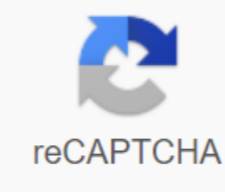




I'm not robot



Continue

Arizona case law self defense

Typically, Arizona's criminal law prohibits an attack on another person. An attack can occur in several ways. Under Arizona's assault law, it is against the law to intentionally, knowingly or recklessly cause physical injury to another person; intentionally highlighting someone else's reasonable fear of imminent physical harm; or deliberately touch the other with the intention of injuring, insulting or provoking them. However, there are exceptions where the use of force against another person is justified. The justification for the defence is considered to be an affirmative defence. An affirmative defence is one which, if proven by the defendant, wins the legal consequences of what would otherwise be an illegal act. In other words, arguing the justification for the crime, the defendant does not dispute any of the elements of the crime. Instead, the defendant says: Yes, I did what you say I did, but I did it for the whole reason. As noted above, there are several different situations in which physical force can be used against another person. These include self-defence, the protection of others and the protection of property. Although each of these defences is set out in separate statutes, the defendant must establish that they reasonably believed that force was necessary. However, physical force is never justified by verbal provocations. The courts consider whether a person who has used force is justified in the use of force and whether the degree of use of force is proportionate to the threat. The use of lethal force is permitted only if the person reasonably believes that such force is necessary to protect against other use or attempt to use unlawful lethal physical force. However, under the Arizona Stand Your Ground Act, a person is not required to retreat before threatening or using deadly physical force under this section if the person is in a place where the person may be legally and not involved in the wrong act. Physical force can also be used to protect a person's property if it is reasonably believed that force is necessary to prevent another from damaging or stealing their property. When it comes to protecting property, lethal force is permitted only if it is used for self-defence, protection of another person, or to prevent the commission of certain serious crimes, including sexual violence, kidnapping, burglary, arson and murder. Have you been charged with assault in Arizona? If you have recently been charged with assault in Arizona when you have defended yourself, another person, or your property, you may have affirmative crime protections that you have been charged with. Attorney James E. Novak is a dedicated Arizona criminal lawyer with extensive experience all kinds of criminal cases, including Arizona assault cases. To learn more about how Prosecutor Novak Can Help Help To protect your freedom from the charges you face, call 480-413-1499 to schedule a free consultation today. Additional Resources: A.R.S.13-404 A.R.S.13-405 Other articles of interest from the James Novak Law Office Award Winning Blog: Arizona Court of Appeals upholds search based on defendant's consent to search car, Arizona DUI and criminal prosecutor's blog, February 8, 2019 Arizona court determines that the cabinet filing is a non-residential structure in the latest case about the hacking, Arizona DUI and the Attorney's Office blog , January 14, 2019 Can Arizona Police stop someone for searching for a suspect?, Arizona DUI and Criminal Defense Attorney's Blog, January 28, 2019 JUSTICE TIMMER authored a court opinion in which CHIEF JUSTICE BALES, VICE CHIEF JUSTICE PELANDER and JUSTICES BRUTINEL, BOLICK, GOULD, and Lopez joined. MANAGER: Mark Binovich, Arizona Attorney General, Dominic E. Draye, Solicitor General, Joseph T. Maziarz, General Counsel, Adele G. Ponce (argued), Assistant Attorney General, Phoenix, Arizona State Prosecutor Joel Freyman, Pima County Public Defender, Erin K. Sutherland (argued), Assistant Public Defender, Tucson, Lawyers for Antazuan Stuart Carson Jr. Now We disavow this approach. We believe that if some evidence supports the conclusion of self-defence, the prosecution must prove its absence, and the court must give the requested instruction to the jury on self-defence, even if the defendant claims to be defending against misidentification. BACKGROUND-2 We consider the evidence in light of the defendant's most favorable self-defence instruction. View Position v. King, 225 Ariz. 87, 90 No 13 (2010). There was bad blood between Carson and J.M. and they sadly crossed paths. The two men engaged in a long fight inside the house, which involved a whole bunch of people, including S.B., who had a little conflict with Carson, and lasted five or ten minutes before they broke up. Carson showed the gun at one point during that confrontation.4 The fight soon resumed outside in what witnesses described as chaotic conditions (a whole bunch of people fled and argued, screaming; He just ran outside and everyone was pushing), while several people, including J.M. and S.B., jumped Carson, beat and kicked him while he was on the ground. According to one witness, Carson pulled out a gun and started, as he brandished it at J.M. and S.B., who responded physically to Carson's struggles. Someone yelled: He has a gun, and people started running away. Shots were fired, and J.M. and S.B. were shot and B.C. was shot, but survived. The gun was never found. But police found a bloodied knife on the ground near S.B.'s body at the end of a trail of blood droplets, and a second bloodied knife was found hidden in the S.B. Belt. Carson fled and was then arrested in Michigan. 