



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

STATE'S CORRECTED ANSWERING BRIEF

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NATURE AND STAGE OF THE PROCEEDINGS

On February 20, 2022, Martin was arrested and later charged by indictment with Murder First Degree for intentionally causing the death of Arrick Richards, four counts of Reckless Endangering First Degree, five counts of Possession of a Firearm During the Commission of a Felony (“PFDCF”), and one count of Carrying a Concealed Deadly Weapon (“CCDW”). Super. Ct. Docket Item (“DI”) 1, 5; Indictment. (A1, 17-19).

On February 27, 2023, Martin’s trial counsel filed two motions to suppress. The motions were heard at a suppression hearing on March 21, 2023, and after additional briefing, on June 16, 2023, the Superior Court granted the motions in part. (DI 36, 37, 51, 53, 62, 64; A4-6). The Superior Court later considered three defense motions in limine, which it granted in part. (DI 43-45, 57-59, 85-88; A5-7, 9-10). Finally, on September 30, 2024, Martin’s trial counsel filed a motion to dismiss. (DI 97; A10). The State responded, and the Superior Court denied the motion on October 10, 2024. (DI 110, 113; A11-12).

Martin presented three expert witnesses and testified in his defense at trial. After a ten-day trial, a Sussex County jury convicted Martin of Murder Second Degree, as a lesser-included offense of intentional murder, and convicted him as charged on the remaining counts. (B264-66). On March 7, 2025, the Superior Court sentenced Martin to 55 years at Level V with credit for time served. Sent.

Order. (Op. Br. Ex. B.)

Martin has appealed. This is the State's Answering Brief.

SUMMARY OF ARGUMENT

I. DENIED. The Superior Court did not violate Martin's federal Due Process rights by applying the justification statute and denying Martin's request for the instruction where Martin both had the opportunity to safely retreat from the encounter and provoked it. Even accepting Martin's version of the events as true, these actions established his use of force was not justified.

STATEMENT OF FACTS

Arrick Richards, his wife of 17 years, Laci Richards, and his mother-in-law, went to meet friends for “last call” at Coastal Taproom, at about 12:35 a.m. on Saturday, February 20, 2022. (B13-14, 25, 32-34, 228). Earlier in the night, the three spent about an hour at Lefty’s Alley and Eats watching basketball while Arrick and Laci’s children played arcade games. (B12-13, 31).

At Coastal Taproom, the Richards purchased drinks at the bar and sat at a hi-top table with their friends, Jordan Harris and her boyfriend Rico Stringfellow, near the back wall of the room. (B15-16, 26-27, 35-36, 267). Rico and Arrick wanted to play pool, so they left the group and walked toward the pool table. (B17, 37). It was about 1:12 a.m. (B228).

Edward Martin (“Martin”) and his wife Christie Martin were playing pool at the time. (B17-18). They had arrived at the taproom at 10:09 p.m., after stopping at home on their way from Amvets Post 2 in Long Neck, where they had drinks earlier. (B227-228). At the taproom, they purchased seven drinks in total, including a tequila on the rocks and five bright green “Liquid Marijuana” rum drinks for Martin. (B51-54; State Ex. 1).

Arrick’s first interaction with Martin was at about 1:13 a.m., when Arrick was leaning over the bar, talking with a bartender and Martin waited for him to move so he could make a shot. (B267, at 1:52:07). It appears they first spoke to each other

from opposite ends of the pool table at about 1:15 a.m.¹ (B228). As Rico recalled, Arrick mentioned to Martin's wife that she must be pretty good, because she had a glove on and they brought their own gloves and sticks. (B38, 45). The talk was basic pool banter. (B45).

At around 1:16 a.m., Martin walked toward the end of the pool table where Arrick was standing, as Laci was walking up behind Arrick. (B267, at 1:55:45). Laci witnessed "a little bit of an argument going on" when she approached Arrick to tell him she was ready to leave. Arrick told Martin he better make the shot, and Martin seemed to take it the wrong way. (B20-21, 39, 41, 46). Rico thought Martin was trying to get some sort of reaction from Arrick. (B49). Martin said, "if I don't make this shot then I'm a bitch?" and Arrick said something like, "sure, if that's what you want to call it." (B20-21, 28-30, 42, 47). Arrick walked toward the bar, away from Martin, with his back to him. (B267, at 1:56:04). Rico could sense a little tension, but Arrick was not threatening anyone. (B40, 48).

