



IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARON WRIGHT,	)	
	)	
Defendant Below,	)	
Appellant	)	
	)	
v.	)	No. 66, 2026
	)	
	)	
STATE OF DELAWARE	)	
	)	
Plaintiff Below,	)	
Appellee.	)	

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

APPELLANT'S REPLY BRIEF

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I. THE STATE’S ATTEMPT TO LIMIT *GRIFFIN* v. STATE TO ITS FACTS IS INCONSISTENT WITH THE TEXT OF *GRIFFIN* AND THIS COURT’S JURISPRUDENCE.

Merits of Argument

The State’s Answering Brief argues that the *Hamdan* balancing test adopted by the *Griffin* Court is limited to the facts of *Griffin*.¹ Therefore, the State reasons, the trial court’s failure to apply *Griffin* in the instant case was not error. Not so. The State’s narrow reading of *Griffin* is inconsistent with the text of *Griffin* and this Court’s jurisprudence.

A narrow reading of *Griffin* is inconsistent with its text. The *Hamden* test was originally applied to a firearm concealed in a business, not a home.² Prior to *Griffin*, the Wisconsin Supreme Court applied the balancing test to firearms concealed in a vehicle.³ Knowing this, the *Griffin* Court wrote “[w]e agree with the Wisconsin court’s analysis, and adopt the *Hamdan* test.”⁴ No qualifiers were given. Further, this Court held in *Griffin* that “an individual’s interest in the right to keep and bear arm is *strongest* when ‘the weapon is in one’s home or business and is being used for security.’”⁵ Use of the qualifier “strongest” suggests that there are other times

¹ Answering Br. at 18.

² *Griffin* v. *State*, 47 A.3d 487, 490 (Del. 2012) (citing *State v. Hamden*, 665 N.W.2d 785 (Wis. 2003)).

³ See *State v. Fisher*, 714 N.W.2d 495, 502 (Wis. 2006).

⁴ *Griffin*, 47 A.3d at 491.

⁵ *Id.* (emphasis added).

where an individual’s interest may exist. The Court’s subsequent application of the *Hamden* test in *Griffin* also suggests an expansive reading. When weighing the first prong, the *Griffin* Court weighed in Mr. Griffin’s favor the fact “[h]e was in his home[.]”⁶ If the adopted *Hamdan* test were intended to apply only to people in their homes, the Court’s analysis would be surplusage.⁷ It was not.

The State disagrees with the above textual analysis, arguing that because the *Griffin* court applied the adopted *Hamden* test to the case in front of it, a concealed weapon carried in a home, the Court did not intend for the *Hamden* test to be applied in other contexts.⁸ Not so. To apply the State’s logic consistently, it would become impractical for this Court’s to adopt general purpose balancing tests. Were the State to have its way, *Katz v. United States*⁹ would have applied only to phone booths.

The State’s narrow reading of *Griffin* is also inconsistent with this Court’s jurisprudence. This Court has held that Article I, Section 20 protects the fundamental right to bear arms in self-protection.¹⁰ This fundamental right extends

⁶ *Id.*

⁷ See, e.g., *Zambrana v. State*, 118 A.3d 773, 776 (Del. 2015) (“We also ascribe a purpose to the General Assembly’s use of particular statutory language and construe it against surplusage if reasonably possible.” (quoting *PHL Variable Ins. Co. v. Price Dawe 2006 Ins. Trust, ex. rel. Christiana Bank & Trust Co.*, 28 A.3d 1059, 1070 (Del. 2011)).

⁸ Answering Br. at 19.

⁹ 389 U.S. 347 (1967).

¹⁰ See *Doe v. Wilm. Hous. Auth.*, 88 A.3d 654, 665 (Del. 2014).

beyond the home.¹¹ “Where government action infringes a fundamental right, Delaware courts will apply a heightened scrutiny analysis.”¹² While the State insists that the *Hamdan* intermediate scrutiny test does not apply, it does not suggest an alternative. The State appears to argue that *no* scrutiny should be applied when considering as-applied challenges to Delaware’s concealed carry of a deadly weapon statute. Fundamental rights are not so easily trodden. In considering fact intensive “as applied” challenges, it is constitutionally necessary to consider each unique case individually on a case-by-case basis. The reasonable understanding of *Griffin*, therefore, is that the *Hamden* test was intended to fill the constitutional gaps left by the State’s argument.

An expansive reading of *Griffin* is not inconsistent with this Court’s jurisprudence. The State directs the Court’s attention to *Doe v. Wilmington Housing Authority*, which noted that this Court’s prior cases “recognized and found no legislative intent to invalidate laws prohibiting (with certain exceptions) the carrying of a concealed deadly weapon outside the home without a license.”¹³ This quote

¹¹ *Bridgeville Rifle & Pistol Club, Ltd. v. Small*, 176 A.3d 632, 652 (Del. 2017) ([T]he text of our Delaware Constitution is clear: the right to keep and bear arms exists outside of the home.” (citing *Doe*, 88 A.3d at 665)).

¹² *Doe*, 88 A.3d at 666 (citing *Jones v. Milford Sch. Dist.*, 2010 WL 1838961, at *3 n. 17 (Del. Ch. 2010)).

¹³ *Doe*, 88 A.3d at 667 (citing *Smith v. State*, 2005 WL 2149410, at *3 (Del. 2005); *Short v. State*, 1991 WL 12101, at *1 (Del. 1991)).

from the *Doe* Court references two cases, *Smith v. State*¹⁴ and *Short v. State*,¹⁵ in which defendant's made facial challenges to Delaware's concealed carry of a deadly weapon laws. As the case before this Court is an as-applied challenge, *Smith* and *Short* have little relevance. Rather, Mr. Wright asks that the proper case, *Griffin*, be applied to address his as-applied challenge.

