



IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD D. MARTIN,)
)
 Defendant-Below,)
 Appellant)
)
 v.) No. 121, 2025
)
 STATE OF DELAWARE,)
)
 Plaintiff-Below,)
 Appellee.)

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

APPELLANT'S OPENING BRIEF

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NATURE AND STAGE OF THE PROCEEDINGS

On July 11, 2022, Edward D. Martin, (“Martin”), was indicted on one count of Murder First Degree, four counts of Reckless Endangering First Degree, five counts of Possession of Firearm During the Commission of a Felony (“PFDCF”) and Carrying a Concealed Deadly Weapon (“CCDW”) Indictment. A ten-day jury trial commenced on October 14, 2024. D.I. #117.

At a prayer conference held on October 23, 2024, defense counsel sought jury instructions for self-defense. A438. The court denied Martin’s request for any self-defense jury instruction orally on the record. *See* oral ruling attached as Ex. A.

As to count one, Martin was found guilty of the lesser included offense of Murder Second degree. A446. He was convicted of all remaining counts. On March 7, 2025 Martin was sentenced to 125 years at Level V followed by various levels of probation. *See* corrected sentence order attached as Ex. B.

This is Martin’s Opening Brief in support of a timely-filed appeal.

SUMMARY OF THE ARGUMENT

1. The trial court denied Edward Martin of his right to a fair trial by usurping the jury's role to decide the facts when it declined the defense's request for a self-defense instruction. An instruction which is requested such as in the case at bar, may be denied only if the trial court can say, taking the evidence in the light most favorable to the accused, and considering all reasonable favorable inferences that may be drawn from the evidence in favor of the accused, that no hypothetical reasonable jury could find the fact as the accused suggests. The trial court substituting its decision on the facts for the jury constituted error for which this court should reverse the conviction.

STATEMENT OF FACTS

In the early morning hours of February 20, 2022, a call came in by radio dispatch regarding a shooting incident at the Coastal Taproom (“Taproom”) in Rehoboth Beach, Sussex County, Delaware. A96. At 1:18 A.M. the owner of the Taproom called 911 after hearing a single gunshot. A72. Several units responded minutes after the incident due to their close proximity to Troop 7 in Lewes, Delaware. A70. Upon arrival, police were provided surveillance footage from the security cameras located in the bar. A73. The footage had no audio. Police were able to identify the shooter as Martin from camera footage coupled with a credit receipt from the bar. A73-74.

The decedent, Arrick Richard, his wife and his mother-in-law arrived at the Taproom at approximately 12:15 A.M. on February 20, 2022 for last call. A75. Prior to this, the couple each had a few drinks at Lefty’s Alley and Eats in Lewes. A81. The decedent and his wife had met up with their friends, Rico Stringfellow (“Rico”) and Jordan Harris (“Harris”), who were already there, drinking. A76. Rico had consumed two to three straight whiskies. A83. The decedent and his wife each consumed two to three cocktails and a shot of tequila each while at the Taproom. A76-77. Near closing time, the decedent and Rico headed towards the pool table, which was approximately five feet from the bar, placing quarters to reserve a game as one was already in progress

involving Martin and his wife. A78; A82; A106. According to employees, the establishment is known to be loud even after the lights go on and the music stops, due to patrons' voices. A104.

Tensions arose around the pool table when a verbal dispute broke out between the decedent and Martin. According to the decedent's wife and other witnesses, the decedent was mocking Martin and his wife's 'fancy' pool sticks and attire and egging Martin on to make the shot successfully. A84. When Martin asked the decedent if he didn't make the shot was he a bitch, the decedent responded with "Yeah, then you're a bitch" A79. The decedent's wife left the bar for a moment and returned to find the argument had continued and escalated. While she was between Martin and the decedent, she heard a gunshot and saw the decedent fall to the ground. A80. Rico testified that prior to the shooting he could feel tensions building rapidly between Martin and the decedent so he placed himself between the two men near the pool table. A105-106. Prior to the confrontation, the decedent, while drinking by the pool table, was interjecting himself with comments towards Martin's wife. A87. Rico told investigators, after the incident, that the decedent was one who liked to stand his ground from the roots of where he grew up. A88-89. He also told investigators that the decedent was intoxicated at the time of the shooting. A89.

