

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR WALTON COUNTY, FLORIDA**

**STATE OF FLORIDA,
Plaintiff,**

v.

CASE NO: 23-CF-524

**SIPHO JUMAANE BENNETT
Defendant.**

**ORDER DENYING DEFENDANT'S MOTION TO DISMISS
AND FOR IMMUNITY FROM PROSECUTION**

THIS CAUSE came before the Court upon the Defendant's Motion to Dismiss and for Immunity from Prosecution Pursuant to Florida Statutes, Sections 776.012 and 776.032 filed on March 31, 2025. Having considered the motion, evidence, and testimony presented at the hearing held on April 11, 2025, the parties' supplemental memorandums filed on April 25, 2025, and clarification during a status hearing on June 19, 2025, the court file, and being otherwise fully advised, the Court finds as follows:

Procedural History:

The Defendant is charged in a three-count Information with committing the following offenses: 1) Second Degree Murder by discharging a pistol and striking David Andrew Brimmer and causing his death in violation of Florida Statutes, Section 782.04(2); 2) Aggravated Battery with a Deadly Weapon by actually and intentionally touching or striking Kaden Johnson against his will or by intentionally causing bodily harm to Kaden Johnson, and in committing the battery used a deadly weapon, that is, a pistol, and discharged the pistol and struck Kaden Johnson causing serious bodily injury to Kaden Johnson in violation of Florida Statutes, Section 784.045(1)(a)(2); and 3) Shooting at, into or within an Occupied Vehicle, the property of Kaden Johnson which was used or occupied by Kaden Johnson in violation of Florida Statutes, Section 790.19, each alleged

to have occurred on or about July 4, 2023. The Court held a hearing on Defendant's motion on April 11, 2025, at which time the Court received testimony from seven witnesses (four from the State and three from the Defense) and received twenty (20) Exhibits (nineteen (19) from the State and one (1) from the Defense.

During the April 11, 2025, hearing, the Defendant objected to the Court considering evidence from activity that occurred after the shooting took place. The objection was further clarified in both the Memorandum in Support of Defendant's Motion for Self Defense Immunity filed by the Defendant on April 25, 2025, and during a status hearing held on June 19, 2025. The State asked the Court to consider the Defendant's flight after the shooting as evidence of the Defendant's consciousness of guilt and evidence that is inconsistent with what a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew would have done. The Defendant objected to the Court considering the Defendant's conduct after the shooting and specifically any reference to Defendant's flight after the shooting. The Defendant asked the Court to measure the conduct of the Defendant and his self-defense claim by an objective standard; and determine whether, based on circumstances as they appeared to the Defendant when he fired the shots, a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew would have used the same force as did the Defendant. The Court finds that State's Exhibits 1-19 and Defense Exhibit 1 are relevant and admissible, and all are inextricably intertwined and assist the Court in determining the chain of events that occurred on July 4, 2023. The Court considered those exhibits, and the testimony presented. As will be explained in more detail below, while the Court focused its attention on the circumstances as they appeared to the Defendant when he fired the shots, the Court does find the Defendant's conduct after the shooting to be relevant and admissible evidence.

The Law:

Section 776.012 (2), Florida Statutes states:

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.

Section 776.032(1), Florida Statutes states:

A person who uses or threatens to use force as permitted in s. 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. . .

Section 776.032(4), Florida Statutes states:

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 by subsection (1).

Section 776.041, Florida Statutes states:

The justification described in the preceding sections of this chapter is not available to a person who:

(2) Initially provokes the use or threatened use of force against himself or herself, unless: (a) Such force or threat of force is so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape such danger other than the use or threatened use of force which is likely to cause death or great bodily harm to the assailant...

“Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit, and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of allegations sought to be

established.” *Westinghouse Elec. Corp., Inc. v. Shuler Bros., Inc.*, 590 So.2d 986, 988 (Fla. 1st DCA 1991) (quoting *Slomowitz v. Walker*, 429 So.2d 797, 800 (Fla. 4th DCA 1983).

In determining the applicability of the Stand Your Ground law, the Court must consider “whether, based on the circumstances as they appeared to the defendant, a reasonable and prudent person situated in the same circumstances and knowing what the defendant knew would have used the same force as did the defendant.” *Garcia v. State*, 286 So. 3d 348, 351 (Fla. 2d DCA 2019).