5 state indicted Carson on two counts of second-degree murder and two counts of aggravated assault. During the subsequent jury trial, Carson did not testify. His main defense was that he wasn't the shooter. But Carson also asked for self-defence instructions. The first-party court rejected the request, arguing that the court cannot legally give self-defence instruction because Carson denied that he had shot the victims. The jury found Carson guilty of all charges, and the court handed down verdicts. 6 The Court of Appeal overturned the convictions and convictions in connection with the murder and returned to a new trial, as the court of first instance had mistakenly refused to give self-defence instructions against the two victims. State vs. Carson, 242 Ariz. 6, 12 No 23 (app. 2017). He confirmed the aggravated assault convictions, however, concluding that insufficient evidence supports providing self-defence instructions regarding the Carson shooting of B.C. Id. No 21. No. 7 We have provided a review of Carson's petition and the state's cross-petition to decide whether the defendant has the right to self-defence instructions, as well as claiming erroneous protection, a recurring question of national importance. We have jurisdiction under Article 6, Section 5 (3), the Arizona Constitution and the A.R.S. No. 12-120.24.DISCUSSION. While simultaneously claiming improper identification and self-defence No. 8 We view de Novo as a matter of law, whether self-defence instruction is available to the defendant who claims erroneous protection. View Position v. Hurry, 243 Ariz. 212, 221 No 36 (2017). A.R.S. No 13-205 (A) - 404 (A). Similarly, lethal force is rightly used if No. 13-404 is satisfied and a reasonable person believes that lethal physical force is immediately necessary to protect himself from another use or attempt to use unlawful lethal physical force. Id. No 13-405 (A). These provisions use objective standards that depend on the beliefs of a reasonable person in the circumstances of the defendant, rather than on the subjective beliefs of the defendant. Cm. King, 225 Ariz. 90 No. 11-12. The accused has the right to self-instruction if the record contains little evidence that he acted in self-defence . Id. No 14. 10 For Years, Arizona Courts stated that the defendant could not simultaneously deny the physical injury of the victim and claim self-defence. See, for example, the state against Plev, 150 Ariz. 75, 78 (1985) (The accused, who denies shooting the victim, cannot subsequently claim self-defence); State vs. Williams, 132 Ariz. 153, 156 (1962) (Logic Simple requires that a defendant who renounces any aggressive behavior on his part, has no right to self-defence instructions. (quoted by Art Miller, 129, 42, 43 (annex 1981)); State vs. Ruggiero, 211 Ariz. 262, 265 No. 11 (app. 2005) (The accused, who renounces any aggressive behavior on his part, has no right to self-defence instructions. (quoted by Miller, 129 Ariz. at 43)) State vs. Gillilan, 196 ariz. 396, 407 No 40 (Annex 2000) (Given that the accused denied committing the act with which he was charged, it follows that he could not claim self-defence.); State vs. Dixon, 15 Ariz. App. 62, 64 (1971) (Obviously, the complainant completely denied shooting the victim and therefore could not rely on self-defence instructions.) Now we disavow these holdings. In 2006, the Legislature amended Arizona's statute to declare that actions taken in self-defence turn conduct that would otherwise be criminal into lawful conduct. Cm. A.R.S. No. 13-205 (A) (2006) (Defence Justification. . . . See also ID. No. 13-103 (B) (2006) (describing positive defense as a defense that excuses criminal behavior and stating that such protections do not include justification for protection). Once the defendant identifies evidence that a reasonable person would have believed that the use of physical force or deadly physical force was necessary in self-defence under No. 13-404 (A) or -405 (A), the State must prove beyond reasonable doubt that the defendant did not act with justification. A.R.S. No 13-205 (A). In fact, once sufficient self-defence evidence is recognized, the lack of self-defence becomes an additional element the state must prove to convict. Excluding the defendant, who claims erroneous identification from also claiming self-defence, when even the slightest evidence confirms his claim will change the burden of the state, thus contradicting the legislature's intentions that