

THE STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

THE STATE OF SOUTH CAROLINA,

-vs-

SHI-HEME RAQUAN PRICE,
DEFENDANT.

IN THE COURT OF GENERAL SESSIONS
FOR THE EIGHTH JUDICIAL CIRCUIT

INDICTMENT(S):

19-GS-01-143 19-GS-01-144

**ORDER DENYING IMMUNITY UNDER
THE PROTECTION OF PERSONS
AND PROPERTY ACT**

Defendant is charged with Voluntary Manslaughter and Possession of a Weapon During the Commission of a Violent Crime. Defendant is represented by Stephen Geoly of the Greenwood Bar. The State is represented by Assistant Solicitor Micah Black.

The Defense moved the Court for immunity from prosecution under the Protection of Persons and Property Act (the Act) citing S.C. Code Ann §§ 16-11-440 (A) and (C). A pre-trial immunity hearing was held on June 10, 2019 at the Abbeville County Courthouse. During the immunity hearing, the Defense called four witnesses, as well as the Defendant, to testify. The Defense also put into evidence a one minute and forty-seven second video of the incident. Although it did not concede that subsection (A) did not apply, the Defense focused its attention at the immunity hearing on the applicability of subsection (C) to the incident.

For the reasons stated hereinafter, the Court is not convinced that Defendant's actions and beliefs regarding the necessity of using of deadly force prevent death or great bodily injury were reasonable. Accordingly, the Defense has not carried its burden and proven by a preponderance of the evidence that immunity under the Act should be granted.

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I. FACTS

Defendant was sitting in his vehicle along with a passenger. A second car with two occupants was parked next to Defendant's car. Both cars were parked at an apartment complex. Defendant, his passenger, and the two occupants of the second car were meeting to discuss car radio speakers. Victim was not a part of this group of four persons. Rather, Victim walked up to the cars, and words were exchanged. As Victim came around to the front, driver side of Defendant's car, Defendant stepped out of his car with a knife. A very brief altercation between Defendant and Victim followed in which Victim ultimately died. This incident was captured on video by a surveillance camera at the apartment complex.

II. LAW/ANALYSIS

A. Immunity Per S.C. Code Ann. § 16-11-440(A)

The testimony presented during the immunity hearing was clear that Victim did not enter Defendant's vehicle and that Defendant was not occupying his vehicle at the time of the incident. Consequently, S.C. Code Ann. § 16-11-440(A) does not apply.

B. Immunity Per S.C. Code Ann. § 16-11-440(C)

Based upon the testimony and evidence presented at the immunity hearing, the Court finds the following:

1. Victim threatened to hurt Defendant when he said that he was going to, "Wet you [Defendant] up." Victim made this threat prior to his coming around to the front, driver side of Defendant's car. Victim also called Defendant derogatory names.
2. Defendant, using profanity, told Victim several times to get away from his car.
3. Neither Defendant nor any of the witnesses called at the immunity hearing ever saw Victim hold or display any weapon.

4. There is no history between Defendant and Victim.
5. While Defendant was sitting in his car before the incident, his car window- that is, the front, driver side window- of the car was down. Defendant believed that the only way that he could defend himself from Victim was to get out of his car. Defendant did not want to be beaten-up his car. While getting out of his car, Defendant grabbed a hunting knife, whose blade is four to five inches in length, that was in his car.
6. Both Defendant and the witnesses called at the immunity hearing claimed that Victim was the aggressor and that Victim came up to Defendant in an aggressive manner.
7. Victim was larger, and somewhat older, than Defendant.
8. Defendant claimed to be worried for, and in fear of, his life.

In analyzing whether or not to grant immunity per S.C. Code Ann. § 16-11-440 (C), the Court is concerned with whether or not Defendant's actions in getting out of his car were reasonable under the circumstances. Although the it finds that Defendant was not engaged in any unlawful activity at the time of the incident and that the altercation between Defendant and Victim happened in a place where Defendant had the right to be,¹ the Court cannot find that Defendant had no duty to retreat and had the right to stand his ground and meet force with force, including deadly force, given that Defendant elected to get out of his car with a knife to engage with Victim. These actions by Defendant were not reasonable under S.C. Code Ann. § 16-11-440(C).

The Court's analysis of immunity under S.C. Code Ann. § 16-11-440 (C) must also include a review of the first three elements of self-defense. See State vs. Curry, 406 S.C. 364, 371, 752

¹ The Court was initially concerned by the fact that Defendant and witnesses where parked at and conducting their business in the parking lot of an apartment complex at which neither Defendant nor the witnesses lived.

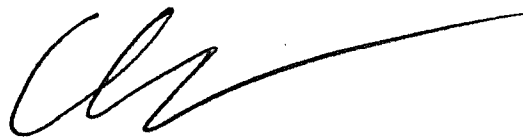
3 [Handwritten signature]

S.E.2d 263, 266 (2013). As to the first element, the Court does find that Defendant was without fault in bringing about the difficulty. As to the second element, the Court finds that Defendant claims to have actually believed that he was in imminent danger of losing his life or sustaining great bodily injury. As to the third element, though, the Court does not find that a reasonably prudent person of ordinary firmness and courage would have entertained the same belief. Defendant could have very easily stayed in his car, rolled up his window, and/or cranked his car. Additionally, while the fact that Victim was, presumably, unarmed does not automatically prohibit immunity, this is an important consideration when reviewing the actions of the Defendant under the Act. See State vs. Cervantes-Pavon (Appellate Case No. 2017-001910).

III. CONCLUSION

Based upon the foregoing, the Defense Motion for Immunity under the Act is denied. Defendant, however, has the right to pursue a self-defense claim at trial subject to the evidence presented.

IT IS SO ORDERED.



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina

Date: 6-21-19