Facts:

At approximately 5:31 PM on the afternoon of July 4, 2023, David Andrew Brimmer (hereinafter “Mr. Brimmer”) and Kaden Johnson (hereinafter “Mr. Johnson”) arrived in the parking lot of a business suite in DeFuniak Springs, Florida, and backed into a parking space in front of the Smoke Shop business.¹ Approximately three (3) minutes after Mr. Johnson parked his white Toyota SUV, Mr. Brimmer exited the front passenger door and entered the Smoke Shop. Mr. Brimmer attempted to purchase an item using a credit card but was unable to complete the purchase. Mr. Brimmer ran back to the SUV and then reentered the Smoke Shop with cash and completed the purchase before returning to the SUV at approximately 5:35 PM.

At approximately 5:34 PM, the Defendant walked into the parking lot of the above-mentioned business suite in DeFuniak Springs, Florida. As the Defendant made his way towards the Smoke Shop, at approximately 5:35 PM, Mr. Brimmer returned to the SUV, and the Defendant and Mr. Brimmer made eye contact with one another. The Defendant continued to make his way to the Smoke Shop and, as he did, he walked closer to the SUV

¹ The approximate time is derived from State’s Exhibit’s 1 and 2, the Smoke Shop (also referred to as the Vape Shop) and the Yamato’s Restaurant surveillance videos and timestamps from those videos.

where Mr. Johnson and Mr. Brimmer were sitting in the driver and passenger seats. As the Defendant walked closer to the SUV, the Defendant stared into the dark tinted windows of the SUV and paused on two different occasions as he continued to stare. The Defendant explained in a recorded post *Miranda* interview on July 4, 2023, (State's Exhibit 9-11), that he noticed Mr. Brimmer running out of the Smoke Shop and was suspicious that he may have been doing something wrong and that is why he was staring at Mr. Brimmer. During the April 11, 2025, hearing, Mr. Johnson testified that the Defendant's staring caught their attention and caused them to question why the Defendant was staring at them.

During his testimony, Mr. Johnson admitted that he had a shot of alcohol earlier in the day and explained that Mr. Brimmer had also consumed alcohol that day. Mr. Johnson admitted that, due to the circumstances of the shooting and his injuries, his memory of the events may be a little blurry. With that understanding, the Court finds Mr. Johnson's testimony to be credible and consistent with other testimony and with the video surveillance introduced at the hearing.

After walking past the SUV, at approximately 5:35:45 PM, the Defendant entered the Smoke Shop. Approximately twenty-nine (29) seconds after the Defendant entered the Smoke Shop, Mr. Brimmer opened the front door, and, while standing in the doorway and holding the door open, appeared to speak with the Defendant.² At that time, the Defendant stood in the middle of the Smoke Shop in front of the cash register approximately 10 to 15 feet from the front door and Mr. Brimmer. The front of the Smoke Shop door and window area is all clear glass. The one Smoke Shop employee was standing adjacent to the Defendant in the middle of the Smoke Shop and behind the cash register counter. Mr.

² The surveillance video from the Smoke Shop did not record audio.

Brimmer did not have anything in his hands, was not wearing a shirt or shoes, had a hat turned around backwards on his head, and was wearing black shorts.

Approximately twenty seconds later, Mr. Brimmer moved from the doorway of the Smoke Shop and stepped inside and closed the door behind him. Mr. Brimmer kept his hand on the door as he continued to speak with the Defendant. At that time, the Defendant dropped his jacket and two bottles of water he had in his hand onto the Smoke Shop floor and took approximately six (6) steps towards Mr. Brimmer and the front door. As the Defendant started walking towards the front door, Mr. Brimmer exited and walked back into the parking lot. During this exchange, Mr. Johnson stood at the driver's door of the SUV, which was backed into the parking space, and did not appear to have any contact with the Defendant.

During the April 11, 2025, hearing, Mr. Johnson testified that Mr. Brimmer initially asked the Defendant why he was staring at them and asked the Defendant if he had a problem with him. Mr. Johnson agreed that Mr. Brimmer later offered to fight with the Defendant in the parking lot and asked the Defendant to step outside and fight Mr. Brimmer. Mr. Johnson stated that he did not intend to be involved in the fight and told the Defendant that the fight would be one on one between the Defendant and Mr. Brimmer. During the post *Miranda* recorded interview on July 4, 2023, the Defendant stated that Mr. Brimmer was calling him names and asked the Defendant to step outside and fight him. The Defendant stated that the Smoke Shop staff member encouraged him to not be confrontational with Mr. Brimmer and asked him to keep the peace.