Prior to the shooting, a patron by the name of Mackenson Jean-Francois, (“Mack”) lifted his shirt and displayed a firearm for all those in his line of sight, including his friend Tevon Norwood standing next to him, during the confrontation between Martin and the decedent. A91. The Taproom had a policy prohibiting firearms in its establishment with or without a license to open carry. A71. The decedent, Mack and Tavon were all considered regulars at the Taproom. A103. Mack arrived at the Taproom with an individual by the name of Chico, who knew the decedent. A92. During the course of the evening, Chico handed Mack a whiskey that he obtained from the bar tender. A105. The surveillance video shows Mack shaking hands with the decedent upon his arrival and also being served a drink at the bar. A93-94. After the shooting, Mack immediately left the scene and failed to talk to police until they tracked him down four months later. A95.

After police determined that Martin was the target in the investigation, they proceeded towards his residence where they ultimately pulled him over and effectuated his arrest. A97-100. Martin was cooperative, did not attempt to resist arrest and asked the arresting officers if the decedent was okay. A101. The decedent was pronounced dead at 2.01A.M. on February 20, 2022. A102. The cause of death was ruled a homicide. A121.

A post mortem toxicology report confirmed that the decedent, who was six foot three inches and 248 pounds, had tested positive for cocaine and marijuana. A107. Additionally, the decedent's blood alcohol level came back at 0.152, nearly twice the legal driving limit. A115-116. On cross-examination the toxicologist testified that when ingesting drugs that have antagonistic effects the outcome of behavior is extremely unpredictable. A118.

VIDEO RECORDING OF EVENTS

The facts and circumstances surrounding the events at issue had been recorded via surveillance cameras at The Taproom on February 20, 2022 and this was played to the jury throughout the trial.¹ The time-stamped video recording was made part of the record as State's exhibit No.79. A162. As mentioned above, the recording had no sound and therefore only a visual of the events at issue. Pursuant to the video, the decedent, who can be seen wearing a red baseball cap, approaches the bar area to engage in a conversation with a bar tender. The video appears to show that the decedent has an unidentified heavy object in the front pocket of his hoodie. 01:51:26.

The decedent's position at the bar seems to obscure Martin from taking a shot at the pool table. Martin can be seen getting his attention and the

¹ The timestamp on the video surveillance is approximately 39 minutes faster than the actual time. A74.

decedent moves away for the shot to be taken. By now, the decedent was watching the game. At 01:53:43, the video momentarily goes dark, after which Martin's wife can be seen lining up a shot. 01:54:05. Martin's wife moves to the other end of the table, takes a shot and misses it. The decedent appears to have been speaking to Martin's wife as she was lining up the shot.

At 01:55:03, Mack, pulls up his shirt, displaying a handgun to Tavon Norwood, standing to his right. All of this occurs within eyeshot of Martin. At about the same time, the decedent appears to be having words with Martin or his wife. At 01:55:51 Martin can be seen standing close to the decedent and it appears that the two are having a confrontation and having additional words with each other. At 01:56:01, the decedent moves away from Martin and toward the bar. Martin can be seen preparing to take a shot, but he stops and turns his head in the direction of the decedent as the two exchange words again. Soon after, the decedent moves closer to Martin, and at this point tensions are clearly rising and more words are exchanged. Martin's wife can also be seen having words with the decedent. At this point, Rico can be seen standing between Martin's wife and the decedent. As the decedent steps closer to Mack, Martin's wife goes around Rico, pushing him in the process. At 01:56:26, the decedent is seen placing his left hand into the waist pocket of his hooded sweatshirt. He appears to remove something from this pocket

with his right hand and show (or perhaps offer) it to Rico. The decedent can be seen putting his right hand (and the object) back in his pocket. As Martin's wife moves closer to the decedent, she appears to prevent him from moving closer to her husband. At this point in the video footage, tensions appear to be at their highest level and the decedent's attention is now solely directed at Martin. Martin's wife appears to continue to try to intervene. Finally, at 01:56:37 Martin reaches into the right front pocket of his pants and removes a small handgun and fires one shot at the decedent. 01:56:44.

