

No. 20-6277

IN THE  
SUPREME COURT OF THE UNITED STATES

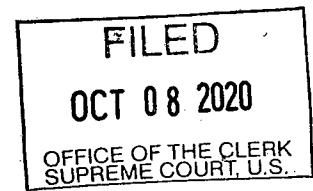
"In re PERCY ALLEN STUCKS" – PRO SE PETITIONER

Vs.

JENNIFER J. MOORE - RESPONDENT(S)

ON PETITIONER FOR WRIT OF CERTIORARI TO

SUPREME COURT OF FLORIDA



NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE

PETITION FOR WRIT OF CERTIORARI

PERCY ALLEN STUCKS

500 East Adams Street

Jacksonville, Florida, 32202

## **QUESTION(S) PRESENTED**

1. Does a resident have the right to stand their ground in their residential property in Florida?
2. Is a resident required to leave their residential property if harm of imminent danger is getting used on them according to Florida Law?
3. Does a victim of prior domestic violence; have the right to defend themselves?

## **LIST OF PARTIES**

**1. Jennifer J. Moore**

**Assistant Attorney General**

**PL-01, The Capitol**

**Tallahassee, Florida 32399- 1050**

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**OTHER**

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

## OPINIONS BELOW

### [ ] For cases from **federal courts**:

The opinion of the United States court of appeals at Appendix \_\_\_\_\_ to

The petitioner and is

[ ] reported at \_\_\_\_\_; or,

[ ] has been designated for publication but is not yet reported; or,

[ X ] is unpublished.

The opinion of the United States District court of appeals at Appendix \_\_\_\_\_ to the petitioner and is

[ ] reported at \_\_\_\_\_; or,

[ ] has been designated for publication but is not yet reported; or,

[ X ] is unpublished

### [ ] For cases from **state courts**

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[ ] reported at \_\_\_\_\_; or,

[ ] has been designated for publication but is not yet reported; or,

[ X ] is unpublished.

The opinion of the \_\_\_\_\_ court

Appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,

[ ] has been designated for publication but is not yet reported; or,

[ X ] is unpublished

## **JURISDICTION**

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

No petition for hearing was timely filed in my case.

A timely petition for rehearing was thereafter denied on the following date:

\_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix N/A.

An extension of time to file the petition for writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U.S.C § 1254 (1).

For cases from **state courts**:

The date on which the highest state court decided my case was April 12, 2019. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: April 12, 2019, a copy of the order denying rehearing appears at Appendix B.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_\_.

The Jurisdiction of this court is invoked under 28 U.S.C. § 1257 (a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **FLORIDA STATUES**

1. Section 776.012, Florida Statues, provides in relevant part:

“(2) A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to him or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.”

2. §776.032 Fla. Stat. “The Florida Legislature enacted the Stand Your Ground in 2005. Stand Your Ground significantly modified the common law right of self-defense by abolishing the well-established duty to retreat before using deadly force, and bestowing immunity from prosecution on a defendant who acts in lawful self-defense. While Florida law has long recognized that a defendant may argue as an affirmative defense at trial that his use of force was legally justified, section 776.032 contemplates that a defendant who established entitlement statutory immunity will not be subjected to trial. Dennis v. State, 51 So. 3d 456,462 (Fla. 2010).”

3. §776.032(4) Fla. Stat. “The effective date of amendment creating subsection 776.032(4) of SYG Law was June 9, 2017 that subsection provides:

“(4) In a criminal prosecution, once a prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial

immunity hearing, the burden of proof by clear and convincing evidence is on the party seeking to overcome the immunity from criminal prosecution provided in section [ 776 032(1)]”

4. §918 (A) (1) Fla. Stat “Alter, destroy, or conceal investigation evidence.” 7, 12, 22

## FEDERAL AND STATES CASES

### 1. Brady v. Maryland,

“The Constitution is concerned with only one aspect of discovery- prior to trial, the prosecution must turn over to the defense all exculpatory evidence in its actual or constructive possession. Failure to do is a violation of Due Process Clauses of the Fifth and Fourteenth Amendments. The rule applies regardless of how a state has chosen to structure its discovery process.”

## 2. Bretherick v. State,

“Defendant must prove preponderance of the evidence that the shooting he or she did, so prevent imminent death or great bodily harm was reasonable.”

3. Chaffin v. State,

“Court must apply an objective standard in determining whether Defendant’s belief of imminent death or great bodily harm was reasonable.”