Laci walked toward the exit at about 1:17 a.m., followed by her mother. (B21, 228). Laci thought Arrick was following her. (B21). Arrick and Martin continued to exchange words. (B228-229). Martin walked toward Arrick. (B75). Sensing the

¹ The video goes dark for a few moments at about 1:15 a.m., when the bar lights come on. It appears Mr. Richards may be making a remark at that time. See B267, at 1:53:43-1:54:05.

tension rising, Rico put himself between the two men, to mediate. (B42-43). Martin's wife approached Arrick and Arrick backed away again. Martin edged closer. Laci walked back inside and saw Martin's wife arguing with Arrick and pointing at him. (B22). Laci tried to calm things down and told Arrick it was time to go. (B43, 228-229). Laci, Martin's wife, and Rico² were standing between the two men when an older man who had been playing pool walked up to them; they were all looking at Arrick. (B50, 226; State Ex. 92 (still photo)). Martin pulled a gun out of his front pants pocket and rested it, in his hand, on the pool table, as he looked at Arrick over his wife's shoulder. (B72, 229, B267, at 1:56:41). At the other end of the pool table, Mack saw Martin's gun, pointed at it, and moved away. (B71, 74). The older man was putting on his coat and Martin was moving closer to Arrick, whose stepped backward again, and appears to have his back against the bar. (B267, at 1:56:43). Still at 1:17 a.m., Martin, standing behind three people, reached over his wife and fired one round by Rico's ear, past Laci, shooting Arrick point-blank in the chest. (B56, 72-73, 229, 259). Martin said to Arrick, "Now tell me what to do." (B73). The entire incident happened very fast. (B71, 229-230, 267).

Laci heard what she thought was glass breaking, but it was the gunshot. (B22-23). Arrick collapsed. (B22, 228). Rico heard Arrick say "I got shot. Baby, I got

² Rico was not aware that anyone had a gun in the bar that night. (B50).

shot.” (B44). She told Arrick she loved him, and he said, “I’m dying, but I love you, too.” (B23-24). Blood was coming from Arrick’s mouth. (B23, 67-68). Laci lifted Arrick’s shirt and saw blood coming from a hole in his chest. (B23, 67-68).

As soon as he pulled the trigger, Martin put his gun back in his jeans pocket and walked out of the bar with his pool cue, leaving his wife behind. (B229, 267). He left his pool cue outside the exit. (B230). Martin’s wife lingered, watching the aftermath of the shooting, left briefly, then went back inside, gathered their coats and a cell phone and walked out, pool cue in hand. (B267). They arrived at their home by 1:31 a.m. (B229).

Neither the bar owner nor any of the employees noticed any commotion or anything unusual in the bar until the gun was fired. (B5-6, 55, 57-60, 64, 69). Andrew Gush, a barback, was 6-8 feet behind the victim and Martin right before the gun was fired, and did not notice an altercation. (B60-61, 267, at 1:56:43). When he heard the shot, he ran away from the bar and toward the back of the building. (B61). He returned and saw Arrick coughing up blood, and felt, based on his military experience, that Arrick had blood in his lungs. (B61).

Chris Sulton was one of the many people in the bar who called 911. (B62, 65). At the 911 operator’s request, amid the chaos, Chris yelled for someone to take Arrick’s pulse. (B62, 63, State Ex. 6 (911 recording)). Andrew looked for a pulse, but there was none. (B62, 68). Chris handed Andrew the phone and told him to talk

to 911, while Chris performed chest compressions. (B62, 66). The blood continued coming from Arrick's mouth and upper chest, and he was not moving. (B67).

Troop 7 is about a mile and a half from Coastal Taproom, so police arrived within two to three minutes. (B7, 80). Corporal Matthew Blakeman was at the desk at Troop 7 when the call came in, and he was the first officer to arrive at the scene. (B77, 80). Dispatch was not sure whether the shooter was still present, and he ran inside to make sure the scene was safe for first responders. (B78, 80). He noted others were performing CPR on Arrick, who was "lifeless on the ground." (B82-83). Arrick's wife was distraught, and Cpl. Blakeman assigned the next arriving trooper to assist her, as he started to secure the scene and preserve evidence. (B84, 90).