MARTIN'S ACCOUNT OF EVENTS

At trial, Martin elected to step out from under his Fifth Amendment Right and testify in his own defense. A280. Martin testified that he shot the decedent because he was under the impression that he had a gun in his hand and was about to use it. Martin was straightforward in stating that it was not his intent to kill the decedent. A285. Martin testified that he was on high alert when he saw a gun while he was at the pool table prior to the shooting, however, his memory of where and when he saw the weapon was impacted by the two and a half years that had passed between the incident and the trial. A286. Martin's recollection was reinforced when he rewatched the video and saw Mack brandish his firearm in his direction. A287.

Martin, a Navy veteran, explained that although he did not see combat, he had been well versed and indoctrinated by the military's training about threat assessment and situational awareness. A293. Throughout his adult life, Martin suffered through depression, anxiety and ADHD. A305. Martin testified that on the night in question he recalled that the decedent had come over to the pool table and made remarks to his wife. A314. Martin recalled the confrontation escalating when the decedent directed comments about him making a pool shot. He stated this was when the decedent's remarks turned derogatory and called Martin a bitch multiple times. A315. At the same time, Martin quickly realized that the decedent was bigger than him by five inches and approximately 75 pounds. He was worried at this point a fight would ensue. A316.

As tensions continued to escalate Martin became increasingly concerned that the decedent was going to use a gun when he started looking over towards Mack, walking towards him and stating "you is a bitch, and I'm about to show you." A316. Given that Martin laid eyes on Mack's weapon that evening, coupled with the decedent reaching into his pockets, Martin felt in that instant it was a case of shoot or be shot. A317. From the angle where Martin was standing, the decedent's hands were not visible. A339. Martin testified that in his head he kept hearing "gun, gun, gun" and did not remember

making a conscious choice to shoot. A318-319. Martin stated that the reason he walked backwards to exit the establishment after the shooting was for fear of retaliation. A320. Consistent with other eye witnesses who testified, Martin stated that tensions around the pool table escalated quickly “from zero to a hundred” A321. When Martin went to his residence after the incident, he accepted the fact he was going to be arrested and even contemplated suicide, as this was how his father had ended his life when he was a child. A322-323.

EXPERT TESTIMONY

Martin proffered three expert witnesses during the presentation of his case. These included Robert G. Stanulis, Ph.D. (“Stanulis”) a forensic and neuropsychologist; Robert G. Thompson, Psy.D. (“Thompson”) a clinical and forensic psychologist; and Ricardo J. Torres (“Torres”) a retired Delaware State Trooper. All three experts reviewed the video of the night in question and supporting materials and provided written reports documenting their expert opinion. Thompson and Stanulis conducted in-person examinations of Martin.

Stanulis testified, consistent with his report, that Martin’s military background likely had an impact on his actions on the night in question. Stanulis elaborated that military culture is predicated on the idea that “offense is the best defense” and one does not retreat in a moment of physical threat or

fear. A360; A370. Stanulis expanded by stating that military training instills automatic responses to ensure survival. A376-377. Stanulis testified that Martin's description of events was consistent with the subjective experience of an individual who reacted automatically in a situation where he or she perceives an imminent threat and survival is instinctive. This is referred to as the amygdala hijack, or "defense cascade". A394-396. Stanulis' report further concluded that, given the extremely quick escalation of the confrontation between Martin and the decedent, coupled with a lack of motive, Martin's genuine perception of a threat appears to be reasonable and supported by the evidence in the video. A36-37. Stanulis opined that Martin perceived him and/or his wife as being in a potentially deadly situation and by virtue of his values and military training was not able to retreat, leaving his wife in a situation he perceived to be fatal. A37.

Thompson also testified consistently with his report in finding that there was ample evidence to conclude that Martin believed that the decedent posed a danger. A419-420. Thompson concluded that Martin was concerned that the decedent was acquainted with Mack, who had brandished a firearm prior to the confrontation. According to Thompson, Martin believed that the decedent's demeanor, posture, interactions with other patrons and statements

were indicative of a threat, that was amplified by his wife's proximity to the decedent. A61.