4. Dean v. State,

962. So.2d 962 (Fla. 4<sup>th</sup> DCA 2005). . . . . 5, 14, 20

“Any evidence that tends to support the defendant’s theory of defense is admissible, and it is error to exclude it.”

5. Dennis v. State,

51 So.3d 456, 462 (Fla. 2010). . . . . 3, 5, 10, 21

“A defendant who establishes entitlement to the statutory immunity will not be subject to trial.”

6. Kyles v. Whitley,

514 U.S., 419, 442 n. 134, 445-451 (1995). . . . . 5, 9

“The U.S. Supreme Court took the opportunity to explicitly refute virtually every excuse prosecutors have traditionally used to avoid turning over Brady material at trial, and to avoid reversal on appeal and habeas corpus when they are caught in a Brady Violation.”

7. Mobley v. State,

132 So.3d 1160, 1164-65 (Fla.3d DCA 2014). . . . . 5, 21

“The U.S. Supreme Court took the opportunity to explicitly refute virtually every excuse prosecutors have traditionally used to avoid turning over Brady material at trial, and to avoid reversal on appeal and habeas corpus when they are caught in a Brady Violation.”

8. <u>Peterson v. State,</u>	
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“The legislature makes clear that it intended to establish a true immunity and not merely an affirmative defense.”	
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“Defendant must prove preponderance of the evidence that the shooting he or she did, so prevent imminent death or great bodily harm was reasonable.”	
10. <u>Strickland v. Washington,</u>	
466 U.S. 668, 688, 104 S.Ct. 2052, 80 E.D. 2d 674 (1984).....	6
“Fell below an objective standard of reasonableness.”	
11. <u>Strickler v. Greene,</u>	
527 U.S. 263, 283, 119 S. Ct. 1936, 1949, (1999).....	6, 8, 19
“ Explicitly held that a prosecutor’s open file discovery policy in no way substitutes for diminishes the State’s obligation to turn over all exculpatory evidence to Brady.”	

## **STATEMENT OF THE CASE APPENDIX A**

The facts necessary to an understanding of the issues presented by this petition are as follows: The petitioner is appealing an decision from the Supreme Court of Florida to deny; rehearing on my Stand Your Ground Hearing from March 05, 2018. See Exhibit 1. The petitioned appealed the ruling of the Hon. Judge Linda McCallum Denying Motion to Dismiss Pursuant to Florida Statues 776.032 Justifiable Use of Force," Stand Your Ground." See Exhibit 2. On July 08, 2016, the petitioner came to his home from his job at the Department of Veterans of Affairs Vocational Rehabilitation and was attacked by Davis. Davis hit the petitioner in the nose with a college book and he started bleeding. Then, Davis grabbed a knife and started taking swipes at the petitioner. The petitioner tried to calm her down, but it did not work. The petitioner noticed a crack pipe and syringe in the room upon arrival and placed it in the shoe box that was located on the mattress in the Florida crime room. Davis had been under the influence of some crack cocaine or other drug. Davis reasoning was altered by the drugs. The petitioner tried desperately to calm Davis down, but to no prevail; Davis would not taking swipes at the petitioner with the knife. The petitioner fired one shot, not two or three and fled the scene.

Petitioner had a Stand Your Ground Hearing on March 05, 2018 and was denied immunity from the Hon. Judge Linda F. McCallum on her March 15,

2018 Final Order Denying Defendant's Motion to Dismiss Pursuant to Florida Statues 776.032 Justifiable Use of Force "Stand Your Ground." Petitioner appealed to the District Court of Appeal, First District and received an acknowledgment of a new case on April 09, 2018. Petitioner claims Davis was under the influence of crack cocaine or some other drug due to the fact of finding a crack pipe and syringe in his room on same day of the attack. The crack pipe and syringe were never placed into evidence which is a violation of Florida Statue 918 (1) (A), Alter, destroy, or conceal investigation evidence. Also, the syringe and crack pipe not being placed into evidence is a Brady violation. In fact, the U.S. Supreme Court, in *Strickler v. Greene*, 527 U.S. 263, 283, 119 S.C.T. 1936, 1949, (1999), explicitly held that a prosecutor's open file discovery policy in no way substitutes for diminishes the State's obligation to turn over all exculpatory evidence to Brady. See Exhibit 3 . State Witness John O'Neal stated in his discovery report, "he is addicted to crack cocaine and that he purchases the drug from a dealer known to him as "Smoke" at the yellow house next door to 1322 Eaverson Street." O'Neal stated that "he was inside the yellow house on 07-11-16, purchasing cocaine, when he heard "Smoke talking to an unknown male about a female who was threatening to call the police due to being sold bad drugs." See Exhibit 4. Petitioner was never at the alleged yellow house and print of cell phone location from 07-11-2016 and 07-12-2016. See Exhibit 5. Petitioner asserts the state made up a story to charge him with Second Degree Murder. Davis has a history of violence and served 10 years in prison in Pennsylvania for attempted murder. Also, Davis attacked