II. GIVEN THE FACTUALLY INTENSIVE NATURE OF THE *HAMDEN* TEST, THE TRIAL JUDGE IS THE APPROPRIATE ARBITER IN THE FIRST INSTACE.

Merits of Argument

The State argues that, even if the *Hamden* test should have been applied to Mr. Wright, there is no need to involve the trial court. In support of this proposition, the State cites *Griffin* itself, where this Court remanded the matter to the trial court for fact finding.¹⁶ The State's perspective fails to give appropriate weight the trial court's role. Delaware law "mandates that a trial judge make factual determinations and supply a legal rationale for a judicial decision as a matter of law. Failure to do so may be an abuse of discretion."¹⁷

¹⁴ 2005 WL 2149410 (Del. 2005).

¹⁵ 1991 WL 12101 (Del. 1991).

¹⁶ *Griffin*, 47 A.3d at 491-92.

¹⁷ *Davis v. State*, 2023 WL 7382873, at *4 (Del. 2023) (quoting *Holden v. State*, 23 A.3d 843, 846 (Del. 2011)).

The trial court in this matter failed to make any of the factual findings necessary for the application of the *Hamden* test. Moreover, these findings cannot be easily made from the record. Arguments from the State addressing the first prong of the *Hamden* test include an interpretation of Mr. Wright's actions during the traffic stop as "alarming."¹⁸ A decision by the trial judge who observed the testimony and attitudes of the witnesses is proper before a determination of the Mr. Wright's intent, upon which the State bases its "officer safety" argument, can be made.

Further, while the trial court provided a legal rational for its decision, it did not do so regarding the application of the *Hamden* test.¹⁹ "In short, the important state constitutional claim [Mr. Wright] has raised deserved full and fair consideration by the trial court in this case."²⁰ As a result, Mr. Wright's conviction of concealed carry of a deadly weapon should be reversed and this matter remanded for the proper application of the *Hamden* test by the trial court.

III. THE *HAMDEN* TEST FAVORS MR. WRIGHT.

Merits of Argument

If this Court applies the *Hamden* test, the test favors Mr. Wright. First, Mr. Wright's interest in protecting himself while working as an Uber driver outweighs the State's generalized safety interests. Mr. Wright possessed a concealed firearm

¹⁸ Answering Br. at 26.

¹⁹ App. to Opening Br. at A122.

²⁰ *Davis*, 2023 WL 7382873 at * 4.

while at work as an Uber driver.²¹ The nature of Mr. Wright’s work is inherently dangerous, as the Uber application allows strangers to summon him to their location.²² There is no way for Mr. Wright to determine the trustworthiness of his potential passengers, and no way for Mr. Wright to ensure the person requesting the ride is, in fact, who they claim to be. Moreover, due to the nature of the Uber application Mr. Wright must always have both a valuable cell phone and vehicle with him while working.²³ The danger faced by Mr. Wright is not theoretical. Mr. Wright testified he is aware of other Uber drivers in the nearby Philadelphia area who had been robbed by passengers.²⁴

In comparison, the State’s generalized public safety interest should be afforded little weight.²⁵ State’s officer safety argument, in the context of this case, is equally without merit. Mr. Wright was pulled over for a mere traffic stop, and no fact in the record suggests that Mr. Wright was a threat to Officer Kashner at any time during the stop. While the State suggests that Mr. Wright’s failure to reveal his weapon *could* have represented a threat to Officer Kashner, this danger did not bear

²¹ A68.

²² A68-69.

²³ *Id.*

²⁴ A69.

²⁵ *Bridgeville Rifle & Pistole Club, Ltd.*, 176 A.3d at 656 (noting the State is “required to show more than a ‘general safety concern’” to justify burdening the fundamental right to bear arms in self-defense under intermediate scrutiny (citing *Doe*, 88 A.3d at 667)).

itself out and therefore amounts to a general safety concern. Moreover, requiring an individual to reveal the presence of a weapon, absent the foreseeably dangerous circumstances the officers in *Griffin* faced while responding to a report of domestic violence,²⁶ would tend to chill the right to carry a concealed firearm protected by the Delaware Constitution in certain circumstances. That one may eventually be successful in court under the *Hamden* test is cold comfort to a person who, after revealing the presence of a concealed weapon to an officer, is arrested for a felony for exercising their fundamental rights.

Second, Mr. Wright did not have a reasonable alternative to concealing the weapon. As noted by the *Hamden* Court, requiring a business owner to carry a gun openly or in a holster is not reasonable because “[s]uch practices would alert criminals to the presence of the weapon and frighten friends and customers.”²⁷ Finally, Mr. Wright was carrying the gun for a legal purpose, self-protection.²⁸ As a result, if this Court were to apply the *Hamden* test to Mr. Wright, it should find that it weights in his favor.

²⁶ See *Griffin*, 47 A.3d at 489 (noting officers were responding to a domestic dispute at the defendant’s home).

²⁷ *Id.* at 491 (quoting *Hamden*, 665 N.W.2d at 809).

²⁸ Del. Const. art. I, § 20 (“A person has the right keep and bear arms *for the defense of self*[.] (emphasis added)).

CONCLUSION

For the reasons and upon the authorities cited herein, Mr. Wright's concealed carry of a deadly weapon conviction should be reversed and this matter remanded for the proper application of the *Hamden* test by the trial court. If the Court applies the *Hamden* test itself, a judgement of acquittal should be entered for Mr. Wright's conviction of concealed carry of a deadly weapon.

Respectfully submitted,

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