IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA, CASE NO. F16-12827

Plaintiff,

v.

LILETHA RUTHERFORD,

Defendant.
_____/

ORDER ON "STAND YOUR GROUND" HEARING

I. Introduction

Defendant Liletha Rutherford, charged with the crimes of aggravated assault with a firearm and grand theft, seeks to assert that form of immunity commonly referred to as "Stand Your Ground." For that purpose she demands a pretrial hearing; and claims that, at such a hearing, the burden of proof must be borne by the prosecution, and borne by clear and convincing evidence, to disentitle her to immunity. Before conducting such a hearing, I am obliged to consider whether the recent legislative changes purporting to alter the burden of proof at such hearings[1] are unconstitutional as violative of the doctrine of separation of powers.

II. Florida's "Stand Your Ground" Law

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[1] Newly-enacted subsection (4) of Fla. Stat. § 776.032 provides:

> 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 subsection (1).

As I have written elsewhere:

> Few legal principles are so venerable, or so universally accepted in the Anglo-American law, as that known as the "duty to retreat." *See gen'ly Regina v. Smith*, (1837) 173 Eng. Rep. 441 (K.B.); *Regina v. Bull*, (1839) 173 Eng. Rep. 723 (K.B.). Of course the law recognizes every man's right of self-defense, but "[t]he law of self-defense requires everyone to avoid killing when possible and to retreat, if necessary and consistent with his own safety[,] before taking life." *Harris v. State*, 104 So.2d 739, 743 (Fla. 2d DCA 1958). Although "a person may use deadly force in self-defense if he or she reasonably believes that deadly force is necessary to prevent imminent death or great bodily harm," *Weiand v. State*, 732 So.2d 1044, 1049 (Fla. 1999), "a person may not resort to deadly force without first using every reasonable means within his or her power to avoid the danger, including retreat." *Id.* The reason for the rule is so apparent that it is seldom stated: Retreating from the prospect of combat may cause a man to think less of himself, or cause others to think less of him; but not retreating may cause permanent injury or death. As between the two outcomes, the common law was more concerned with wounded bodies than with wounded feelings.

State v. Wyche, 19 Fla. L. Weekly Supp. 463a, *1 (Fla. 11th Cir. 2012) (fn. omitted), (citing *State v. Shaw*, 441 A.2d 561, 565 (Conn. 1981); *People v. Canales*, 624 N.W.2d 918, 919 (Mich. 2001) (citing *Pond v. People*, 8 Mich. 150 (1860))).

To the duty to retreat the common law made an exception. "Florida has long recognized the venerable 'castle doctrine' ... [*i.e.*,] that a person's dwelling house is a castle of defense for himself and his family, and an assault on it with intent to injure him or any lawful inmate of it may justify the use of force as protection." *Falco v. State*, 407 So.2d 203, 208 (Fla. 1981) (citing *Peele v. State*, 20 So.2d 120 (Fla. 1944); *Russell v. State*, 54 So. 360 (Fla. 1911); *Wilson v. State*, 11 So. 556 (Fla. 1892)); *see also Alday v. State*, 57 So.2d 333 (Fla. 1952); *Danford v. State*, 43 So. 593 (Fla. 1907). "It is not now and never has been the law that a man assailed in his own

dwelling is bound to retreat. If assailed there, he may stand his ground." *People v. Tomlins*, 107 N.E. 496, 497 (N.Y. 1914) (Cardozo, J.) This is so because retreat "is for sanctuary and shelter, and shelter, if not sanctuary, is in the home." *Tomlins*, 107 N.E. at 497.

In a sharp break with these time-honored principles, "the Florida Legislature enacted in 2005 what has been popularly ... referred to as the 'Stand Your Ground' law." *Peterson v. State*, 983 So.2d 27, 29 (Fla. 1st DCA 2008). "This law, as codified [in Fla. Stat. § 776.032], provides that a person who uses force as permitted in § 776.01[2] is justified in using such force and is immune from criminal prosecution as well as civil action for the use of such force." *Peterson*, 983 So.2d at 29.