her landlord Ms. Doyle in 2016 in Jacksonville, FL and was arrested and charged with disorderly intoxication and Public Disturbance. See Exhibit 30. The Assistant State Attorney Ms. Erin Perry never provided those violent facts about Davis in the Discovery which is yet another Brady violation. According to *Kyles v. Whitley*, the U.S. Supreme Court explicitly said the individual prosecutor has an affirmative duty to learn of any favorable evidence known to the other people and agencies acting witnesses, or bolster the defense case against prosecutorial attacks. See *Kyles v. Whitley*, 514 U.S. 419, 442 n. 445-451 (1995). See Appendix Exhibit 3. The assistant state attorney Ms. Erin Perry never turned over Davis' mental health background or substance abuse record to the discovery. Ms. Perry never mentioned in the discovery that Davis was admitted to Wikivia Springs Mental Health Resource Center in Jacksonville; FL. Ms. Perry has yet another Brady violation as a prosecutor. "The prosecution has an ongoing Constitutional responsibility to turn over all exculpatory material whenever they find it. See Exhibit 3. In *Kyles v. Whitley*, "the U.S. Supreme Court took the opportunity to explicitly refute virtually every excuse prosecutors have traditionally used to avoid turning over Brady material at trial, and to avoid reversal on appeal and habeas corpus when they are caught in a Brady Violation. See *Kyles v. Whitley*, 514 U.S. 419 (1995). See Exhibit 3. In the supplementary report dated from 07-13-16, "the medical examiner office conducted the victim's autopsy. The Manner of death was determined to be a gunshot wound to the head. See Exhibit 6. The alleged victim did not reside at 1322 Eaverson St in Jacksonville, FL; according to the

autopsy report; the alleged victim resided at 3050 Detroit Cir. St, Jacksonville, FL 32254. See Exhibit 28. How can the incident take place in two different places? See Exhibits 13, 14, and 28. Also, according to the autopsy report; the alleged victim and the defendant reside at 3050 Detroit Cir. St., in Jacksonville, FL 32254. See Exhibit 28. It seems impossible for the alleged victim and the defendant to reside at two different locations together. See Exhibit 13, 14, and 28. In supplementary report no. 2 the type of incident is Death investigation/ Undetermined. See Exhibit 7. What happened to the whole story about a homicide? See Exhibit 6. The Detective writing this supplementary report did not believe the John O'Neal lie. But, it's proof that the alleged victim had been purchasing crack cocaine from the yellow house mentioned by John O'Neal. See Exhibit 4. Petitioner's truck was never mentioned in the Stand Your Ground Hearing, because it possessed the Petitioner's blood on the driver's side door panel from the struggle with Davis. See Exhibit 8. The Petitioner was hit in the nose with one of his college books than started to bleed. Then, Davis grabbed a knife and started taking swipes at him. The petitioner was renting a room on Eaverson Street in Jacksonville, FL in his name. The petitioner tried to reason with Davis after being hit in the nose, but Davis would not comply. Davis kept taking swipes at the petitioner. So, the petitioner fired one shot not two or three, but one to stop the threat from continuing. The petitioner has the right to stand your ground in his property and should be immune from trial. See Dennis v. State, 51 S0.3d 456, 462 (Fla 2010). The petitioner had been a victim of previous Domestic Violence