After Mr. Brimmer exited the Smoke Shop for approximately thirty-three (33) seconds, Mr. Brimmer stood in the parking lot outside the Smoke Shop parking lot and

waved his hands, which appeared he was gesturing for the Defendant to step outside. During that time, the Defendant moved back to the middle of the Smoke Shop.

At approximately 5:37 PM, Mr. Brimmer opened the Smoke Shop door and appeared to say something to the Defendant before closing the door and exiting within four (4) seconds. Mr. Brimmer then displayed his buttocks to the Defendant while in the parking lot and remained in the parking lot. At that time, Mr. Brimmer did not reenter the vehicle and did not have anything in his hands. Mr. Johnson stood beside the driver's door, moved to the back of the SUV while appearing to talk on his phone and eventually reentered the driver's side door, and the two departed the parking space in front of the Smoke Shop at approximately 5:38 PM.

Prior to Mr. Brimmer and Mr. Johnson departing, the Smoke Shop staff member appeared to say something to the Defendant and used two fingers as if to indicate there are two of them referring to Mr. Brimmer and Mr. Johnson. At that time, the Defendant removed a pistol from underneath the front of his pants and placed it in front of the cash register counter area for the staff member to see. The Defendant then concealed the pistol back underneath his pants.

With Mr. Brimmer in the front passenger seat, Mr. Johnson moved the SUV to the side of the building complex and parked. Just under five (5) minutes passed before Mr. Brimmer exited the SUV and walked back to the Smoke Shop. At approximately 5:42:54 PM, Mr. Brimmer opened the Smoke Shop door and kept the door open while he spoke with the Defendant from the doorway. The Defendant was in the middle of the Smoke Shop. Mr. Brimmer removed a cellphone from his front right pocket and began videotaping the Defendant. A copy of this recording was introduced as State's Exhibit 3. At that time,

the Defendant began slowly walking towards Mr. Brimmer and, in response, Mr. Brimmer closed the Smoke Shop door and left. The Defendant took approximately thirteen (13) steps from the middle of the Smoke Shop to the door of the Smoke Shop. At that time, Mr. Brimmer did not have anything in his hands other than the cellphone which he retrieved from his front right pocket, was not wearing a shirt or shoes, had a hat turned around backwards on his head and was wearing black shorts. Approximately twenty-four (24) seconds passed between the time Mr. Brimmer opened the door, exited, and walked back down the sidewalk towards the parked SUV on the side of the building.

At approximately 5:43 PM, and approximately twelve (12) seconds after Mr. Brimmer departed the Smoke Shop, the staff member can be seen on the video surveillance camera speaking with the Defendant and pointing towards the back of the Smoke Shop. During the post *Miranda* recorded interview on July 4, 2023, the Defendant stated that the Smoke Shop staff member told him that he should run through the back door of the Smoke Shop and get away. In response, the Defendant stated that he did not feel the need to run away and explained that he was not a fugitive or a criminal, and that he did not need to be running around just because “two stupid guys are talking mess that does not have anything to do with him” (the Defendant). The Defendant stated that he just wanted the two guys to leave him alone.

Less than a minute after the Smoke Shop staff member suggested the Defendant should exit the back door to avoid Mr. Brimmer and Mr. Johnson, a bystander (Nathan Coon) opened the door of the Smoke Shop and offered to give the Defendant a ride. During the post *Miranda* interview on July 4, 2023, the Defendant admitted that a bystander stopped by the Smoke Shop prior to the shooting, asked the Defendant if he needed to get

away from Mr. Brimmer and Mr. Johnson, and offered to give the Defendant a ride. In response, the Defendant said he told the bystander that he did not think it was that bad and that he was just going about his business.

The bystander (Nathan Coon) testified for the defense at the April 11, 2025, hearing and explained that Mr. Brimmer and Mr. Johnson were harassing the Defendant and using a lot of foul language. The bystander testified that he offered to give the Defendant a ride, but the Defendant shook his head indicating he did not need a ride. In response to being asked if he had observed any conduct by Mr. Brimmer or Mr. Johnson that would justify the Defendant using deadly force, the bystander stated he had not observed anything that would give rise to deadly force at the time he left and went inside the nearby restaurant. The Court finds Mr. Coon's testimony to be credible and consistent with other testimony and with the video surveillance introduced at the hearing.