> In the situations to which it applies, the 'Stand Your Ground' law abrogates the duty to retreat. In effect, it moves the 'castle doctrine' out of the castle and into the street. The neighborhood bar, the street corner, the left-field bleachers of the ballpark – all these become every man's castle, where he may stand his ground and meet force or the threat of force with force.

Wyche, 19 Fla. L. Weekly Supp. at *2.

Apart from abrogating the duty to retreat in cases to which it applies, the "Stand Your Ground" law worked another profound change with respect to claims of self-defense. Traditionally such defenses, like all recognized defenses to crimes, were presented to the trier of fact at trial. But the "Stand Your Ground" law contemplates that the defendant who asserts it may never be tried at all. Her claim, if meritorious, vests her with transactional immunity from prosecution. Although

> Florida law has long recognized that a defendant may argue as an affirmative defense at trial that his or her use of force was legally justified, § 776.032 contemplates that a defendant who establishes entitlement to the statutory immunity will not be subjected to trial.

> Section 776.032(1) expressly grants defendants a substantive right to not be arrested, detained, charged, or prosecuted as a result of the use of legally justified force. The statute does not merely provide that a defendant cannot be convicted as a result of legally justified force.

Dennis v. State, 51 So.3d 456, 462 (Fla. 2010). In *Dennis*, the Supreme Court held that the procedural vehicle by which a defendant may vindicate his "substantive right to not be arrested, detained, charged, or prosecuted" is a pretrial motion[2] and hearing. In *Bretherick v. State*, 170 So.3d 766 (Fla. 2015), the Supreme Court filled in the procedural particulars of how that hearing is to be conducted.

Bretherick came before the court on a certified question of great public importance from the Fifth District: "Once the defense satisfies the initial burden of raising the [Stand Your Ground] issue, does the state have the burden of disproving a defendant's entitlement to self-defense immunity at a pretrial hearing as it does at trial?" *Bretherick*, 170 So.3d at 768. The

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[2] Dennis's motion was "filed pursuant to Florida Rule of Criminal Procedure 3.190(c)(3)." *Dennis*, 51 So.3d at 458. Rule 3.190(c)(3) provides that a defendant in a criminal case may at any time make, and the "court may at any time entertain[,] a motion to dismiss" on the grounds that the "defendant is charged with an offense for which the defendant previously has been granted immunity." The defendant who makes a "Stand Your Ground" claim asserts that, as a matter of statute law, he "previously" – *i.e.*, by previous legislative enactment – "has been granted immunity."

Later in *Dennis* there is *dictum* suggesting that "Stand Your Ground" motions are brought pursuant to Rule 3.190(b). If that is so, the defendant's present motion, and likely all "Stand Your Ground" motions, will be denied as waived. Fla. R. Crim. P. 3.190(c) provides that, "Unless the court grants further time, the defendant shall move to dismiss ... either before or at arraignment" and that "every ground for a motion to dismiss that is not presented by a motion to dismiss [at arraignment, or within such time as is granted by the court at arraignment] shall be considered waived." In the case at bar, as is typical in such cases, months passed between the time of defendant's arrest (which occurred in September of last year) and the filing of his "Stand Your Ground" motion (in May of this year). If "Stand Your Ground" motions are *not* brought pursuant to Rule 3.190(c), they will often be – and the motion in the present case surely is – untimely.

court concluded that, "the defendant bears the burden of proof, by a preponderance of the evidence, to demonstrate entitlement to Stand Your Ground immunity at the pretrial evidentiary hearing." *Id.*