in the past. See Exhibit 27. Accordingly a person who uses force as permitted in Florida statue 776.012 is justified in using such force and is immune from criminal prosecution. See Florida Statue 776.012. The petitioner felt it was necessary to do so to prevent imminent death or greatly bodily harm to him or another. See Bretherick v. State, 170 So. 3d 766 (Fla. 2015). The petitioner served in the US Army from July 01, 2004 to August 29, 2007. The petitioner deployed to Iraq from 2005 to 2006. The petitioner is 40% service-connected disabled, 10% for a lower back injury, 10% for a left-elbow injury, and 30% for Anxiety also known as “PTSD.” See Exhibit 9 and 9A. The training in the US Army taught the petitioner to assess the threat level and use force necessary to neutralize the target. In the US Army the petitioner was trained to take out anyone who pulls a gun, knives, or any weapon on him. Also, Mr. Stucks had enrolled in a more recent First Steps Pistol Orientation course, to receive additional training on when to use his firearm. See Exhibit 19. Also the petitioner have a concealed weapons license to carry; the firearm legally. See Exhibit 33. The petitioner has bad PTSD from the war in Iraq. See Exhibit 20. Petitioner slept with a machete underneath his bed for protection. See Exhibit 10. Also, the petitioner kept live 380 rounds in his truck. See Exhibit 8 and 11. In the hotel room in Georgia, the petitioner had a box of 380 caliber ammunition on the bed. The box of 380 caliber ammunition contained 21 live rounds in it. The petitioner also had a gun cleaning kit. See Exhibit 12. The knife with the alleged victim Davis blood was in the rear of the petitioner’s truck. See Exhibit 13. The petitioner called the landlord Mr. Alphonso Walker

to check on the incident at the Jacksonville, FL room. In landlord Mr. Alphonso Walker discovery statement from August 2006 it stated, "Mr. Stucks asked the complaint to come by and unlock the door, but Mr. Stucks was not present. When the complainant unlocked the door, he observed a female in the bed." See Exhibit 14. Notice in the discovery report, he never recognizes Davis as the petitioner's girlfriend or staying Davis staying in the room. Mr. Walker claimed at the Stand Your Ground Hearing the petitioner was jealous or his girlfriend and over protective. Why Mr. Walker did not say Davis was in the bed, if he rents the room to the petitioner and Davis? Mr. Walker lied and was led by the state what to say, he rented the room to the petitioner and Davis to help the state uphold the second degree murder charge. State witness Alphonso Walker further lied about the discovery of Davis body in the bed. If the body was in the bed for a couple days, the bed would have been covered in blood. In supplementary report dated from 08-23-2016 it stated, "The mattress was void of any sheets and blankets. There was a shoe box, a pair of shoes, and white towel on the bed. I examined the items on the bed for blood; however there did not appear to be blood on these items." See Exhibit 10. If the body was in the bed according to the State Witness Alphonso Walker the mattress would have been covered with blood. See Exhibit 10. Before the incident between the petitioner and Davis, the petitioner put the crack pipe and syringe in the shoe box that was on the bed. But, mysteriously those items are not in the discovery, just like the marijuana and beer in Georgia. See Exhibit 12 and 16. Notice; in the alleged victim's autopsy report; many different drugs in her

system. See Exhibit 28. The State waited 45 months to release the Autopsy Report to me. See Exhibit 28. In state witness Alphonso Walker discovery report dated from October 2016 it states, "He advised that he received a voice message on Saturday (07-09-2016) from Percy Stucks, who is one of his tenants that rents a room. The message indicated that he (Stucks) lost the key to his room, and needed him (Mr. Walker) to unlock his room due to him losing key." "Mr. Walker advised that he arrived at the house on 07-09-16, at approximately 1615 hours to unlock Stucks' room. Mr. Walker stated that he went inside the house and knocked on Stucks' bedroom door and opened it. Mr. Walker said after opening the door, he observed what he describes as Stucks' girlfriend lying on the floor. He stated that he could only see her legs and feet due to the bed obstructing his view to the rest of her body." "Mr. Walker advised that he did not go inside the bedroom room. He said he called out of her, but she did not respond, so he shut the bedroom door." See Exhibit 15. Mr. Walker story changed completely two months later after the state coached him on what to say. Mr. Walker never knew the petitioner was dating Davis or that she visited him frequently. Mr. Walker's key word from the August 2016 discovery report was "a female" meaning he don't know her. See Exhibit 14. According to "A Practical Guide to Brady Motions", you can impeach a state witness if, "anything that is inconsistent with the testimony of a State's witness." This might include prior statements of that witness, or any other information from any other source that is inconsistent with other prior statements of a State's witness." "Anything that is inconsistent with other

