

MSC affirms conviction rejecting self-defense claim, but reiterates validity of “castle” doctrine

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The so-called castle doctrine was the subject of the Michigan Supreme Court’s July 29 opinion affirming the conviction in *People v Richardson*, No. 141752. With a somewhat unusual majority cohort, the bench split 5-2, holding that it was not error to affirm a conviction for assault with intent to do great bodily harm less than murder in the face of a self-defense claim. Justices Markman and Mary Beth Kelly dissented, finding that the trial court’s jury instruction muddled for the jury the right to defend one’s home. However, both opinions reaffirmed the castle doctrine from Michigan common law: that a person has no duty to attempt to retreat in the face of a threat — and thus avoid the need to use deadly force — when in his own home.

Mr. Richardson, a long-time resident of Detroit, was involved in an on-going feud with some of his neighbors. When standing on his porch one evening, a neighbor, who was apparently under the influence of drugs and alcohol, threatened him and approached, while another neighbor tried to pull the aggressor back. Mr. Richardson declared he was “tired of this sh*t” and fired a pistol at the neighbors, who were both hit.

The jury instruction on self-defense requires that the use of force be “reasonable” in defending oneself. Michigan common law is that an attempt to retreat is a factor in determining reasonableness, but the “requirement” to retreat does not extend to threats while in one’s own home. During deliberations, the jurors asked whether Mr. Richardson’s porch counted as his home, and they were instructed that the home included its curtilage. The trial court never explicitly ruled as a matter of law that Mr. Richardson had no duty to retreat.

The majority opinion, written by Justice Marilyn Kelly and joined by Justices Young, Cavanagh, Hathaway and Zahra, found that the verdict was consistent with due process. It held that there was sufficient evidence for the jury to have concluded that Mr. Richardson’s actions were not “reasonable,” as a valid claim of self-defense requires. Even the majority opinion, though, reiterated lack of any duty to retreat in one’s home.

The dissenting opinion felt that the jury instructions were sufficiently unclear that the jury may have erroneously decided that Mr. Richardson had a duty to retreat, and found him guilty on that basis, which would violate due process. The dissent also said that “this Court must continue to speak strongly and clearly on the right of self-defense, particularly with regard to the sometimes difficult and insecure environments of some of our state’s large cities.”