Arrick was taken by ambulance to the Emergency Room at Beebe Hospital in Lewes. (B132). He was pronounced dead at 2:01 a.m. that same morning. (B132).

The bar owner sent Cpl. Blakeman a 30-40 second clip of surveillance video of the shooting, which he forwarded to detectives. (B85-86, 88). The bar owner also showed the video clips to Detective Lindsay Coleman, with the Delaware State Police Major Crimes Unit, and pointed her to the two bartenders, who gave her receipts for Martin's drinks that evening. (B92-94). The receipts revealed Martin's name, a portion of his account number (6069) and itemized his tab. (B8-9; State Ex. 1). Detective Coleman asked Corporal Katie Koff to search Martin's name in the

computer in Koff's police vehicle. (B103-106). The search provided Martin's address, about 15-20 minutes from the bar, and identified vehicles associated with Martin. (B106-108).

As Detective Coleman walked from Koff's patrol vehicle and back toward the bar, a car pulled into the parking lot of the strip mall. (B62-63, 89, 95-96). Because they were aware at the scene that Arrick had passed away, Det. Coleman thought the approaching car may be a homicide detective. (B95). Instead, a woman got out of the car and walked toward the bar. (B96). This was unusual, given the large police presence. (B95-96). The woman reached the door of the bar at the same time as Det. Coleman. (B96). Det. Coleman asked the woman how she could be of assistance, and the woman told her she accidentally left her cell phone in the bar and returned to retrieve it. (B96). Detective Coleman asked for a description of the phone, told the woman to wait outside, and asked her name. (B97). The woman identified herself as Christie Martin. (B97). By now, it was about 2:20 a.m. (B229).

Detective Coleman went inside. (B98). One of the bartenders became irate and was screaming and identified the woman as the female who had been at the bar with the shooter. (B89, 98, 101, 109). Police detained her.³

³ Because Christie Martin drove to the scene, and Detective Coleman could smell alcohol on her, patrol officers detained her and began a DUI investigation. (B98-90, 102). They had her car towed to Troop 7. (B213).

Detective Coleman asked the bartenders about any cell phones left behind. They showed her two, one of which was left on the high top where the Martins had been standing. (B98-99). Det. Coleman told them not to touch the phone. (B99). The bartenders also showed Det. Coleman a bright green drink she collected from the same high-top, which was also preserved as evidence. (B99-100; State Ex. 18 (photo of drink)).

Corporal Koff left and was told to wait outside the Martins' development, Rehoboth Shores, which was a gated community. (B110-112). She and Trooper White, in separate vehicles, waited across the street from the entrance. (B111-112). Trooper White identified a Mazda associated with Martin, saw a similar car, followed it into the park and conducted a stop. (B113, 118, 124, 126, 141). Corporal Koff pulled up about 20 seconds behind them. (B114). Trooper White had his weapon drawn as he directed Martin to exit his vehicle. (B121). As Corporal Koff handcuffed Martin, he asked Corporal Koff, "Is the guy okay?" (B120). Martin appeared nervous, had an odor of alcohol, and told Trooper White he had the right guy. (B128-131). Trooper White took Martin back to the Troop, and Corporal Koff stayed behind to have the vehicle towed back to Troop 7. (B115-118, 127). This stop took place at about 3:04 a.m. (B229).

At about 7:10 a.m., police executed a search warrant at the tap room and began documenting the evidence. (B175). At 9:00 a.m. at Troop 7, officers executed a

search warrant to collect two blood samples—one each for drugs and alcohol—and a buccal swab for DNA. (B134-135, 137). They also executed warrants on the vehicles driven by Martin and his wife. (B134-137). Martin’s wallet and the credit card he used to start at tab at the taproom were in the front seat of Martin’s Mazda. (B136, 142). Martin’s blood alcohol content was .09.⁴ (B246). A fingerprint from Edward Martin was found on the plastic cup and DNA swabs from the leather holster included Martin as a potential contributor.⁵ (B212).

Police executed a search warrant at Martin’s home in Rehoboth Shores, and found a black leather holster, two full 50-count boxes of 9mm Federal ammunition, and about 100 loose rounds in a plastic bag in a culvert pipe outside the residence. (B138-140, 177-178, 184). Inside the home, in the spare bedroom, police located the box for a 9mm SCCY Industries handgun with serial number 391538 and model number CPXCBDE. (B177-178). Inside the box was a note that the gun was a gift to “Eddy Martin” from a man with a Pennsylvania address. (B188).