prior statements of a State's witness." "Any statements omitting something the witness later told the prosecutor, or to." This covers the very common situation where a State's witness at trial "remembers" for the first time that the defendant confessed to him. "When the witness has such a miraculous recovered memory, any prior statements the alleged confession became Brady material, and must be turned over immediately." See Exhibit 3. Petitioner claims there was a crack pipe and syringe at the crime scene in Florida. Detective M. P. Chizik or and Evidence Technician S. Wells removed those items from the evidence, which violates Florida Statue 918 (1) (A) Alter, destroy, or conceal investigation evidence. In *Dean v. State*, it held that, "any evidence that tends to support the defendant's theory of defense is admissible, and it is error to exclude it. See *Dean v. State*, 962 So. 2d 962 (Fla. 2005). How can you infer there was a crack pipe and syringe at the crime scene Florida? State Witness John Oneal admitted to seeing Davis buying crack cocaine from Smoke and had complained about drugs. See Exhibit 4. Detective M.P. Chizik and Evidence Technician S. Wells tampered with evidence in Georgia also. See Exhibit 12 and 16. In supplementary report page 10 of 18 dated from 10/17/2016 it stated, "Detective Chizik was able to speak with Stucks, via telephone, and Stucks eventually exited room #118 without incident." "During a pat down of Stucks, a Hi-Point gun magazine was removed from his right front pants pocket." See Exhibit 16. Petitioner was wearing gym shorts with pockets no pants were worn during pat down. "Stucks further advised Detective Chizik that he had a gun underneath the mattress in the hotel

room.” “Detective Chizik looked under Stucks mattress in the hotel room and recovered a Hi-point 380 Caliber semi-automatic pistol (model # Cf380, serial # P809109). The handgun was placed into an evidence bag and left inside the room to be processed by Jacksonville Sheriff’s Office Evidence Technician S.Wells the following day.” “Writer’s note: nothing was processed or removed from Stucks’ hotel room, as Jacksonville Sheriff’s Office Evidence Technician S.Wells was going to be arriving the following morning to process the hotel room and Stucks’ vehicle.” “Personnel from the Richmond Hill Police Department agreed to secure the scene (hotel room and Stucks’ vehicle) overnight.” See Exhibit 12. In supplementary report page 12 of 18 dated from 10-17-2016 it stated, “ET Wells opened the evidence bag that contained the handgun found mattress by Detective Chizik the prior evening.” “ET Wells advised the gun magazine located inside the gun contained six live rounds.” “She further advised me that she located what appears to be blood on the lower receiver of the gun.” ET Wells tested the substance and verified that it was, in fact, blood.” See Exhibit 12. Petitioner had marijuana and beer in the Georgia hotel room, but it was not put into evidence. According to supplementary report page 10 of 18 it stated, “Nothing was processed or removed. See Exhibit 16. Petitioner should have been charged with a possession of marijuana charge. During the Stand Your Ground hearing on March 05, 2018, Detective M.P. Chizik admitted to seeing marijuana and Evidence Technician S. Wells admitted to seeing beer. Why was the marijuana and beer not placed into evidence? During the Stand Your Ground Hearing on March 05, 2018,

Detective M.P. Chizik and Evidence Technician S. Wells admitted there was no physical evidence linking the petitioner at the crime scene in Jacksonville, FL. How can the state charge the petitioner with second degree murder with no physical evidence? The fact that Evidence Technician S.Wells or and Detective M.P. Chizik removed the syringe and crack pipe to handicap the defense's case which is another Brady Violation. "Due process also requires disclosure of any evidence that provides grounds for the defense to attack the reliability, thoroughness, and good faith of the police investigation, to impeach the credibility of the state's witnesses, or to bolster the defense case against prosecutorial attacks. See Kyles v. Whitley, 514 U.S. 419, 442 n. 134, 445-451 (1995). See Exhibit 3. The beer and marijuana were removed from the evidence to say, "I was sober during the interrogation in Georgia." According to Dean v. State, "any evidence that tends to support the defendant's theory of defense is admissible, and it is error to exclude it." See Dean v. State, 962 So. 2d 962 (Fla. 2005). Evidence Technician S.Wells or and Detective M.P. Chizik tampered with evidence which violates Florida Statue 918 (1)(A). How could Detective M.P. Chizik find an empty 380 Hi-Point gun under a mattress a day earlier with no blood on it and Evidence Technician S. Wells finds a 380 Hi-Point with 6 live rounds in it with blood on it? See Exhibit 12 and 16. Evidence Technician S. Wells or and Detective M.P. Chizik tampered with evidence which is a violation of Florida Statue 918 (1) (A) Alter, destroy, or conceal investigation evidence. Is it safe to say the crack pipe and syringe was removed from the crime scene Jacksonville, FL? Do Evidence Technician S. Wells and Detective