This was entirely in keeping with settled practice. The law invariably places the burden of establishing entitlement to any form of immunity on the claimant, rather than placing the burden of establishing disentitlement to immunity on the opponent of the claim. *Id.* at 769 (placing burden on "Stand Your Ground" claimant consistent "with the procedure for resolving motions to dismiss involving other types of statutory immunity"). *See, e.g., United States v. Noriega*, 746 F. Supp. 1506, 1522 (S.D. Fla. 1990) (with respect to assertion of sovereign immunity, "Defendant [bears the] burden of proof on the issue"); *Junior v. Reed*, 693 So.2d 586, 589-90 (Fla. 1st DCA 1997) (citing *Butz v. Economou*, 438 U.S. 478 (1978) and *Nixon v. Fitzgerald*, 457 U.S. 731 (1982)) ("The burden of establishing a claim of absolute immunity [to suit under 42 U.S.C. 1983] is on the public official claiming the immunity"); *Diallo v. State*, 994 A.2d 820, 829 (Md. Ct. App. 2010) (citing *Burns v. Reed*, 500 U.S. 478 (1991)) ("The individual claiming [diplomatic] immunity from prosecution bears the burden of showing that he or she is entitled to immunity"); *Carnell v. Arkansas Elder Outreach of Little Rock, Inc.*, 425 S.W.3d 787, 792 (Ark. Ct. App. 2013) ("The burden of pleading and proving ... charitable immunity, is on the party asserting it"). "Stand Your Ground" excepted, Florida law no longer recognizes transactional immunity. *See* Fla. Stat. § 914.04; *Novo v. Scott*, 438 So.2d 477 (Fla. 3d DCA 1983) (Florida law presently recognizes use and derivative use immunity only). But four decades and more ago, transactional immunity was the norm in Florida – and the burden of proof with respect to it was always placed on the claimant. *See, e.g., State v. Toogood*, 349 So.2d 1203 (Fla.

2d DCA 1977); *State v. Montgomery*, 310 So.2d 440 (Fla. 3d DCA 1975).

The *Bretherick* court found that the traditional procedure of placing the burden of proof on the party asserting a form of immunity was appropriate, perhaps especially so, with respect to "Stand Your Ground" immunity:

> Placing the burden on the State beyond a reasonable doubt would provide no disincentive for a defendant to file a motion to dismiss in order to obtain a complete preview of the State's entire case, including its rebuttal of the defendant's potentially meritless argument – which may not be supported by any evidence – that the use of force was justified. If, at the pretrial stage of litigation, the State did not possess all the evidence to refute the alleged justifications for a defendant's use of force, the defendant would be found immune from prosecution because the State could not disprove the justifications for the use of force beyond a reasonable doubt. The State has aptly described the result: "a process fraught with potential for abuse."
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> Requiring the State to prove its case twice would also cause a tremendous expenditure of time and resources. Undoubtedly, interests in practicality, expense, and judicial economy do not outweigh the defendant's right to a fair determination of guilt or innocence. ... However, the defendant's opportunity for a fair determination of guilt or innocence is not diminished by placing upon him or her the burden of proof at the pretrial stage, as the State still has to prove its case and all of the elements of the crime beyond a reasonable doubt at trial.

Bretherick, 170 So.3d at 777-78.

The procedural law created by the Supreme Court in *Bretherick* is readily understood and applied, and has been in place continuously since *Bretherick* was decided.[3] The statutory change at issue here, however, displaces that law. It purports to shift the burden of proof at a pretrial hearing on a "Stand Your Ground" claim from the defendant to the prosecution; and to elevate

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[3] Actually, it was in place well before *Bretherick* was decided. *See infra* at n. 4.

that burden to require clear and convincing evidence.

III. Florida's version of separation of powers

The version of the doctrine of separation of powers reflected in Florida's constitution differs in a number of respects from that implied by the Constitution of the United States. One instance of that difference is found in Art. V § 2(a), which provides:

> The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.

The foregoing language is generally understood to mean that the legislature makes substantive law, but that the judiciary makes procedural law. *See, e.g., Allen v. Butterworth*, 756 So.2d 52, 59 (Fla. 2000) ("Generally, the Legislature has the power to enact substantive law, while the [Florida Supreme] Court has the power to enact procedural law").

The legislative changes at issue here purport to alter in two ways the burden of proof at a "Stand Your Ground" hearing. The burden of persuasion is shifted from the movant – the criminal defendant claiming immunity – to the State. And the quantum of proof is altered from mere preponderance of the evidence to clear and convincing evidence. Because questions of burden of proof are procedural rather than substantive, however, I necessarily find the demised

legislative changes to be unconstitutional. *See* Fla. Const. Art. II § 3 (prohibiting one branch of government from exercising powers consigned to another branch).