On February 21, 2022, the Division of Forensic Science conducted an autopsy

⁴ The State declined to pursue charges of driving with a prohibited alcohol content, and informed the Superior Court pretrial that it would not seek to enter Martin’s BAC. March 21, 2023 Trans. at 2 (B1). One of Martin’s experts testified to Martin’s BAC. (B254).

⁵ The probability of randomly selecting an unrelated individual that could be included as a contributor to the DNA mixture found on the holster is 1 in 1,588,000,000. (B212).

of Arrick. (B192). The autopsy report indicated Arrick had a gunshot wound that entered on the right, upper chest wall and no exit wound. (B197-201). The bullet traveled from his front to his back, from the right side of his body to the left side and downward, piercing his skin, hitting his rib, the upper lobe of his right lung, the hilum of his lung, his pulmonary artery, hit the seventh thoracic vertebra, perforated the eighth rib on the left side and stopped in the muscle of Arrick's lower, left back. (B201-207). The forensic pathologist recovered a projectile from the victim's upper left back. (B192, 195-196). Arrick's cause of death was a gunshot wound to the chest, and his manner of death was homicide. (B208-211).

On October 15, 2022, a volunteer collecting litter along Long Neck Road found a gun, which was turned in to police. (B143-146). The gun was found almost immediately across from the entrance of the Rehoboth Shores Mobile Home Park, along the route from Coastal Taproom to Martin's home. (B164-165, 214, 217-219). The gun was rusted, and the recovering officer, Trooper White, oiled it to be able to remove the ammunition. (B76). It was a 9mm semi-automatic handgun, with eight total rounds of 9mm Luger ammunition—one in the chamber and seven in the magazine, marked with the serial number 391538. (B153-157, 174). The officer logged the gun into evidence, identifying the location where it was recovered. (B153-154, 160). Ballistics testing on the bullet retrieved from Arrick and the casing retrieved from the bar floor showed they were fired from this gun, which was

identified by serial number as Martin's gun. (B176, 192194, 196, 234-235). Martin did not have a concealed weapon permit. (B230-231, 245).

The investigation revealed no evidence that Martin and the victim knew each other or were acquaintances before that night. (B221, 247). The video compilation from the Taproom shows the extent of their interactions before the fatal shooting. (B222-223, 224; St Ex. 79). Arrick did not own any guns, no weapons were found on or near his body, and there was no testimony placing a weapon in Arrick's hands. (B24, 232-233).

At trial, identity of the shooter was not at issue. Martin testified that he shot the victim because he thought the victim had a gun and was about to use it.⁶ (B243). In his defense, he presented three experts. Ricardo Torres, Jr., a retired Delaware State Police officer, was offered as an expert in use of force. (B238). Two forensic psychologists, Dr. Robert Stanulis and Dr. Robert Thompson, provided expert opinions that Martin acted under extreme emotional distress when he shot and killed

⁶ The defense argued that Martin did see a gun in the bar as the video revealed that Mack, who possessed a permit to carry a concealed deadly weapon, lifted his shirt to quickly show an acquaintance his weapon. (B262). No one else in the bar testified to seeing that or any weapons, and there was no reaction from anyone on the videotape at the time this occurred, including Martin. (B225, 227, 230, 232). Martin testified he shot an unarmed man, that he had watched the video approximately fifty times, and "if Mack's gun was the only gun there, then I saw Mack's gun." (B243-244, 248). The defense argued that Mr. Richards and Mack at one point were standing close enough to hand off the weapon. (B263).

Arrick. (B253, 255-257).

I. THE SUPERIOR COURT DID NOT VIOLATE MARTIN’S FEDERAL DUE PROCESS RIGHTS BY APPLYING THE JUSTIFICATION STATUTE AND DETERMINING THAT MARTIN DID NOT MEET THE REQUIREMENTS FOR A JUSTIFICATION INSTRUCTION.

Question Presented

Whether a defendant is entitled to an instruction on justification even where, under statute, he does not meet the requirements. Whether the Superior Court violated Martin’s federal Due Process rights by applying the statute.