Finally, Torres, Martin's third expert witness, provided a report following extensive review of the video footage from the evening in question. Torres testified that his attention was drawn to an excessive bulge in the decedent's front pocket, that the decedent touched prior to the shooting. A245; A257. Torres opined that the decedent's body language and gestures of reaching into his hoodie pocket were consistent with that of someone posturing with a weapon. A42. Torres concluded that in his own police training in recognizing armed encounters, it would equally have put him on high alert with a subject acting in a manner such as the decedent's. A42. Torres further opined that the fact that only one shot was fired is consistent with that of a person with the mindset of self-defense as opposed to anger in which multiple shots would have been fired. A43. Finally, Torres found it to be reasonable for Martin to believe that, as one of the group of men, Mack, had already proven he was carrying a gun, all four men were a threat to his and his wife's safety. A42. None of the experts found evidence that Martin was malingering. A398.

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY ITS REFUSAL TO PERMIT AN INSTRUCTION ON SELF-DEFENSE (11 DEL.C. §464) AS A POTENTIAL DEFENSE FOR JURY CONSIDERATION.

Question Presented

Did the Trial Judge effect legal error when denying the defendant's request for a justification instruction? The issue was preserved by an oral request at prayer conference for a self-defense instruction. A438.

Standard and Scope of Review

The standard of review when the Trial Court has denied a defendant's request to provide the jury with a specific instruction is *de novo*. *Perkins v. State*, 920 A.2d 391 (Del. 2007); *Smith v. State*, 913 A.2d 1197 (Del. 2006).

Argument

The trial court denied Martin of his right to a fair trial by taking the [self-defense] issue away from the jury. The trial court's ruling on the self-defense jury instructions violated Martin's federal constitutional right to a fair trial. The Due Process Clause of the 14th Amendment requires that in conducting criminal trials, state courts proceed consistently with "that fundamental fairness" which is "essential to the very concept of justice." *Lisenba v. California*, 314 U.S. 219, 236 (1941); *Estelle v. McGuire*, 502 U.S. 62, 69 (1991) ("The Due Process Clause guarantees the fundamental elements

of fairness in a criminal trial”) . The Due Process claim at issue here concerns the right of a criminal defendant to present a defense, which is a cornerstone of a defendant's federal constitutional right to a fair trial. See, *Chambers v. Mississippi*, 410 U.S. 284, 302 (1973) (“Few rights are more fundamental than that of an accused to present witnesses in his [or her] own defense”); *Demby v. State*, 695 A.2d 1152, 1160 (Del. 1997) (accord). This error allowed the jury to wrongfully convict Martin of the crimes which now bring him before this court.

The self-defense doctrine permits the intentional use of force in response to a reasonably perceived threat of imminent bodily harm. 11 *Del. C.* § 464(a). Under 11 *Del. C.* § 464(c), deadly force is justifiable “if the defendant believes that such force is necessary to protect the defendant against death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat.” 11 *Del. C.* § 464(c). Furthermore, 11 *Del. C.* § 303(c) dictates that “[i]f some credible evidence supporting a defense is presented, the defendant is entitled to a jury instruction that the jury must acquit the defendant if they find that the evidence raises a reasonable doubt as to the defendant's guilt.” 11 *Del. C.* § 303(c). When a Trial Court is presented with a request to provide jury instructions, “a Trial Court must look at the

relevant statutory provisions governing the availability of instructions...”.
Wright v. State, 953 A.2d 144 (Del.2008).

Martin testified in the trial in his own behalf. He testified that he shot the decedent as he operated under the belief that he had a gun in his hand or on his person and was about to use it against him and or his wife. A285. Martin was immediately put on high alert when he saw Mack brandish his firearm in his direction. A287. As tensions quickly escalated around the pool table, Martin became increasingly concerned that the decedent was going to use a gun when he started looking over towards Mack, walking towards him and stating “you is a bitch, and I’m about to show you.” A316. Given that Martin laid eyes on Mack’s weapon coupled with the decedent reaching into his pockets, Martin felt in that instant it was a case of shoot or be shot. A317.

All three expert witnesses reached the conclusion that there was ample evidence to conclude that Martin believed that the decedent posed an imminent physical danger. A419-420; A42-43. Dr. Stanulis opined that Martin perceived him and/or his wife as being in a potentially deadly situation and by virtue of his military training was not able to retreat, leaving his wife in a situation he perceived to be fatal. A37. Dr. Stanulis also testified that Martin’s description of events was consistent with the subjective experience of an individual who reacted automatically in a situation where he or she

perceives an imminent threat and survival is instinctive. A394-396. Meanwhile, both Thompson and Torres found that the decedent's demeanor, posture, interactions with other patrons and statements were indicative of a threat, that was amplified by his wife's proximity to the decedent. A61. In fact, Torres concluded that in his own police training in recognizing armed encounters, it would equally have put him on high alert with a subject acting in a manner such as the decedent's. A42.