M.P. Chizik have any integrity? I have contacted JSO Internal Affairs and requested for their records and have denied. See Exhibit 29. JSO Internal Affairs refuses to release their complaints and other violations. See Exhibit 29. State Witness James Small was never mentioned once in my discovery. Mr. Small claims the petitioner told him about the incident. In the Stand Your Ground Hearing on March 05, 2018, Mr. Small said, "the petitioner was over protective and jealous." The petitioner's hired counsel for the lower tribunal case Mr. Nah-Deh Simmons asked Mr. Small, "Do you know where Mr. Stucks works?" Mr. Small replied, "No." Mr. Simmons asked do you know when Mr. Stucks goes to work." Mr. Small replied, "No." Mr. Simmons asked, when did you come forward to the police one month later after the incident or two months later or 3 months later? Mr. Small said, "No." Mr. Simmons asked why you waited until one year later. Mr. Small could not answer. Mr. Simmons asked, do you have any warrants? Mr. Small said, "Yes." How could you have warrants but come to court in civilian clothes not jail clothing Also, if the petitioner was jealous or over protective; were there any threatening texts or phone calls to the alleged victim Ms. Davis? If someone is in love or over protective; wouldn't the petitioner mention Ms. Davis at work; to coworkers or have pictures. The petitioner has no photos or pictures of the alleged victim in his cell phone. The petitioner never once talked about Ms. Davis at work. See Exhibits 22, 23, 24, 25, and 26. If someone is over protective or in love; they would at least mention it to their coworkers. The petitioner never mentions the alleged victim; Ms. Davis at work physically or on emails to his VA Mental

Health counselor and Vocational Rehabilitation Counselor Mrs. Amanda (Belen) Hart. See Exhibit 22, 23, 24, 25, and 26. The State Attorney Erin Perry offered Mr. Small inducements to testify against the petitioner which is unethical. The State Attorney Erin Perry offered Mr. Small inducements to testify against the petitioner which is unethical. The bottom line, how can a person trust you with something serious but not let you know something simple? If a man won't even tell you where they work, why would they tell you something serious? Assistant State Attorney Erin Perry gave Mr. Small inducements to testify against the petitioner, because her case was weak depending on State Witness John O'Neal. See Exhibit 4. Where is Assistant State Attorney Erin Perry integrity? Is it safe to say that Ms. Perry will do anything to get anything to get a conviction? The petitioner has put in a motion, for the Transcripts from the "Stand Your Ground Hearing" from March 05, 2018. See Exhibit 31. The petitioner put the motion in to prove, the claims argued and the motion has not been granted. JAC replied to incur cost for the transcripts from the March 05, 2018 and March 04, 2020 court dates. See Exhibit 32. Also, during the Stand Your Ground Hearing Ms. Perry objected numerous times, while asking the petitioner why he did not call the police. The petitioner tried to tell the state three times on the record that the petitioner was a victim of JSO Police Brutality in 2014. See Exhibit 18. The Assistant State Attorney Ms. Perry objected every time the petitioner tried to clarify. The fact is the petitioner was a victim of JSO Police Brutality in 2014. See Exhibit 18. The petitioner sued JSO Department with Attorney Ann