Approximately two minutes after the bystander (Nathan Coon) departed, and at approximately 5:46 PM, the Smoke Shop staff member can be observed on the video surveillance camera speaking with the Defendant and again pointing towards the back of the Smoke Shop.

Another witness (Alexis Millender) testified for the defense at the April 11, 2025, hearing, and explained that, prior to the shooting, she saw two white males using what she characterized as fighting words and yelling at black male inside the Smoke Shop. The witness believed there was likely going to be a fight. The witness stated that she did not see any weapons and stated the white male yelling outside the Smoke Shop did not have anything in his hands and was not wearing a shirt. The Court finds Ms. Millender's testimony to be credible and consistent with other testimony and with the video

surveillance introduced at the hearing.

At approximately 5:47 PM, the SUV driven by Mr. Johnson reappeared on the surveillance video and parked in front of the Smoke Shop. Afterwards, Mr. Brimmer opened the passenger side door and remained seated inside the SUV with the door open for approximately two minutes. At that time, the Defendant had moved to the front right side of the store and was standing behind some merchandise displays while he looked outside. The Defendant then moved to the middle of the Smoke Shop and a couple of steps further towards the back from the center of the store. At approximately 5:49 PM, Mr. Brimmer exited the passenger side door, walked to the Smoke Shop door, opened the door, and while standing outside the Smoke Shop, appeared to make comments to the Defendant while holding his crotch area. At that time, Mr. Brimmer did not have anything in his hands, was not wearing a shirt or shoes, had a hat turned around backwards on his head and was wearing black shorts. Mr. Brimmer then took approximately two steps towards the door and leaned inside the door of the Smoke Shop while he kept his hand on the outside of door as the door remained open. Approximately thirty (30) seconds after Mr. Brimmer opened the Smoke Shop door, Mr. Johnson exited the SUV and took approximately six (6) small steps inside the Smoke Shop while standing behind a merchandise display. Mr. Johnson appeared to say something to the Defendant and was waving for him to come outside. At that time, Mr. Johnson had his cellphone in his right hand, was not wearing a shirt, had a hat turned around backwards on his head and was wearing red shorts. When Mr. Johnson entered the store, Mr. Brimmer remained at the doorway and then took approximately two (2) steps toward the Defendant who remained in the middle of the store approximately 10-12 feet away from Mr. Brimmer and Mr. Johnson after they entered the store.

Approximately nine (9) seconds after Mr. Johnson and Mr. Brimmer entered the store, the Defendant took two steps towards Mr. Brimmer and Mr. Johnson and, in response, the two exited the store. Mr. Johnson walked to the side of the SUV and remained in the parking lot at the front and side of the SUV in front of the driver's door. Mr. Johnson did not reenter the SUV or retrieve any items.

After Mr. Johnson exited, and at approximately 5:50:15 PM, Mr. Brimmer maintained a hold of the door and then opened it back up and spoke with the Defendant from the sidewalk area while holding the door open. Mr. Brimmer took a step inside the Smoke Shop, allowed the door to close behind him, and stood just inside the doorway. The Defendant stood in the middle of the Smoke Shop approximately 10-15 feet from Mr. Brimmer. At approximately 5:50:30 PM, the Defendant started walking towards Mr. Brimmer. Mr. Brimmer turned and exited the Smoke Shop after the Defendant took approximately two steps. At that time, Mr. Johnson remained at the front of the SUV without anything in his hands. Mr. Brimmer exited the store and walked to the front passenger side of the SUV stopping alongside the front right tire area. The Defendant continued to walk towards the front door and took approximately ten (10) steps before arriving at the front door of the Smoke Shop. As the Defendant took approximately his sixth step towards the door, Mr. Brimmer stopped at the front passenger side tire area of the SUV, turned back, and walked to the door of the Smoke Shop. Mr. Brimmer did not approach or open the passenger door prior to walking back to the front door of the Smoke Shop. At that time, Mr. Brimmer did not have anything in his hands, was not wearing a shirt or shoes, had a hat turned around backwards on his head and was wearing black shorts. As soon as Mr. Brimmer opened the front door of the Smoke Shop, and at approximately

5:50:41 P.M., the Defendant raised a pistol that was hidden underneath a jacket that was draped over his arm, pointed it at the Defendant and fired one shot directly into Mr. Brimmer's chest. Just prior to the first shot being fired by the Defendant, Mr. Johnson moved from the front of the SUV and opened the driver's side door. At that time, Mr. Johnson was not confronting the Defendant or making any aggressive moves towards the Defendant. If anything, it appeared Mr. Johnson was fleeing to the SUV as the Defendant approached the front door and confronted Mr. Brimmer.