Substantive law

> has been defined as that part of the law which creates, defines, and regulates rights, or that part of the law which courts are established to administer. It includes those rules and principles which fix and declare the primary rights of individuals with respect towards their persons and property. On the other hand, practice and procedure "encompass the course, form, manner, means, method, mode, order, process or steps by which a party enforces substantive rights or obtains redress for their invasion. 'Practice and procedure' may be described as the machinery of the judicial process as opposed to the product thereof." It is the method of conducting litigation involving rights and corresponding defenses.

Haven Fed. Sav. & Loan Ass'n v. Kirian, 579 So.2d 730, 732 (Fla.1991) (quoting *In re Fla. Rules of Crim. Pro.,* 272 So.2d 65, 66 (Fla.1972) (Adkins, J., concurring))

"Conceptually speaking, a burden of proof is the measurement by which a fact-finder processes evidence to determine whether the elements of a crime, claim, or defense have been proven." *In the Interest of A.W. and S.W.*, 184 So.3d 1179, 1182 (Fla. 2d DCA 2015). Florida courts universally recognize that, "[b]urden of proof requirements are procedural in nature." *Walker & LaBerge, Inc. v. Halligan*, 344 So.2d 239, 243 (Fla. 1977) (quoting *Ex parte Collett*, 337 U.S. 55, 71 (1949)); *Kenz v. Miami-Dade County*, 116 So.3d 461, 464 (Fla. 3d DCA 2013) ("under Florida case law, issues relating to a party's burden of proof are generally procedural matters"). *See also Shaps v. Provident Life & Accident Ins. Co.*, 826 So.2d 250, 254 (Fla. 2002).

The issue at bar illustrates the point. As noted *supra*, in *Dennis*, the Supreme Court of Florida explained that the "Stand Your Ground" law "expressly grants defendants *a substantive*

right to not be arrested, detained, charged, or prosecuted as a result of the use of legally justified force." *Dennis,* 51 So.3d at 462 (emphasis added). The legislature having thus engaged in the making of substantive law, the Supreme Court very properly engaged in the making of procedural law to afford means to vindicate the substantive right. That procedural law directed a "Stand Your Ground" movant to proceed by pretrial motion and hearing, at which hearing he was to shoulder the burden of proof by a preponderance of the evidence to show that he was entitled to the immunity contemplated by the statute. The immunity itself is substantive. The allocation of the burden of proof is procedural. That allocation has been in place since at least the time of the *Bretherick* decision in mid-2015.[4]

As noted, the legislature's law-making power is as to substantive law. Other than by the means provided in Art V § 2(a), *viz.*, a two-thirds supermajority override, it cannot make procedural law or countermand the judicial branch's procedural law-making. And this is true whether a judicially-propounded procedural "rule" actually takes the form of a rule – *e.g.*, an addition or amendment to the Florida Rules of Criminal Procedure – or comes in the form of decisional law. This point was recently illustrated in connection with the law governing the admissibility of scientific or expert evidence in the courts of Florida.

The so-called "*Frye* standard" for the admission of novel scientific evidence, *see Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923), has been the accepted law in Florida since at least

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[4] Arguably the allocation of burden of proof has been in place since *Dennis*, decided in 2010. As the court noted in *Bretherick*, it was doing no more than "mak[ing] explicit what was implicit in *Dennis* – the defendant bears the burden of proof by a preponderance of the evidence at the pretrial evidentiary hearing. This is the conclusion reached by every Florida appellate court to consider this issue both before and after *Dennis*," *Bretherick*, 170 So.3d at 768-69, including *Peterson, supra*, decided in 2008.

the 1980's, *see, e.g., Stokes v. State*, 548 So.2d 188 (Fla. 1989); *Bundy v. State*, 471 So.2d 9 (Fla. 1985), and arguably longer even than that.[5] In 2013, the Florida legislature amended the Florida Evidence Code to adopt instead the "*Daubert* standard," *see Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). *See* Ch. 2013-107, Law of Florida, amending Fla. Stat. §§ 90.702 and 90.704. In *In Re: Amendments to the Florida Evidence Code*, ___ So.3d ___ (Fla., Feb. 16, 2017), however, the Florida Supreme Court "declined to adopt, to the extent they are procedural, the changes to sections 90.702 and 90.704 of the Evidence Code made by the *Daubert* Amendment." *Id.* at ___.