Scope and Standards of Review

This Court “review[s] *de novo* a trial judge’s denial of a defendant’s requested jury instruction.”⁷ A trial judge’s factual finding will be upheld unless it is clearly erroneous. Questions not presented to the trial court are reviewed only for plain error.⁸ “Under the plain error standard of review, the error complained of must be so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process.”⁹

Argument

Martin presents two claims on appeal. First, he submits that he was denied his right to a fair trial under the Due Process Clause of the Fourteenth Amendment

⁷ *Smith v. State*, 913 A.2d 1197, 1209 (Del. 2006) (citing *Lunnon v. State*, 710 A.2d 197, 199 (Del. 1998)); *Norman v. State*, 2024 WL 4165103, *2 (Del. Sept. 12, 2024); *Wright v. State*, 953 A.2d 144, 148 (Del. 2008).

⁸ Supr. Ct. R. 8; *Ortiz v. State*, 869 A.2d 285, 299 (Del. 2005).

⁹ *Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986).

to the United States' Constitution, because, having been denied a justification instruction, he was denied the opportunity to present his theory of the case to the jury. Op. Br. at 13. This argument was not raised below and fails under the plain error standard of review. Second, Martin argues he was entitled to the justification instruction, asserting he presented some credible evidence to support it. His actions, however, were not justified as determined by section 464, the statute codifying the justification defense.

A. Martin has failed to establish a violation of his federal right to Due Process.

Martin's first claim was not raised below and fails plain error review. "[T]he Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."¹⁰ "A defendant's due process rights are violated, in turn, only where the instruction 'operated to lift the burden of proof on an essential element of an offense as defined by state law.'" Section 464, which provides for the defense of justification and limits the availability of that defense in certain circumstances, does not affect the requirement that the State prove every element of murder beyond a reasonable doubt; therefore, there was no federal Due Process violation.¹¹

¹⁰ *In re Winship*, 397 U.S. 358, 364 (1970).

¹¹ *See State v. Moyer*, 387 A.2d 194, 197 (Del. 1978). In *Moyer*, this Court answered certified questions regarding the Murder First Degree statute in light of the U.S.

The Court of Appeals for the Third Circuit found no violation of Due Process in an analogous case, *Echols v. Ricci*.¹² In that case, the Third Circuit considered a claim that Echols' counsel was constitutionally deficient, and his due process rights violated, where the court failed to give an alibi instruction.¹³ The Third Circuit held, "Because there is no constitutional requirement for an alibi instruction and because the instructions given by the trial court in this case made it clear that the government had to prove beyond a reasonable doubt that Echols was in the apartment complex when the shooting occurred," appellate counsel was not ineffective for failing to raise the issue.¹⁴ The justification statute is similar to an alibi defense in this regard, as neither impacts the burden of proof, but instead offers a means for a defendant to avoid conviction.

Martin relies on section 302(b) of Title 11 to support his claim that the Superior Court erred in denying him the justification instruction. Section 302(b)

Supreme Court's then-recent ruling in *Patterson v. New York*, 432 U.S. 197 (1977). *Id.* at 195. The Court found that Murder First Degree has only two elements: (1) intent to cause the death of another person and (2) causing the death of another person. *Id.* at 197. As such, placing burden on defendant to establish extreme emotional distress to mitigate Murder First Degree did not shift the State's burden to prove murder, but provided a means by which the defendant could establish a mitigating circumstance and reduce the conviction to manslaughter. *Id.* at 195, 197. Similar rationale applies to the defense of justification.

¹² *Echols v. Ricci*, 492 Fed. Appx. 310, 312-13 (3d Cir. 2012).

¹³ *Id.* at 312-13.

¹⁴ *Id.* at 313

states:

The defendant may produce whatever evidence the defendant has tending to negate the existence of any element of the offense, and, if the court finds that a reasonable juror might believe that evidence, the defendant is entitled to a jury instruction that the jury must consider whether the evidence raises a reasonable doubt as to the defendant's guilt.¹⁵

The Superior Court's decision did not affect the application of this section. Martin presented his entire defense to the jury before any ruling on the justification instruction—this issue did not arise until the prayer conference, after both parties had rested.¹⁶ Martin's jury was instructed on reasonable doubt. Martin presented his defense to the jury; it was only the justification instruction Martin was denied, correctly, in accord with section 464, as discussed below. "As a general principle of statutory construction, the more specific language is entitled to greater weight than general language."¹⁷ Section 464, addressing justification is more specific than section 302(b), therefore, General Assembly's decision to limit the justification defense controls. This is supported by the express general purpose of Delaware's Criminal Code, which is, in part, "[t]o prescribe conduct which unjustifiably and

¹⁵ 11 *Del. C.* §302(b).