After being shot, Mr. Brimmer turned, ran to the passenger side door of the SUV and jumped inside. The Defendant chased after Mr. Brimmer and appeared to point the gun in his direction as Mr. Brimmer entered the SUV. The Defendant then circled around the back of the SUV and passed the driver's side door where he fired approximately one to two shots into the driver's side door and window. One of those bullets struck Mr. Johnson in the arm and one appeared to have struck Mr. Brimmer in the leg. Mr. Johnson accelerated the SUV in reverse striking a vehicle parked in the parking lot and, after turning around, accelerated across the highway. The Defendant chased the SUV in the parking lot until it turned around and accelerated out of the parking lot and across the highway in front of the building suite. At that time, the Defendant stopped and subsequently concealed the pistol back underneath his clothing and remained in the parking lot for a period of time after the shooting.

A crime scene investigator (Laura Gainey) testified during the April 11, 2025, hearing and explained that, in addition to two empty shell casings, there were also two spent shell casings on the ground in the area where the shooting occurred, leading investigators to believe the pistol may have jammed causing the Defendant to remove the

live rounds so that he could continue firing or attempting to fire the pistol. The Court finds Investigator Gainey's testimony to be credible and consistent with other testimony and with the video surveillance introduced at the hearing.

Shortly after the shooting, law enforcement arrived in the parking lot of the Smoke Shop and other businesses and across the highway. At the April 11, 2025, hearing, bodycam footage from three officers who responded to the shooting on July 4, 2023, was introduced (State's Exhibits 4, 7 and 8). State's Exhibit 4 contained bodycam footage from Officer Stapleton. At approximately 5:59 PM, Officer Stapleton approached the Defendant while the Defendant stood in the parking lot outside the Smoke Shop. A bystander told Officer Stapleton that the Defendant was close-by but that he did not know how much he saw. Officer Stapleton asked the Defendant what was going on. In response, the Defendant stated, "Just going to get a bottle of water...I was just going to get something to drink, some water." Following that statement, law enforcement observed the Defendant as he walked to and entered a nearby Winn Dixie grocery store and then walked to and entered a nearby Walgreens where he was located inside the restroom and found to be in possession of the Smith and Wesson 9-Millimeter pistol that he used to shoot Mr. Brimmer and Mr. Johnson.

During his post *Miranda* recorded interview on July 4, 2023, the Defendant admitted that after the shooting, he left the parking lot where the shooting took place, walked to the Winn Dixie grocery store where he obtained a tomato and some water, and then entered the Walgreens and went into the restroom.

The State introduced crime scene photos (State's Exhibit 12), photos of Mr. Johnson's SUV (State's Composite Exhibit 15 A-BB), an autopsy report and photos of Mr.

Brimmer (State's Exhibits 16, 17 A-M, and 18), and the FDLE firearm and ammunition analysis report (State's Exhibit 19). In summary, the evidence revealed that two fired bullets were removed from Mr. Brimmer, one from his chest and one from his leg, and another fired bullet was located inside the SUV. The gunshot wound to Mr. Brimmer's chest caused his death. Mr. Johnson was shot in the arm and survived. The Smith and Wesson pistol found in the Defendant's possession was the same pistol used to shoot Mr. Brimmer and Mr. Johnson.

Inside Mr. Johnson's SUV, law enforcement located and photographed a camouflage shotgun that was in between the passenger seat and the center console area. During his testimony on April 11, 2025, Mr. Johnson testified that the shotgun was never handled or removed during the July 4, 2023, incident. There was no evidence introduced to contradict his testimony regarding the shotgun and the Court found this testimony to be credible.

During his post *Miranda* recorded interview on July 4, 2023, the Defendant stated that he was from Jamaica, had served 6.5 years in the Military in Jamaica, and that he had been in the United States for a couple of months.