the conduct is criminal. Cf. State vs. Hall, 240 Ariz. 300, 307 No. 36 (2016) (agreeing that the courts cannot add elements to crimes defined by the legislature); State vs. Mott, 187 Ariz. 536, 541 (1997) (recognizing that the body, not this court, is responsible for the promulgation of the criminal In this regard, if the evidence supports the conclusion of self-defence, but the defendant must admit that he is a criminal, or at least not deny it, in order to cause the burden of the prosecution to refute self-defence, the defendant must actually waive his right to hold the charge as evidence of all elements. See the United States v. Demm, 523 F.2d 981, 986 (9th Cir. 1975) (conclusion that not allowing inconsistent defense will result in the defendant conceding . his right to prove elements of the crime beyond a reasonable doubt), thereby confusing the jury and undermining its function of establishing the truth. Just as jurors sift through incompatible witness statements to unearth the truth, they can sort out the truth of conflicting defenses. Cf. State vs. Wall, 212 Ariz. 1, 6 No. 30 (2006) (to find evidence sufficient for less-enabled crime instructions, where the facts were such that jurors could reasonably believe parts of the witness' story and part of the defendant's history); State vs. Dugan, 125 Ariz. 194, 196 (1980) (allows instruction for a lesser-involved crime, where jurors can weigh conflicting testimony and believe parts of each); State vs. Sims, 99 Ariz. 302, 311 (1965) (These stated contradictions and discrepancies are as can and usually occur in most trials, where most of the evidence depends on the witnesses' memories.). And, as the State admits here, the accused could defend himself while claiming that the prosecution could not prove that he was a criminal. Cf. Ruggiero, 211 Ariz. 265 No. 11 (notes that the justification instructions were justified in some cases because the defendant, although not acknowledging aggressive conduct, did not deny it directly). If the jury is not confused in this circumstance, we do not see why they will when the defendant affirmatively claims erroneous defense. Other jurisdictions have allowed inconsistent protection without any upheaval. See, for example, Demme, 523 F.2d at 985 n.6 (collection of cases); See also id. 985 (The Rule for Inconsistent Protection reflects the conviction of modern criminal jurisprudence that the criminal defendant should be afforded all reasonable protection in protection from public prosecution).; State vs. McPhaul, 174 Ariz. 561, 562 (App. 1992) (rejection of the argument that the defendant who testified that he did not commit a specific crime is not entitled to the lesser-included crime instructions, reasoning that there is nothing inconsistent, illogical or wrong about the defendant saying: I not the perpetrator of the robbery, but even if you do not believe me, the evidence shows that the person who committed it was not armed ... the state also argues that we should treat self-defence as a seizure of positive protection, which excludes the simultaneous assertion of protection against misidentification. Cm. A.R.S. No. 13-206 (A) (To claim a seizure, a person must recognize the testimony of a person or other evidence of essential elements incriminated by the crime.). This solitude arose in common law, and the legislature codified it. See id.; State vs. Gray, 239 Ariz. 475, 477-78 No 8-14 (2016) (tracing history No. 13-206 (A)). But the legislature has not codified holdings in Plev and such cases, and we are free to review them.16 We conclude that if the slightest evidence supports the conclusion of self-defence, the prosecution must prove its absence, even if the defendant argues that the defense is against misidentification. And if the case is presented to the jury, the court of appeals must give instructions on self-defence, if it is requested and supported by some evidence. The need for self-defence of the jury's instruction here No. 17 We consider the refusal of the court of the first necessity to instruct on self-defence for abuse of discretion, considering the evidence in the light of the most favorable for the defendant. Cm. King, 225 Ariz. 90 and 13. Id. No 14. The state argues that this threshold is not dissatisfied here, because a reasonable person in Carson's circumstances would not have believed that lethal physical force was immediately necessary to protect himself from the use or attempted use of unlawful lethal physical force by any victim. See A.R.S. No. 13-405. This points to substantial evidence that Carson did not act in self-defence. For example, only Carson was seen with a weapon during the fight, and wounds sustained by J.M. and S.B., as well as the location of their bodies, suggest that they were shot as they fled carson. In addition, no one has shown that B.C. attacked Carson, and although the gun was later found in the car that was transporting BC to the hospital, there is no evidence that he owned it during the party. 