in February of 2012, Trayvon Martin, a 17-year-old African-American student, was visiting his father in Sanford, Florida. George Zimmerman, who was a 29-year-old part-time student and neighborhood watch captain at the time of the incident, lived in Sanford at the Retreat at Twin Lakes townhouse complex where the shooting occurred.

On the night of February 26, Zimmerman was patrolling his gated townhouse development. At 7:09 pm, Zimmerman called the non-emergency police-response line from his vehicle to report a "suspicious person" (Trayvon Martin) in the neighborhood. Over the phone, Zimmerman was instructed by the dispatcher simply to keep an eye on Martin and to not approach the teenager. Zimmerman, however, disregarded these directives and pursued Martin.

The phone call to police ended at 7:13 pm. Moments later, neighbors reported hearing gunfire. Law enforcement arrived on the scene at 7:17 pm, four minutes after Zimmerman ended his call with police. However, by the time they arrived, Zimmerman had already shot and killed Trayvon Martin. Zimmerman, showing injuries he alleged came from his altercation with Martin, claimed he killed the teen in self-defense, despite the fact that Martin himself was unarmed.

Unable to disprove Zimmerman's account of the events that led to Martin's death, the State of Florida ("State") was reluctant to file any charges against Zimmerman. However, as the case gained more notoriety in the national media this changed. Pundits and political figures, including President Obama, weighed in on the issue. A petition calling for Zimmerman's arrest also formed and surpassed 1.3 million signatures. Rallies began to take place in cities across the country calling for justice to be served for Trayvon and the Martin family. It would take more than a month for the State to charge Zimmerman with second-degree murder. While the charge ameliorated many, as discussed below, this charge would be the first of several legal and evidentiary tactical errors the State would make in its case against George Zimmerman. This, in addition to the State's justification and self-defense laws, ultimately led to Zimmerman's exoneration.

The Trial: Prosecution Dooms Its Case from the Start

Second-Degree Murder versus Manslaughter

With an all-female jury empaneled, the case of *State of Florida v. George Zimmerman* began on June 24, 2013. Already with limited facts, the prosecution – from the outset – placed a nearly insurmountable burden upon itself by charging Zimmerman with second-degree murder, instead of the lesser crime of manslaughter. In Florida, to find a defendant guilty of second-degree murder, the State must prove *beyond a reasonable doubt* that the defendant committed an act imminently dangerous to another that demonstrates a "depraved mind" without regard for human life. To show that an act is "imminently dangerous to another and demonstrating a depraved mind," the State must establish three things:

1) That the act is one in which a person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another; AND

2) That the act is done from ill will, hatred, spite or an evil intent; AND

3) That the act is of such a nature that the act itself indicates an indifference to human life.

Manslaughter, on the other hand, only requires the State to show beyond a reasonable doubt that the defendant intentionally committed an act or acts that caused the unjustifiable or inexcusable death of another. Obviously, compared with second-degree murder this threshold is a much easier burden for the State to meet, because there is no element that requires proof of ill will, hatred, spite, or evil intent.

In the *Zimmerman* case, the difficulty for the prosecution in meeting its burden arose from having to prove the second prong. The State presented no conclusive evidence that showed beyond a reasonable doubt Zimmerman acted out of hate, ill will, or spite. Moreover, Zimmerman – wisely – elected not to testify, and thus did not allow the State to elicit testimony regarding his state of mind at the time of the shooting. With no sure evidence linking Zimmerman to ill, hateful, spiteful, or evil intent, the State found itself fighting a losing battle from the start, which only became more difficult as its case-in-chief continued.

Prosecution Witnesses Were Poorly Prepared

In addition to "overcharging" Zimmerman, the prosecution also put on a poor case-in-chief, particularly in the witnesses they presented. Throughout the trial, it was obvious that the State did not prepare its witnesses properly. For example, when taking the stand more than half of the State's witnesses *confirmed* Zimmerman's account of what happened that tragic night. Other than Martin's friend Rachel Jeantel, no prosecution witness really challenged the defense's version of what happened that night. Additionally, other witnesses for the State, such as the State's medical examiner, appeared far less polished than their defensive counterparts. All-in-all, witnesses that could have been great for the State seemed to leave the jury with far more doubt and questions – and in a case where the burden on the State is to prove each element of the offense beyond a reasonable doubt, this too was damning.

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Within the Jury Instructions[2]: An Analysis of Justifiable Homicide, Use of Force, and "Stand Your Ground" Self-Defense

The crux of Zimmerman's defense rested upon the jury believing that he shot and killed Trayvon Martin in self-defense. In order to support this, Zimmerman's team had to convince the jury that both the killing of and the use of deadly force on Martin was justifiable under the law. In her instructions to the jury, Judge Debra S. Nelson used much of the language of Florida's justifiable homicide statute (Fl. St. § 782.02) and use of deadly force statute (Fl. St. § 776.013) to direct the jury as to what the law was and the jury's requirements under it.

Justifiable Homicide and Use of Deadly Force

In Florida, the killing of a human being is justifiable and therefore lawful under one of three conditions:

1) If necessarily done while resisting any attempt to murder such a person; OR

2) If necessarily done while resisting any attempt to commit a felony upon such person; OR

3) If necessarily done while resisting any attempt to commit a felony in any dwelling house in which such person shall be.