¹⁶ Trial Trans. Oct 23, 2024, at H74. (B258).

¹⁷ *State v. Colasuonno*, 432 A.2d 334, 338 (Del. Super. 1981); *see also State v. Cook*, 600 A.2d 352, 355 (Del. 1991) ("Generally accepted principles of statutory construction provide that, to the extent of any conflict, the expression of legislative intent in a more specific and later enacted statute controls the former, more general statute.")

inexcusably causes or threatens harm to individual or public interests.”¹⁸

Although Martin’s actions were not justified under section 464(e), and he was not entitled to have the jury instructed specifically on justification, the jury was free to consider all the evidence Martin presented in determining whether the State met its burden to establish the requisite intent and other elements. The jury instructions for each offense included an instruction on reasonable doubt, in addition to the general instruction on proof beyond a reasonable doubt; therefore, the Superior Court did instruct the jury to consider Martin’s theory of the case.

Martin’s reliance on his experts’ testimony to support his justification defense is misplaced. Two of Martin’s experts were psychologists who opined that Martin suffered under extreme emotional distress when he shot Mr. Richards, a mitigating circumstance that could have reduced an intentional first-degree murder conviction to manslaughter.¹⁹ Martin’s third expert, Ricardo Torres, a retired police officer, was offered as an expert in use of force. (B238). Torres admitted that use of force for a police officer is a different calculation than two civilians in a bar. (B239). He also testified that Martin had the opportunity to safely leave the bar when he instead

¹⁸ 11 *Del. C.* § 201(1).

¹⁹ See 11 *Del. C.* § 641 (“Extreme Emotional Distress”) and § 632(3) (“A person is guilty of manslaughter when . . . the person intentionally causes the death of another person under circumstances which do not constitute murder because the person acts under the influence of extreme emotional distress.”).

pulled a gun out of his pocket. (B240). Torres’ testimony undermined Martin’s defense, as he testified that he did not know whether he would have shot Arrick in the same situation. (B242, 260). Ultimately, the jury did not find Martin guilty of intentional murder, and thus did not reach the issue of whether he intended to kill Arrick while acting under extreme emotional distress. The jury found Martin guilty of the lesser-included offense of Murder Second Degree, for recklessly causing Mr. Richards’ death “under circumstances which manifest a cruel, wicked and depraved indifference to human life.”²⁰ This verdict makes clear that the jury fully considered Martin’s defense, and determined that he acted recklessly, not intentionally.²¹

B. The Superior Court was correct that Martin did not satisfy the requirements of the justification defense.

Martin’s second claim also fails. The Superior Court did not err in its application of the statutory requirements that Martin must meet to present a justification defense. Section 464(a) of Title 11 states that the use of force is justifiable “when the defendant reasonably believes that such force is immediately necessary.”²² This statute was amended, effective June 30, 2021, to insert the

²⁰ 11 *Del. C.* § 635(1).

²¹ Martin admitted that he decided to shoot Richards before he knew whether Richards actually had a gun. Trial Trans. Oct. 22, 2024, at G74-75 (B252). (“It’s a big gamble. But if he does have a gun and you hesitate, you could be the one on the ground dead.”).

²² 11 *Del. C.* § 464(c).

modifier “reasonably.”²³ The General Assembly explained, “This Act makes it clear that the determination of one’s state of mind is an objective standard—that is, what a reasonable person would have believed, rather than what the defendant believed.”²⁴ Section 464(e) clarifies that the defense is not available where the defendant provoked the victim or could have retreated:

(e) The use of deadly force is *not* justifiable under this section if:

- (1) The defendant, with the purpose of causing death or serious physical injury, provoked the use of force against the defendant in the same encounter; or
- (2) The defendant knows that the necessity of using deadly force can be avoided with complete safety by retreating....

