

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

I Stand Behind Florida's Controversial Stand Your Ground Self-Defense Law

Last month, murder charges were dismissed by Miami prosecutors against my client Maurice Moorer because of a statute that has been on the books in Florida since 2005, nicknamed the "Stand Your Ground" law. The law is notoriously controversial, and many are not pleased with this result (see, "Stand Your Ground Law Vexing Florida Courts," Miami Herald, December 27, 2009). I believe they are wrong.

What is the Stand Your Ground Law?

Florida's self defense law essentially applies a longstanding criminal law concept called the "castle doctrine" to almost every situation that might arise in the state. Florida is not the only state to do so - Texas, for example, also applies the castle doctrine broadly and has a similar statute.

The castle doctrine, as the name implies, arises out of the historically sanctified belief that a man's home is his castle, and worthy of the utmost protection and respect. Under the "castle doctrine," a citizen in Florida has the right to defend himself or others from serious harm, and can legally use deadly force if necessary when they feel immediate physical danger of being seriously hurt or killed. Two conditions are placed upon the citizen here: he (or she) must be in a place where they have a legal right to be, and they cannot be in the process of committing a crime.

What the Stand Your Ground law adds to the castle doctrine is simple. Under the Stand Your Ground law, Florida citizens are not required to retreat - or runaway - when facing attack. As the statute explains ($\beta\beta$ 776.012, 776.031 Fla. Statutes):

...[A] person is justified in the use of deadly force and does not have a duty to retreat if: [h]e or she reasonably believes that such force is necessary to prevent eminent death or great bodily harm to himself or herself or another or to prevent the eminent commission of a forcible felony ... [and] the person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the eminent commission of a forcible felony. A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

There's no legal duty to run away.

Here is where the controversy lies: there are those that argue a legal duty to run away, couched in comfortable phrases such as a duty to prevent violence or a duty to lessen conflict, should exist in Florida. That's nice to ponder from the comfort of your recliner, but that's not the reality that many of my clients experience. Like Maurice Moorner.

The Case of Maurice Moorner - What You're Not Being Told.

As shown to the fact finder, in evidence placed into the record: Maurice Moorner lived with his mother, teenaged brother, aunt, and two young cousins at his mother's home on NW 94th Street here in Miami. Maurice was separated from his wife. His young daughter lived with her mom.

Maurice Moorner wasn't a gadabout; at the time of the incident, he was working three jobs. He financially supported his daughter, and he was saving to buy a home for them. One of his jobs was as a limousine driver; accordingly, Maurice was properly licensed to carry a concealed weapon and had a current permit. Maurice was separated from his wife.

His estranged wife had a new beau, Eddy Moore, who stayed at her house on weekends. Eddy Moore and Maurice Moorner were far from strangers - they had gone to high school together. Maurice knew that Eddy was dating his estranged wife.

Maurice also knew of Eddy's history of violence - in fact, Eddy had threatened Maurice several times, starting when they were teenagers. There had been a serious fight in high school, outside of a vocational class, where Eddy and his pals threatened to kill Maurice before they beat him up, cutting him. Over the years, Eddy would threaten to kill Maurice several times. Each time, Maurice Moorner reported the threats to the police.

On the day that Maurice Moorner shot Eddy Moore, Eddy had already been to Maurice's home (where his mother, brother, aunt, and cousins lived) threatening Maurice once. When Eddy returned, blowing his car horn again and again, neighbors were watching, eyewitnesses to the events as they transpired.

The evidence reveals that Maurice went outside with his pistol, telling his teenaged brother to stay inside with their aunt, walking out with the gun dangling at his side. When Eddy Moore yelled that he was going to kill Maurice, apparently reaching into his car for his gun, the eyewitness ducked behind a parked van and Maurice fired at Eddy Moore, who kept coming up from reaching over the back seat. After firing, Maurice went inside his home, safeguarded his weapon, and called the police. When law enforcement arrived, he peacefully surrendered. The police found a loaded Intratec 9mm Tec-DC9 on the rear floor of Eddy Moore's car.

For those not acquainted with weaponry, the Intratec 9mm Tec-DC9 is not just a handgun. It is a semi-automatic firearm capable of holding 50+ rounds in a single magazine, akin to a small machine gun in appearance and ability. It was banned by the 1994 Federal

Assault Weapons Ban. Its force could clearly allow bullets to penetrate the siding of a home.

Why the Stand Your Ground Law is Just

As a criminal defense attorney, I know the rippling, permanent effect of violence upon countless lives, and I abhor violence. My stance in favor of the Stand Your Ground law is not condoning any type of Wild-West antics on Florida streets.

My perspective stands grounded first and foremost in the constitutional rights of the individual, and I believe the current Florida self-defense law - with no duty to retreat - is constitutionally valid. Secondly, based upon my professional experience as a criminal defense attorney, all too often citizens are faced with immediate danger that in theory should be resolved by law enforcement or smooth talking or a swift retreat but in fact, it's not gonna happen.

Like it or not, there will be occasions in our present society when someone will face a predator on their doorstep - like Eddy Moore - and running away isn't going to protect them or their loved ones. Standing your ground is something that I hope I never have to do - but if I'm faced with a situation like Maurice Moorner faced that day, I hope that I have the courage to stand my ground, and defend myself and my family from harm. And the legal immunity to do so.