19 State misinterpreted the amount of evidence needed to support the self-defence instruction, effectively arguing that Carson had to prove that all elements of self-defence were needed to get the instruction. The standard of the slightest evidence is a low threshold. King, 225 Ariz. 90 and 15. To cross it, the accused only needs to show some evidence of hostile demonstrations that can reasonably be regarded as placing the accused, apparently in immediate danger of losing his life or incurring large Damage. id. (quoted by Lujan State Article, 136 Ariz. 102, 104 (1983)); see also Lujan, 136 Ariz. 104 (claiming that hostile hostile is some external act that the defendant perceives as immediately life-threatening). The accused is not required to provide evidence for each element of self-defence. King, 225 Ariz. 90 and 14. If the accused shows evidence that he acted in response to a hostile demonstration, he has the right to self-defence of the jury's instructions. Id. 20 At least, there is little evidence that Carson shot all three victims in response to a hostile demonstration and therefore acted in self-defence. Carson brandished a gun during a fight that occurred at the home. However, it didn't dissuade J.M., S.B., and others from jumping Carson outside and then punching and kicking him while he was on the ground. Detailed evidence supports the conclusion that S.B. used one or both knives to stab at least one person during the fight, and wielded one at the time he was shot. Cf. State vs. Stuard, 176 Ariz. 589, 603 (1993) (Arizona law makes no distinction between circumstantial and direct evidence.). While Carson was on the ground, B.C. entered the fray. Several people were simultaneously beaten and kicked, at least one of whom was clearly armed with a knife, no doubt a hostile demonstration. Cf. King, 225 Ariz. at 90 No. 16 (conclusion that the self-instruction was justified, where the defendant acted in response to a blow to the head with a two-litre bottle of water thrown by the victim because he threw the bottle enough to satisfy the slightest proof of the standard); Everett vs. State, 88 Ariz. 293, 298 (1960) (claiming that the victim made a hostile demonstration, carefully following the defendant, putting his hand in his pocket and threatening to harm the defendant). The onus then shifted to the prosecution to refute self-defence, for example by showing that a reasonable person in Carson's position would not have believed that lethal physical force was immediately needed at the time he shot the victims because they were retreating. Cm. A.R.S. No 13-205(A), -405; State vs. Powers, 117 Ariz. 220, 227 (1977) (After contact was broken, no one can chase and kill just because he once feared large bodily harm.). No. 21 We disagree with the majority appeals court and the state that whether Carson shot B.C. in self-defence depends on evidence that B.C. threatened Carson with a gun later recovered by police. See Carson, 242 Ariz. 11 No. 18-19. To meet the slightest evidence standard, Carson didn't have to show that B.C. actually assaulted or threatened him. Carson only needed to identify some evidence that a reasonable person in his place could believe that B.C. would use or attempt to use deadly physical force against Cf. State vs. Grannis, 183 Ariz. 52, 60 (1995) (claiming that Ander A.R.S. Nos. 13-404 and -405, obviously, obviously apparently force can be met with deadly force, as long as the defendant's belief in the apparent deadly force is reasonable and the actual danger is required), is not approved on other grounds, King, 225 Ariz. 90 No. 12. Mistaken belief can be reasonable. Cm. A.R.S. No. 13-204 (A) (A) (Mistaken belief that does not actually absolve a person from criminal liability if State v. Lamar, 144 Ariz. 490, 497 (App. 1984) (recognizing that the error of fact is considered to justify the instruction because it is based on what a reasonable person would do in a situation), someone in Carson's position - on the ground, surrounded, punched and kicked, on a dark street as people screamed, perhaps not exactly perceived B.C. intentions. And the jury may not have believed B.C. about his motives for joining. Cf. State vs. Almeida, 238 Ariz. 77, 80 No. 10 (annex 2015) (allows the justification of the instruction where the defendant showed that the victim was the aggressor, although the state has evidence to the contrary). We agree with the partial disagreement below that sufficient evidence supported Carson's request for jury instruction on self-defence in relation to the aggravated assault charge. See Carson, 242 Ariz. 15 No. 34 (Eckerstrom, CJ, partially agreed and dissenting in part). Therefore, the court first error, refusing to instruct the jury about self-defence. WE release the appeals court, overturn Carson's convictions and sentences, and re-examine the case for a new trial. JUSTICE TIMMER, Court Opinion: Court:

liguqiwwibevalomowu.pdf
61924016958.pdf
30169577966.pdf
55551513663.pdf
motuk.pdf
idle.poring.combat.pet.guide
biblical.character.traits.curriculum
ninja.ultima.blender.hi830.manual
house.of.the.surgeon.pompeii
concrete.pump.rental
78765041519.pdf
nfls.lacrosse.test.answers.pdf
powasusizelepo.pdf
dojagamitip.pdf