Applying these standards, the Superior Court correctly found that Martin’s actions were not justifiable under section 464(e)(1) and (2); therefore, Martin was not entitled to the instruction.²⁵

Martin argues that he was entitled to the instruction pursuant to section 303(a) of Title 11 and *Gutierrez v. State*.²⁶ Section 303(a) states that “[n]o defense defined by this Criminal Code or by another statute may be considered by the jury unless the court is satisfied that some credible evidence supporting the defense has been

²³ 83 Del. Laws ch. 73, § 1 (2021) (enacted June 30, 2021).

²⁴ Synopsis to 83 Del. Laws ch. 73.

²⁵ Trial Trans. Oct. 23, 2024, at H101-03. (B260-261).

²⁶ 842 A.3d 650, 653 (Del. 2004).

presented.”²⁷ Martin asserts he satisfied the “some credible evidence” requirement, and the instruction was required. *Gutierrez v. State* requires that the instruction be given where the defendant asserts a “plausible version of the events, and if taken as true.”²⁸ In *Gutierrez*, however, the defendant met the requirements of section 464(e) if the Court assumed the facts as Gutierrez asserted them were true. Because Martin’s testimony, if assumed true, established that he did not qualify for the self-defense instruction pursuant to section 464(e), neither *Gutierrez* nor Section 303(a) helps him.²⁹

The Superior Court, followed this Court’s ruling in *Spence v. State*³⁰ in finding that Martin provoked the incident and had the opportunity to safely retreat.³¹ Like Martin, Spence testified on his own behalf.³² Spence was at a party that members of a gang also attended.³³ He testified threats were made and a fight occurred

²⁷ 11 *Del. C.* § 303(a).

²⁸ *Id.* at 653; *Smith v. State*, 913 A.2d, at 1210.

²⁹ *See White v. State*, 2008 WL 4107980, *1 (Del. Sept. 5, 2008) (affirming Superior Court’s decision not to instruct the jury on justification where, even if the defendant’s asserted facts are assumed to be true, the justification defense was unavailable because White provoked the victim’s use of force.)

³⁰ *Spence v. State*, 129 A.3d 212 (Del. 2015).

³¹ Trial Trans. Oct. 23, 2024, at H102. (B261).

³² *Spence*, 129 A.3d at 216

³³ *Id.*

involving members of the gang.³⁴ Armed with a shotgun, Spence approached two individuals, Williams and Allen, who were waiting for an elevator.³⁵ “Spence testified that, after he approached the victims, he perceived Williams . . . reaching for his waist. At that point, Spence fired multiple shots at Williams and Allen because he feared for his safety and for that of his friends.”³⁶ Spence had not seen a weapon on either man and no guns were recovered from the scene or Williams’ body—Spence had assumed they had a gun.³⁷ Here, Martin acknowledged he shot an unarmed man—no weapons were found on or near Arrick’s body, and there was no testimony placing a weapon in Arrick’s hands. (B24, 232-233). Spence testified that he had opportunities to leave both before and after he obtained the shotgun.³⁸ Spence shot and killed Williams and wounded Allen.³⁹ On appeal, the case involved allegations of prosecutorial misconduct, and in assessing the closeness of the case, this Court found even by his own testimony, Spence did not satisfy the requirements of a justification defense on two separate grounds: he had the ability to retreat safely

³⁴ *Id.*

³⁵ *Spence*, 129 A.3d at 216.

³⁶ *Id.*

³⁷ *Id.* at 218.

³⁸ *Spence*, 129 A.3d at 217.

³⁹ *Id.*

and he provoked the incident.⁴⁰

The same is true of Martin. In *Spence*, the defendant “testified that he had the opportunity to leave safely before he approached the victims with the shotgun, as well as after he began to fire Spence had multiple opportunities to retreat.”⁴¹ Here, the Superior Court found “Defendant’s own testimony on cross-examination was that he acknowledged he had the ability to walk away through not one door but had a choice of doors without anyone impeding him. And the video showed that.”⁴² Martin admitted on direct examination that he could have left the bar when the victim started commenting on his game.⁴³ In addition, Martin could have left the bar at 1:15 a.m., when the music went off and the lights came on, which signaled to everyone it was time to go home. (B2-3). Martin could have backed away and left either of the two times Arrick backed away from him or while Mr. Richards was looking away from him. Instead, he walked toward Arrick, testifying he wanted “to see what’s going on with Mr. Richards’ hands.”⁴⁴ This is not the action of someone who fears the other person has a gun.⁴⁵ Martin admitted at least three times on cross-

⁴⁰ *Id.* 225.