Based on the aforementioned testimony and expert opinions, the defense requested a jury instruction on self-defense at the prayer conference held on October 23, 2024. A438-439. The trial court rejected the defendant's request for the instruction. A443-444. The trial court's reasoning seemed to be that Martin could not use self-defense as a defense because Martin provoked the use of force, had the ability to retreat safely and the decedent was not found to have a weapon after the fact. A440-443. Martin respectfully submits that the trial court's rulings in this area constituted error.

Martin acknowledges that he has the legal burden, however less than formidable, of establishing his legal entitlement to the giving of the instruction. See 11 *Del.C.* §303 (a). The catchwords that capture the burden placed upon the defendant by statute are "some credible evidence". "Beauty is in the eyes of the beholder." So are the words "some credible evidence"

open to interpretation. Judicial assistance is found, however, in the case of *Gutierrez v. State*, 842 A.2d 650 (Del.2004). *Gutierrez* teaches that “some credible evidence” is tantamount to “within the realm of possibility”. Martin maintains that this is not exactly an exacting standard. Martin further maintains that he met what will be termed the *Gutierrez* test successfully only to be denied.

In *Gutierrez*, the inmate defendant, a person of suspect credibility, indeed, admittedly punched a prison guard in the face multiple times and fractured his jaw. *Id.* at 651. The defendant requested an instruction on self-defense having posited the proposition that his response was created by the actions of the victim in stabbing the defendant in his hand with a pen. *Id.* The task, in convincing the Court, of the propriety of such a request, seemingly, was quite formidable. Specifically, the evidence disclosed the following:

1. The victim, presumably, denied the act.
2. Three prison guards (not inmates) who witnessed the events did not see the triggering act claimed by the defendant.
3. A physician's assistant attended the defendant shortly after the incident and saw no evidence of injury to his hand.

With that factual portrait in front of it, the Court reasoned that it was within the “realm of possibility” that the defendant' version was within the

realm of possibility and, therefore, became the property of the Trier of Fact (jury) and not the function of the judicial gatekeeper. *Id.* at 653.

In the instant case, the facts supporting the defense proffer are more cogent than those found to justify the defense in *Gutierrez, supra*. Is this evidence the greatest evidence imaginable to support a defense of self-defense? The answer, an obvious one at that, is resoundingly no. If the legal standards were the greatest evidence imaginable to support a defense of self-defense, then Martin was not entitled to the instruction. The test, however, is whether or not it is “within the realm of possibility” that Martin fired a single shot at the decedent because Martin perceived him and/or his wife as being in a potentially deadly situation, as indicated by all three experts and Martin himself, then it was for the jury to decide. Martin maintains that this record is more cogent in support of an instruction than those found in *Gutierrez, supra*, which is the benchmark against which the Trial Court's decision is measured.

Even if the trial court in was correct in deciding that Martin was not entitled to a self-defense instruction under §464, Martin nevertheless had a federal constitutional right to present his theory of the case to the jury. Under the Due Process Clause and §302(b), a defendant may proffer as a defense whatever evidence tends to negate the existence of any element of the offense, even if it is not specifically designated as a “defense” or an “affirmative

defense” in the Criminal Code. See, *Hall v. State*, 431 A.2d 1258, 1259 n.1 (Del. 1981) (Even though “accident” was not expressly listed as a “defense” in Criminal Code, defendant's testimony that shooting was an “accident” was sufficient to have jury consider whether defendant was not guilty because such evidence negated voluntariness of act and state of mind necessary to convict for murder); *State v. Cabrera*, 891 A.2d 1066, 1072 (Del. Super. 2005) (even though [sleepwalking] is not listed as a statutory defense, it can nevertheless be a defense because it negates the element whether the defendant acted intentionally). Thus, even if Martin was not entitled to a “self-defense” instruction under §464, he was entitled to an instruction, under the Due Process Clause and §302(b), that the jury should consider his theory of the case.

CONCLUSION

For the reasons and upon the authorities cited herein, Edward D. Martin's conviction must be vacated.

Respectfully submitted,

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