

12. SHOT IN THE DARK

Joshua Moore, 64, and his wife, Carol, ran a fruit stand from the back of their truck every Saturday for 25 years in Rocky Mount, North Carolina. One Saturday morning in July 2006, 16-year-old Manny Harris, in a robbery attempt, struggled with Carol Moore. Joshua Moore shouted for Harris to back off. Harris backed off momentarily, but returned again more aggressively. Mr. Moore, who did not know whether Harris had a weapon, fatally shot him. Joshua Moore was charged with second-degree murder. Although North Carolina law recognized self-defense as a natural right, the trial judge instructed the jurors not to consider self defense or defense of a family member in their deliberations, and to return a verdict of first-degree murder, second-degree murder, or voluntary manslaughter. Moore was convicted of voluntary manslaughter. Moore spent several years and thousands of dollars defending himself in the courts. In 2012, the North Carolina Supreme Court overturned his conviction, finding that the trial court should have instructed jurors to consider in their deliberations, as Mr. Moore's attorney had requested, that he was defending his wife.

Proponents of self-defense laws, such as the Castle Doctrine and Stand Your Ground statutes, believe that Joshua Moore was unjustly prosecuted. As of July 2013, half of all U.S. states had a Castle Doctrine statute, which allows the use of deadly force in self-defense or to protect one's property or prevent home invasion. A fundamental principle of the Castle Doctrine is exemption of the home dweller from the duty to retreat. Duty to retreat requires persons threatened with harm to avoid using lethal force by removing themselves, if possible, from the threat. Another nineteen states have a Stand Your Ground statute, which goes beyond the Castle Doctrine. Stand Your Ground statutes protect the right to use deadly force in the face of a reasonable belief of threat to person or property, without an obligation to retreat from danger. Stand Your Ground statutes extend the right to use deadly force to any place a person has a legal right to be, not just the home.

Besides protecting innocent people who use deadly force in self-defense from physical harm, proponents point out that Castle Doctrine and Stand Your Ground statutes offer protection from litigation by assailants, or their survivors, who may sue for restitution.

Opponents of Castle Doctrine and Stand Your Ground statutes assert that such laws allow killers to go unpunished. The perception of threat can be subjective, and it is nearly impossible to determine if threatening actions were provoked or situations manipulated to create an opportunity to use deadly force under the guise of self-defense.

Markus Kaarma and his wife, Janelle Pflager, had been burglarized twice in a three-week period in Spring 2014, shortly after moving from Washington state to Missoula, Montana. Thieves took several items, including cell phones and credit cards. Frustrated that police were unable to catch the burglars, and fearful for the safety of their ten-month-old baby, Kaarma and Pflager set a trap to catch the thieves. They mounted a surveillance camera in their garage, and installed motion detectors outside. On the evening of 26 April 2014, Pflager placed a purse far inside the garage and the couple left the garage door open. Shortly after midnight, motion detectors alerted the homeowners that someone was

approaching, and the surveillance camera showed a stranger rummaging in the garage. Doren Dede, 17, was “garage-hopping,” a trend among Missoula teenagers who enter garages to steal small items, often alcohol. While Pflager recorded pictures from the surveillance camera and called 911, Kaarma picked up a shotgun, went out the front door, and shot four blasts into the dark garage. When Pflager turned on the lights and saw that Dede was wounded, she and Kaarma tried to administer life-saving procedures until help arrived. Dede died later that morning, and Kaarma was charged with deliberate homicide. Kaarma’s attorney said that his client, fearful of danger to his family, was justified in using deadly force under Montana’s Castle Doctrine.

Case from the 2015 Intercollegiate Ethics Bowl National Competition

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