

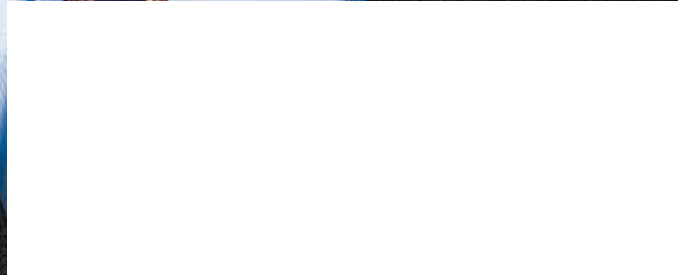


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By Gregory B. Williams, Esquire

George Zimmerman Verdict: *Right, Wrong, or Just Another Example of the Imperfect Nature of the Law?*

On July 13, 2013, the jury in the murder trial of George Zimmerman acquitted the self-appointed neighborhood watch captain in Sanford, Florida, of second-degree murder and manslaughter charges arising from his shooting and killing of Trayvon Martin, a teenager who was returning home from a trip to the local store to buy candy and iced tea. Like many Americans, in the wake of the verdict, I found myself internally conflicted and somewhat frustrated. After a few days of wrestling with my feelings, questions, and internal conflict, I believed it was important enough to write about it. This is my attempt to share my internal thought progression immediately following the verdict, my research on Florida's "stand your ground" law, thoughts on how Florida's law compares to Delaware's self-defense law, and to articulate some of the questions that I struggled with following the verdict and leave them for others to think about as well.

Initial Thoughts and Internal Conflict Immediately Following the Verdict

First, as the father of a teenage male who often wears hooded sweatshirts as a comfort article going to school, around the house, or elsewhere, my first thoughts after the verdict were feelings of sympathy and the need to pray for Sybrina Fulton and Tracy Martin, the parents of Trayvon Martin. I thought to myself that Tray-

von's parents already had to endure and deal with the tragic and sudden killing of their teenage son, but now a jury was acquitting the person that killed their baby. Any reasonable person, no matter the race or color, and no matter their opinion on the verdict, certainly could sympathize with Ms. Fulton and Mr. Martin and the pain and frustration they must have felt in that instance.

Second, like President Obama and countless other African-Americans who have had the experience of being followed, feared, or suspected of past or future criminal activity simply because of race, I thought to myself "that could have been me" or even worse "that could have been Buddy (my son)." My thoughts progressed as follows: What is wrong with those folks in Florida? Wasn't there enough evidence to at least find Mr. Zimmerman guilty of manslaughter? Did those jurors honestly believe that it was Mr. Zimmerman on those tapes yelling for help when he was the one that had the gun? Wasn't Trayvon unarmed? Wasn't Mr. Zimmerman a grown man who outweighed Trayvon by more than 100 pounds? Didn't those jurors hear that 911 tape and that 911 dispatcher tell Mr. Zimmerman not to follow Trayvon? That kid went to the store, was walking back home, and wound up dead. Are you serious — this Zimmerman guy was not even a policeman — was I missing something? How do I explain this verdict to my son?

Third, the lawyer in me began to tell myself to calm down and take the emotion out of it. Take a look at the law and analyze it objectively. Although I had not followed the day-to-day of the trial closely, the clips on the news that I had seen or heard gave me some reason to question whether the prosecution could have done a better job. I asked myself several questions along the following lines: Did the prosecution prepare their witnesses adequately (or, at all, for that matter) or did the witnesses just not perform well under pressure? Why did the prosecution allow the central issue in the case to be framed as Mr. Zimmerman's right to stand his ground? What about Trayvon's right to stand his ground and defend himself and how did that factor into the jury's analysis, if at all? How did race factor into the equation, if at all? Did money or budgetary restrictions affect the quality of the prosecution? Could Zimmerman's killing of Trayvon Martin be justified as self-defense under Delaware law?

A Quick Look at Florida's Stand Your Ground Law and Comparison to Delaware's Self-Defense Law

After my initial thoughts and conflict following the verdict, I decided to do some research on self-defense laws around the country, get a clear definition of what exactly is a stand your ground law, identify how many states have enacted stand your ground laws, and determine how

the law in Delaware tracks or differs from Florida's stand your ground law. In doing so, I discovered that "stand your ground" laws essentially remove the duty to retreat from a person before using force in self-defense. I also discovered that at least sixteen (16) states have stand your ground laws similar to Florida's law. Florida's statute provides that a person who has a reasonable fear of imminent peril of death or great bodily harm may use defensive force that is "intended or likely to cause death or great bodily harm to another" in specific circumstances. In the case of George Zimmerman's shooting of Trayvon Martin, the pertinent section of the statute used as a defense states as follows:

(3) A person who is not engaged in unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and 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 to himself or herself or

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another to prevent the commission of a forcible felony.

Ten (10) other states have self-defense laws similar to stand your ground laws, but limit the no duty to retreat to one's home or other real property (such as an office). These laws are generally referred to as "castle doctrine" or "defense of habitation" laws. At least eighteen (18) states have self-defense laws imposing a duty to retreat before the use of deadly force. There are some variations among the laws of those states but, generally in those states, a duty to retreat means that you are not allowed to resort to deadly force in self-defense if it is possible to safely avoid the risk of harm or death.

In pertinent part, Delaware's self-defense statute provides at 11 *Del.C.* § 464 (e) that "[t]he use of deadly force is not justifiable under this section if: (1) The defendant, with the purpose of causing death or serious physical injury, provoked the use of force against the defendant in the same encounter; or (2) The defendant knows that the necessity of using deadly force can be avoided with complete safety by retreating . . . or by complying with a demand that the defendant abstain from performing an act which the defendant is not legally obligated to perform" Under Delaware law, however, there is no duty to retreat in or from one's dwelling, and there is also no duty to

President's Corner (continued on page 5)

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retreat in or from one's place of work as long as defendant was not the initial aggressor.

Given that the shooting of Trayvon Martin did not occur in his home and, arguably, Mr. Zimmerman provoked the confrontation and/or had the opportunity to retreat, self-defense may not have been available to Mr. Zimmerman or may not have resulted in a not guilty verdict by a jury in Delaware. That gives me some comfort, but should I tell my son that we should avoid Florida?

Ending Thoughts

As President Obama said in his statement on July 14th, "we are a nation of laws, and a jury has spoken." As an attorney and a U.S. citizen, I have the highest respect for our judicial system and will abide by its rulings. However, as we move forward as a nation from this tragedy, I am also reminded again that racial profiling still exists and the law, in all of its wisdom, is imperfect. Sometimes things can be found to be legal or justified under the law, but just not feel like justice to some of us. As social engineers, we need to constantly push the law to be better. ☎

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