Detective Mindy Shelton testified at the April 11, 2025, hearing and explained that the Defendant was a transient person, a citizen of Jamaica, and was not a United States citizen. Investigator Shelton testified the Defendant did not have a concealed carry permit allowing him to conceal a firearm and testified that, due to his status as a non-United States citizen, he would not be eligible for a concealed carry permit and could not possess a firearm. As a non-United States citizen, Investigator Shelton testified that she believed it was unlawful for the Defendant to be in possession of a firearm on July 4, 2023. While the

Defendant initially objected to this testimony, the objection was withdrawn, and this evidence was not contradicted.

Detective Shelton also testified that the Smoke Shop had a back door, and that, upon her review of the surveillance footage from the Smoke Shop, she observed the Smoke Shop staff member pointing in the direction of the back door. As stated above, the Defendant admitted that the staff member had pointed at the back door and suggested he flee through the back door. The Court finds Investigator Shelton's testimony to be credible and consistent with other testimony and with the video surveillance introduced at the hearing.

During his post *Miranda* recorded interview on July 4, 2023, the Defendant admitted to firing the pistol two to three times. The Defendant admitted to shooting Mr. Brimmer³ in the chest and firing into the driver's side window where Mr. Johnson was sitting. The Defendant explained that, prior to the shooting, Mr. Brimmer, who the Defendant did not know, began cursing at him and calling him a N---r and asked him to step outside and fight. The Defendant stated that Mr. Brimmer told him that he wanted him to "come outside so he didn't have to beat his ass inside the store." Mr. Johnson also called him names, including a N---r and told him he was going to let Mr. Brimmer and the Defendant fight one on one. The Defendant stated he became concerned for his safety. Prior to shooting Mr. Brimmer, the Defendant believed Mr. Brimmer went to the passenger door and stated that the Defendant could not see what Mr. Brimmer picked up prior to coming back towards the Defendant. The Defendant explained that Mr. Johnson went to the driver's door and stated he could not see what Mr. Johnson picked up. The Defendant

³ During the interview, the Defendant referred to Mr. Brimmer as the passenger and Mr. Johnson as the driver of the SUV. For clarity, the Court is referring to them as their names instead of passenger and driver.

stated he could not see Mr. Brimmer's hands when he approached the store just prior to shooting him. The Defendant admitted to shooting Mr. Brimmer in the chest and running around the SUV and shooting into the driver's side window at Mr. Johnson. The Defendant explained that he shot at Mr. Johnson just to make sure he did not return fire. As will be explained further below, the Court finds the Defendant's testimony is not credible as it is not consistent with the testimony of others and not consistent with the video surveillance introduced at the hearing.

Following the shooting, law enforcement and emergency responders were called. None of the witnesses or bystanders who observed the incident called 911 prior to the shooting taking place.

Analysis:

The Court first finds the Defendant made a prima facie claim of self-defense immunity pursuant to Section 776.012. Thus, the burden shifted to the State to show by clear and convincing evidence that the Defendant did not have a right to use self-defense.

- 1) The Defendant's belief that deadly force was necessary to prevent imminent death or great bodily harm to himself or to prevent the commission of a forcible felony was not reasonable**

After reviewing all the testimony and facts presented and the exhibits introduced during the April 11, 2025, hearing, the Court finds that on July 4, 2023, the Defendant used deadly force in shooting both Mr. Brimmer and Mr. Johnson. The Court further finds that, based on the circumstances as they appeared to the Defendant, a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew would not have used the same deadly force on Mr. Brimmer and would not have used the same deadly force on Mr. Johnson, as the Defendant did on July 4, 2023.

At approximately 5:35 PM, on July 4, 2023, the Defendant and Mr. Brimmer made eye contact in the parking lot of a business suite in DeFuniak Springs, Florida. The two did not know one another. At that time, the Defendant believed Mr. Brimmer was acting suspicious while running outside the store and entering Mr. Johnson's SUV. As a result, the Defendant stared at Mr. Brimmer. Unbeknownst to the Defendant, Mr. Brimmer was simply running back inside the store to pay for an item with cash after a failed attempt to pay with a credit card. Nevertheless, the Defendant's act of staring at Mr. Brimmer caused Mr. Brimmer to wonder why he was staring at him. From that point on, instead of simply ignoring it and moving on, Mr. Brimmer and Mr. Johnson chose to use the Defendant's behavior to taunt the Defendant by calling him despicable names and repeatedly trying to get him to exit the Smoke Shop and fight with Mr. Brimmer. Both Mr. Johnson and the Defendant stated that Mr. Johnson had suggested the fight would simply be between Mr. Brimmer and the Defendant.