Finnell and was awarded \$5,000.00. See Exhibit 18. The petitioner was beaten in handcuffs by four JSO Police officers. See Exhibit 18. Mr. Stucks was taken to Shands Jacksonville Hospital in Jacksonville, FL. See Exhibit 21. Assistant State Attorney Erin Perry never put in the discovery, that the petitioner was a prior victim of JSO Police Brutality in 2014. See Exhibit 18. According to "The Practical Guide to Brady Motions," "the constitution is concerned with one aspect of discovery- prior to trial; the prosecution must turn over to the defense all exculpatory evidence in its actual or constructive possession. Failure to do so is a violation of Due Process Clauses of the Fifth and Fourteenth Amendments. This rule applies regardless of how a state has chosen to structure its discovery process." See *Brady v. Maryland*, 373 U.S. 83 (1963). See *Kyles v. Whitley*, 514 U.S. 419 (1995). See *Strickler v. Greene*, 527 U.S. 263 (1999). See Exhibit 3. The petitioner was in fear for his life and contacted the landlord of the Jacksonville, FL room to investigate the situation. See Exhibit 14 and 15. Evidence Technician S. Wells took a photo of the petitioner 8 days after the arrest in Georgia in Florida. Evidence Technician S. Wells should have taken the photos after the claim of self-defense was claimed. Is it safe to say Evidence Technician wanted the petitioner healed up before taking any photos? Evidence Technician S. Wells came to Georgia to process the crime scene, why not come to Bryan County Jail in Georgia and take the photos? See Exhibit 17. The petitioner meets the criteria for PTSD. See Exhibit 34. Petitioner went to Iraq from 2005 to 2006, was a victim of a near drowning in 2008, and a victim of Domestic Violence in 2010. See Exhibit 20 and 27. The

petitioner was college student; who was in fear. See Exhibit 35 and Exhibit 36.

## **REASONS FOR GRANTING THE PETITION**

The alleged victim has a history of attacking people; under the influence. See Exhibit 30. During the detention of the alleged victim; Ms. Davis started kicking JSO Car inside door panel. While Ms. Davis is under the influence; she is unreasonable and violent. See Exhibit 30. The alleged victim Ms. Davis attacked landlord Ms. Doyle and was arrested. See Exhibit 30. Yet, Ms. Davis resides at another address; how can she reside at the Eaverson address. Also, the autopsy report states; she resides at 3050 E. Detroit Cir, Jacksonville, FL 32254. See Exhibit 28. The Petitioner has the right to stand their ground on their property. The Petitioner has been a victim of previous Domestic Violence and acted out of fear. See Exhibit 27. The Petitioner had evidence tampered with in case by Detective M.P. Chizik or and Evidence Technician S. Wells tampered with evidence. The petitioner put the motion in for the transcripts from March 05, 2018 “Stand Your Ground Hearing” and it has not yet been granted. See Exhibit 31 and 32. According to Dean v. State, “Any evidence that tends to support the defendant’s theory of defense is admissible, and it is error to exclude it.” See Dean v. State, 916 So.2d 962 (Fla DCA 4<sup>th</sup>). The petitioner exercised his right to stand his ground in his personal property. In Dennis v. State, “a defendant who establishes entitlement to the statutory immunity will not be subjected to trial.” See Dennis v. State, 51 So.3d 456, 462 (Fla. 2010).

Florida Statute 776.032 states, “A defendant may argue as an affirmative defense at trial that his use of force was legally justified. See Florida statue 776.032. Petitioner is entitled to immunity of use of force based off of Florida Statute 776. 013 (3) “A person who is engaged in an unlawful activity and who is attacked in any other place where he or she has a right to stand his or her ground and meet the force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.” See Florida statue 776. 013(3). In State v. Gallo it states, “grants defendants a substantive right to assert immunity from prosecution and to avoid being subject to trial.” See State v. Gallo, 76 So. 3d 407, 409 (Fla. 2<sup>nd</sup> DCA 2011), See Dennis v. State, 51 So. 3d 456, 462 (Fla. 2010). In Peterson v. State, the legislature makes clear that it intended to establish a true immunity and not merely an affirmative defense. See Peterson v. State, 983 So. 2d 27, 28 (Fla. 1<sup>st</sup> DCA 2008). Petitioner was trying to prevent imminent death or great bodily harm. See Bretherick v. State, 170 So. 3d 766 (Fla. 2015), see Vino v. State, 100 So. 3d 716, 717 (Fla. 3d DCA 2012), see Mobley v. State, 132 So. 3d 1160, 1164-65 (Fla. 3d DCA 2014), and see Chaffin v. State, 121 So. 3d 608, 612 (Fla. 4<sup>th</sup> DCA 2013).

The District Court of Appeal, First District and Supreme Court of Florida refuses to even hear the case. I have provided them with every document they required and still the state appellate refuses to even to hear the case. I have exhausted all of my legal remedies at the state appellate courts levels. I

contacted the Governor of Florida numerous times; about my situation and he has been unresponsive. See Exhibit 37 and 38.

## **CONCLUSION**

The petition for writ of certiorari should be granted.

Respectfully Submitted,

/s/ Perry Stucki

Date: September 29, 2020