While somewhat broad, Florida's justifiable killing provision is no broader than the justifiable homicide statutes of other comparable states. For example, under California law (Cal. Pen. Code § 197) a homicide is justifiable when committed by any person while resisting any attempt to murder a person or commit a felony upon a person. California similarly provides a justifiable homicide defense if the killing was done while in defense of the home or property.

Additionally, in considering Zimmerman's self-defense claim, the court also instructed the jury to deliberate as to whether Zimmerman's use of deadly force in self-defense was justified. In Florida, it is a defense to second-degree murder and manslaughter if the death of a person resulted from the justifiable use of deadly force. A person is justified in using deadly force if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself. In deciding whether Zimmerman was justified to use deadly force, the jury must judge him by the circumstances by which he was surrounded at the time. *The danger itself need not have been actual;* simply the appearance of the danger must have been so real that a reasonable person would have believed that the danger could only be avoided through the use of deadly force. This is key, because it renders the actual danger irrelevant. The jury need only decide whether a reasonable person, under Zimmerman's circumstance, would actually believe that the danger from Martin was real. In finding for Zimmerman in this case, the jury clearly accepted that, given the circumstances, it was reasonable for Zimmerman to actually believe his life was in danger during his altercation with Martin. Because of this, the use of deadly force – at least in the minds of the six on the jury – was justified.

"Stand Your Ground": Not Just a Florida Law

Probably the most famous fixation to come out of the *Zimmerman* trial was the craze over Florida's infamous "stand your ground" law. However, it is important to note that the defense never raised the "stand your ground" defense as justification for Zimmerman killing Martin. In fact, Zimmerman waived his right to a "stand your ground" pretrial immunity hearing and decided instead to try the case as one of self-defense.[3]

However, while the defense elected not to use "stand your ground" in the formal sense the judge nevertheless instructed the jury on the law when discussing the defense of justifiable use of deadly force. In Florida, if a person is attacked in a place where he or she has a right to be while engaged in a lawful activity, he or she has *no duty* to retreat. In fact, according to Florida law (Fl. St. § 776.013(3)), he or she "has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm." Traditionally only extended to the bounds of one's home, Florida's law extends "stand your ground" and the use of deadly force doctrines to nearly any and all lawful activity.

While Florida's "stand your ground" law has come under fire in the aftermath of Martin's death, the "stand your ground" directive is not unique. In truth, it is generally the case in American tort law that there is no duty to retreat when attacked. California, for example, also provides that a person is under no obligation to retreat and can try to repel their assailant with force if necessary.[4] In fact, nearly two dozen other states have similar "stand your ground" self-defense measures on the books (i.e., Ohio, North and South Carolina, etc.). This indicates that the philosophy of "stand your ground" is not just a Florida notion, but a fairly ubiquitous principle in American self-defense law.

"In Order to Form a More Perfect Union…"
Where Do We Go From Here?

The acquittal of George Zimmerman of both the murder and manslaughter of Trayvon Martin has led many to wonder whether "stand your ground" self-defense laws are overbroad, confusing, or inconsistently applied. When complemented with the obvious issues of race, guns, and justice, these thoughts, among many others, have led to a national examination of these types of self-defense laws. Since *Zimmerman*, there has been a continued outcry of support in favor of reformation. Sybrina Fulton, Martin's mother, spoke to a Senate panel, in which she said that states must clarify or otherwise change "stand your ground" self-defense laws. Fulton contended that in being unclear as to when and how it is applied, "stand your ground" in its current form is far too open to abuse. Others, including more mothers of similarly slain teens, have joined Fulton in her outrage over the structure and application of "stand your ground" state self-defense laws.

Sadly, most states with "stand your ground" self-defense laws are conservative and lean toward policies that defend the rights of gun owners. *Zimmerman* comes at a time in the nation's history where more than 85 gun-related deaths occur each day. It is at a time when African-Americans already suffer a disproportionate share of firearm homicide deaths in America.[5] And while the senseless killing of Trayvon Martin remains very much a mystery, it has served to highlight – on grander scale – many issues that had receded from the national consciousness.

Truly nothing positive can be taken away from Trayvon Martin's death. But at the very least America is once again engaging in dialogue and action around issues of race and racial profiling, guns and gun control, equity or lack thereof in the criminal justice system, and fairness in the law. Through this tragedy, we can only hope that the national "soul-searching" that President Obama so eloquently called upon all Americans to undergo is actually accomplished – and with any luck, the death of Trayvon Martin shall never be in vain.

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[1] See, e.g., www.cnn.com/2013/07/19/politics/obama-zimmerman (July 7, 2013).

[2] www.flcourts18.org/PDF/Press_Releases/Zimmerman_Final_Jury_Instructions.pdf.

[3] Had Zimmerman elected to have a hearing, however, the court would have ruled whether his actions were protected under Florida's "Stand Your Ground" law, and depending on the outcome it could have meant that Zimmerman would have faced no criminal or civil trial at all.

[4] See CALCRIM 3470.

[5] In 2010, African-Americans were 55% of the shooting homicide victims while only making up 13% of the U.S. population. See www.pewresearch.org/daily-number/blacks-suffer-disproportionate-share-of-firearm-homicide-deaths/ (May 21, 2013).

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