Approximately fifteen (15) minutes passed between the time the Defendant and Mr. Brimmer first made eye contact, and Mr. Brimmer and Mr. Johnson were shot by the Defendant. During those fifteen (15) minutes, Mr. Brimmer approached the Smoke Shop door and taunted the Defendant on four (4) occasions. Mr. Johnson joined Mr. Brimmer on one of those occasions. On three (3) out of the four (4) occasions, in response to the taunting, and while a safe distance away from Mr. Brimmer and Mr. Johnson, the Defendant took steps towards them and each time, they fled away. On the single occasion when that did not occur, Mr. Brimmer, on his own, walked away four (4) seconds after opening the Smoke Shop door and taunting the Defendant.

During those fifteen minutes, on two occasions, the Smoke Shop staff member tried to convince the Defendant to exit the rear of the store where he could flee and be free from the taunting. On each occasion, the Defendant refused to leave and admitted that he did not feel the

need to run away and explained that Mr. Brimmer and Mr. Johnson were just two stupid guys talking trash to him and calling him names that he believed did not have anything to do with him. In response to the Smoke Shop staff member appearing to tell him there are two of them, the Defendant removed his pistol that was concealed in his pants and showed it to the staff member. The Court finds this response from the Defendant and the statements he admitted to making to the staff member are inconsistent with one who reasonably believes that they are in danger of imminent death or great bodily harm or danger of the imminent commission of a forcible felony.

During those fifteen minutes, a bystander (Nathan Coon) who witnessed Mr. Brimmer and Mr. Johnson harassing the Defendant offered to provide transportation and a way out for the Defendant. Once again, the Defendant refused the outlet and told the bystander that he did not think it was that bad and that he was just going about his business. Again, the Court finds this response from the Defendant and the statements he admitted to making to the bystander are inconsistent with one who reasonably believes that they are in danger of imminent death or great bodily harm or danger of the imminent commission of a forcible felony.

According to the Defendant, prior to shooting Mr. Brimmer, Mr. Brimmer went to the passenger door and the Defendant claimed he could not see what Mr. Brimmer retrieved prior to coming back towards the Defendant. The Defendant suggested that Mr. Brimmer and Mr. Johnson could have retrieved weapons from the SUV which he believed justified his actions in shooting them. This was inconsistent with the recorded video surveillance from the Smoke Shop. In fact, just prior to being shot, Mr. Brimmer never made it to the passenger door of the SUV. Instead, Mr. Brimmer turned around at the front passenger tire area. After exiting the SUV and walking to the door of Smoke Shop at approximately 5:49 PM, Mr. Brimmer never walked back to the passenger door or left sight of the Defendant. During that fourth encounter and all the times during the

previous three encounters at the doorway of the Smoke Shop, Mr. Brimmer can clearly be seen not wearing a shirt or shoes, and only wearing a hat turned around backwards and black shorts. During the third encounter, Mr. Brimmer reached into his right pocket and removed a cellphone and recorded the Defendant. There are no other times when Mr. Brimmer is observed carrying anything in his hands or reaching into his pockets. Although a shotgun was located inside the Toyota SUV following the shooting, the Court finds there was no evidence to suggest that the shotgun was used or threatened to be used by Mr. Brimmer or Mr. Johnson, and there was no evidence to suggest that the Defendant knew about the presence of the shotgun. The Court finds Defendant's claim to not be credible and be inconsistent with the other testimony and the surveillance video from the Smoke Shop and Yamato's Restaurant.

Each of the three times that the Defendant stepped towards Mr. Brimmer and Mr. Johnson, they both retreated. Prior to shooting Mr. Brimmer, the Defendant chose to leave the middle of the Smoke Shop which had proven to be a safe spot for him to stand and take approximately thirteen (13) steps from that location to the front door of the Smoke Shop. At that time, the Defendant met Mr. Brimmer in the doorway and, while Mr. Brimmer was clearly not armed with a weapon or attacking the Defendant, the Defendant removed his concealed pistol and shot Mr. Brimmer in the chest. Based on the circumstances as they appeared to the Defendant at the time he shot Mr. Brimmer in the doorway of the Smoke Shop, a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew would not have used the same deadly force on Mr. Brimmer.