Although *Frye* had long been the law of Florida, it had never been formally codified in any rule of procedure. Sections 90.702 and 90.704 of the Evidence Code made no reference to *Frye*. But *Frye* was nonetheless part of the procedural law of Florida. To the extent that changes made to statute law by the *Daubert* amendment were procedural in nature, the Florida Supreme Court could, and did, reject those changes.

The analogy to the case at bar, although imperfect, is apt. True, *Frye* had been in place for decades, while the Supreme-Court-created procedure for the adjudication of "Stand Your Ground" claims has been in place for only a few years. But Art. V of the Florida Constitution does not bar the legislature from altering *ancient* procedural law – it bars the legislature from altering procedural law, ancient or otherwise. And if the extent of reliance on a settled mode of

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[5] *Frye* made its first appearance in Florida law in *Kaminski v. State*, 63 So.2d 339 (Fla. 1953). *Kaminski* involved the question whether a witness could be asked if he had taken, or been willing to take, a lie detector test. In the course of resolving that question, the Court made reference to *Frye* for the proposition that lie-detector test results themselves were inadmissible. *Kaminski*, 63 So.2d at 340. Prior to the 1980's, *Frye* had been cited three times in Florida jurisprudence: in *Kaminski*, in *Coppolino v. State*, 223 So.2d 68 (Fla. 2d DCA 1968), and in *Johnson v. State*, 166 So.2d 798 (Fla. 2d DCA 1964).

procedure is the issue, it is almost certainly the case that hundreds and hundreds of "Stand Your Ground" claims have been litigated in Florida pursuant to the practices set forth in *Dennis* and *Bretherick*. The judges of Florida's criminal courts received few *Daubert* challenges and receive few *Frye* challenges; but "Stand Your Ground" motions are a staple of the criminal docket.

True, the Supreme Court rejected the *Daubert* amendment not merely because it was procedural in nature, but because it may be unconstitutional on other grounds as well. But Art. II § 3, which bars one branch of government from exercising powers consigned to another branch, applies whether the law change contemplated by the overreaching branch of government is constitutional in its content or otherwise. It applies whether the purposes of the overreaching branch of government are benign or otherwise. It applies even when its application prevents a seemingly salutary change in law from becoming law. It applies in such cases because experience with government has shown that any momentary benefit expected from a change in law is usually outweighed by the lasting detriment resulting from a change in our constitutional system of checks and balances. It applies in such cases because the principle of separation of powers protects Floridians from those centripetal forces that might otherwise enable one branch of government from trenching first upon the powers of the other branches, and then upon the rights of the people. Exaggerating for effect, Madison wrote, "The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex." James Madison, Federalist No. 48.[6]

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[6] *And see* Federalist No. 47: "The accumulation of all powers, Legislative, Executive, and Judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny." For a more modern expression of the same concern, *see* Colette Spanyol, *Harry Potter and the Separation of Powers: A Law and Literature Review of J.K. Rowling's Harry Potter and the Order of the*

True, the opinion of the Florida Supreme Court in *In Re: Amendments to the Florida Evidence Code* is cast in conditional language. A final determination of the rejection of *Daubert* and the preservation of *Frye* will have to await an actual case. But there is no such limitation here. The case at bar presents forthrightly the issue whether the newly-enacted subsection (4) of Fla. Stat. § 776.032 is unconstitutional because procedural, in that it purports to re-allocate the burden and quantum of proof.