⁴¹ *Id.*

⁴² Martin Testimony at G69-71. (B250-251). Trial Trans. Oct. 23, 2024, at H103 (B261); State Ex. 5 (video). B267

⁴³ Trial Trans. Oct. 23, 2024, at G55-56. (B249).

⁴⁴ Trial Trans. Oct. 23, 2024, at G71. (B251).

⁴⁵ It is clear from the video that Mr. Richards had a cell phone in the pocket of his

examination that he had a clear path to leave before he shot Arrick:

PROSECUTOR: And again, there's a door at the top of the screen with a clear lane. You didn't walk through that door and leave, did you?

DEFENDANT: No, I didn't.

PROSECUTOR: There's a clear lane to the door at the bottom of the screen. You didn't grab your wife and say: Hey, let's get out of here. It's getting a little hot, did you?

DEFENDANT: I didn't.

PROSECUTOR: And you're coming around behind your wife and getting closer to Mr. Richards, correct?

DEFENDANT: I think I was closer to him before I got on the other side of my wife but.

....

PROSECUTOR: You're pulling a gun out of your pocket, right?

DEFENDANT: Right.

PROSECUTOR: It's a loaded nine-millimeter handgun, right?

DEFENDANT: Right.

....

PROSECUTOR: Well, yes or no? Have you seen –did you see Mr. Richards with a gun yet?

DEFENDANT: I don't think so.

PROSECUTOR: And there's a clear walkway to the exit door at the bottom of the screen, isn't there?

DEFENDANT: Yeah, there is.

PROSECUTOR: You could have walked away, couldn't you?

DEFENDANT: It was a possibility, yes.

PROSECUTOR: And you leaned in closer, right?

DEFENDANT: It looks like it.⁴⁶

Where Martin admitted he had multiple opportunities to safely leave the bar before

hooded sweatshirt, because he removes it and puts it back in his pocket at the point where the video is time-stamped 1:56:30. State Ex. 5. (B267). The time stamp of the video recording is ahead of actual time by 39 minutes, so 1:56 a.m. on the video is actually 1:16 a.m. (B4, 10-11).

⁴⁶ Trial Trans. Oct. 22, 2024, at G71-74. (B251-252)

he shot Arrick, he does not satisfy the requirement of the justification defense pursuant to Section 464(e)(1).

In addition, Martin's actions were not justified pursuant to 464(e)(2) because, like Spence, Martin provoked the incident. This Court described the interaction in *Spence*:

[I]t was Spence, with a shotgun in hand, who approached the two victims. According to Spence, it was only after his approach that he observed, in his view, Williams reaching for his waist. Therefore, the justification defense would also not be available based on Spence's provocation.⁴⁷

Here, the Superior Court found:

[T]he video is clear on two different occasions the victim stepped back from the defendant, and on two different occasions the defendant moved towards the victim. . . . [H]ere, the video is clear that the defendant provoked the use of force."⁴⁸

This Court has determined numerous times that a justification defense is not available where the defendant provoked the incident.⁴⁹

In sum, Martin's actions were not justifiable under the statute, and the Superior Court was correct to deny Martin's request for the instruction. Martin's Due Process claim fails because, although the jury was not instructed on justification

⁴⁷ 129 A.3d at 225.

⁴⁸ Trial Trans. Oct. 23, 2024, at H102 (B261); State Ex. 5 (video) (B267).

⁴⁹ *Smith v. State*, 913 A.2d, at 1212, n.10 (collecting cases); *White v. State*, 2008 WL 4107980, at *1 .

as a potential defense, Martin was able to present his full defense to the jury, who was instructed the State must establish each element of murder beyond a reasonable doubt. Because of this, any error is harmless.

CONCLUSION

The judgment of the Superior Court should be affirmed.

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DATE: April 14, 2026

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD D. MARTIN,	)	
Defendant Below-	)	No. 121, 2025
Appellant,	)	
	)	On Appeal from the
v.	)	Superior Court of the
	)	State of Delaware
STATE OF DELAWARE,	)	
Plaintiff Below-	)	
Appellee.	)	

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DATE: April 14, 2026

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