After shooting Mr. Brimmer in the chest at a close range, the Defendant chased after both Mr. Brimmer and Mr. Johnson while pointing the pistol and firing it. After Mr. Brimmer entered the passenger door, the Defendant continued pursuing Mr. Brimmer and Mr. Johnson and circled

around the back of the SUV. While holding the pistol, the Defendant approached the driver's side window and fired at least one, but likely two shots into the driver's side window and door. According to the autopsy report, two fired bullets were removed from Mr. Brimmer, one from his back that entered through his chest and one lodged in his leg. It appears from the evidence presented that a third bullet was removed from inside the SUV. Accordingly, after firing the first shot into Mr. Brimmer's chest, it appears the Defendant fired two shots into the driver's door, one of which struck Mr. Johnson and one of which struck Mr. Brimmer's leg. The crime scene photos introduced at the hearing appeared to show two holes in the driver's door, one in the glass window and one in the door below the glass window. Based on the circumstances as they appeared to the Defendant at the time he shot Mr. Johnson and Mr. Brimmer a second time, and after chasing them into the parking lot and then firing his pistol into the driver's side door of the SUV, a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew would not have used the same deadly force on Mr. Johnson and Mr. Brimmer.

After reviewing all the testimony and facts presented and the exhibits introduced during the April 11, 2025, hearing, the Court finds that on July 4, 2023, there is insufficient evidence to establish that Mr. Brimmer or Mr. Johnson were committing a forcible felony or that would establish that a forcible felony was imminent. The Court further finds that, based on the circumstances as they appeared to the Defendant, a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew would not have reasonably believed that deadly force was needed to prevent the imminent commission of a forcible felony.

2) The State's argument that the Defendant was engaged in criminal activity at the time he used deadly force

Based on the evidence before the Court, which was not contradicted or contested, the Court finds that the Defendant is a citizen of Jamaica and is not a United States citizen and therefore

cannot lawfully possess a firearm or obtain a concealed carry permit. As a result, the Court finds that, while the Defendant was in a place that he had a right to be, the Defendant was engaged in criminal activity, that is, unlawful possession of a firearm at the time he used deadly force on July 4, 2023. While Mr. Brimmer and Mr. Johnson's conduct was abhorrent and clearly done to provoke a response, the Court finds their conduct did not provoke or justify the use of deadly force response. Rather, the Defendant's actions, by walking towards Mr. Brimmer and closing the distance between the two, provoked the use of force, and the Defendant chose to use deadly force. The Court further finds that, at the time the Defendant provoked the use of force, the Defendant had not exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the victims. *See Smith v. State*, 387 So. 3d 495 (Fla. 1st DCA 2024). As such, the immunity granted by Section 776.012(2), Florida Statutes, is unavailable to the Defendant. *See State v. Kirkland*, 276 So. 3d 994, 997 (Fla. 5th DCA 2019).

The Court has reviewed the cases provided by the defense and finds the facts of *State v. Quevedo*, 357 So. 3d 1249 (Fla. 3rd DCA 2023), and *Shreiteh v. State*, 987 So. 2d. 761 (Fla. 4th DCA 2008) distinguishable from the facts in this case. Further, while the evidence of the Defendant's conduct after the shooting was admitted as evidence, the Court did not consider the Defendant's conduct after the shooting in making the above rulings.

Based on the above analysis, the Court finds that the State has proven, by clear and convincing evidence, that the Defendant is not entitled to immunity.

Nothing in this Order should be construed to limit the Defendant from raising an affirmative defense or self-defense at trial if he chooses to do so.

It is, therefore, **ORDERED AND ADJUDGED** that the Defendant's Motion to Dismiss and for Immunity from Prosecution is **DENIED**.

DONE AND ORDERED in DeFuniak Springs, Walton County, Florida.


eSigned by CIRCUIT COURT JUDGE J RYAN LOVE in 23000524CFAXMX
on 07/01/2025 08:44:47 0-jvN+Gr

J. RYAN LOVE
Circuit Judge

Copies to:

Justin Turner, Attorney for Defendant

Josh Mitchell, Assistant State Attorney, Office of the State Attorney

**UNOFFICIAL
DOCUMENT**