Whatever the merits or demerits of the *Frye/Daubert* analogy to the issue at bar, it is irrefragably settled that forms of practice and procedure put in place by the Supreme Court of Florida, whether formally reduced to a numbered rule of criminal procedure or not, are procedural for purposes of the distinction between substantive and procedural law-making powers codified in Fla. Const. Art. V § 2. On any number of occasions the Supreme Court has announced a change in adjective law that was later, sometimes much later, formalized as a rule of criminal, or civil, procedure. In *State v. Harris*, 881 So.2d 1079 (Fla. 2004), for example, the Supreme Court held that the change-of-plea colloquy appearing in Fla.R.Crim.P. 3.172 should be modified to include an advisement to defendants of the prospect of civil commitment for sex crimes. *Harris*, 881 at 1085 n.5. From and after the decision in *Harris*, Florida trial-level judges included such an advisement in their change-of-plea colloquies. But the rule itself was not amended till the following year. *See In Re Amendments to Fla.R.Crim.P. 3.172*, 911 So.2d 763 (Fla. 2005). Surely no one would claim that between the time *Harris* issued and the time the rule change was formalized, the change in law was substantive and within the competence of the

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legislature to alter, but that from and after the rule amendment the change was procedural and within the exclusive bailiwick of the court. Long before *Padilla v. Kentucky*, 559 U.S. 356 (2010) the Florida Supreme Court had determined that defendants pleading guilty (or *nolo contendere*) should be informed of the potential deportation consequences of their pleas. *State v. Ginebra*, 511 So.2d 960 (Fla. 1987). Rule 3.172 was later amended to reflect that ruling. *In Re Amendments to Florida Rules of Criminal Procedure*, 536 So.2d 992, 992 (Fla. 1988). But the amendment did not transform something that had been substantive into something that was procedural. *Ginebra* was as much the *procedural* law of Florida before the amendment to the rule as it was afterward. To the same effect *see State v. Bowen*, 698 So.2d 248, 252 (Fla. 1997) (Wells, J., concurring); *Kinney System, Inc. v. Continental Insurance Co.*, 674 So.2d 86 (Fla. 1996) (creating, as a temporary measure, the procedure that would later be permanently codified as Fla.R.Civ.P. 1.061); *State v. Hickson*, 630 So.2d 172 (Fla. 1994) (creating, as a temporary measure, the procedure that would later be permanently codified as Fla.R.Crim.P. 3.201). In 1969 the Florida Supreme Court clarified the procedures to be employed for service of process when a party challenges a statute on the grounds of violation of the "single subject" provision of Fla. Const. Art. III § 6 ("Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title"). *Mayo v. National Truck Brokers, Inc.*, 220 So.2d 11 (Fla. 1969). The doctrine of *Mayo* was codified as Fla.R.Civ.P. 1.071 in 2010 – some *four decades later*. But that codification did not change that doctrine's place on the substantive/procedural axis. It was procedural (albeit decisional) law when the Supreme Court propounded it in 1969, and it remained procedural (albeit rule-based) law when it was codified in 2010.

The procedure formulated by Florida courts for the adjudication of "Stand Your Ground" claims – formulated in *Peterson* in 2008, in *Dennis* in 2010, and in *Bretherick* in 2015 – although never formally reduced to a numbered rule is nonetheless procedural for purposes of Art. V § 2. As a matter of constitutional separation of powers, that procedure cannot be legislatively modified.[7]

IV. Conclusion

The statutory alterations in the burden and standard of proof in "Stand Your Ground" cases are, as set forth hereinabove, unconstitutional. The hearing in the case at bar will be conducted according to the procedural law propounded by the Florida Supreme Court, *viz.*, the burden of both production and persuasion will be on the claimant to establish by a preponderance of the evidence her entitlement to "Stand Your Ground" immunity.

SO ORDERED, in chambers in Miami, Miami-Dade County, Florida, this 3 day of July, 2017.

MILTON HIRSCH
CIRCUIT COURT JUDGE

Copies to:
All counsel of record

[7]The Supreme Court's enactment of procedural law can be overruled by a supermajority vote of two-thirds of each house of the legislature. Fla. Const. Art. V. § 2(a). The legislative changes at issue here, however, were not the product of such a supermajority vote. *See* http://www.flsenate.gov/Session/Bill/2017/128/Vote/SenateVote_s00128e1062.PDF (senate) and http://www.flsenate.gov/Session/Bill/2017/128/Vote/HouseVote_s00128e1098.PDF (house).