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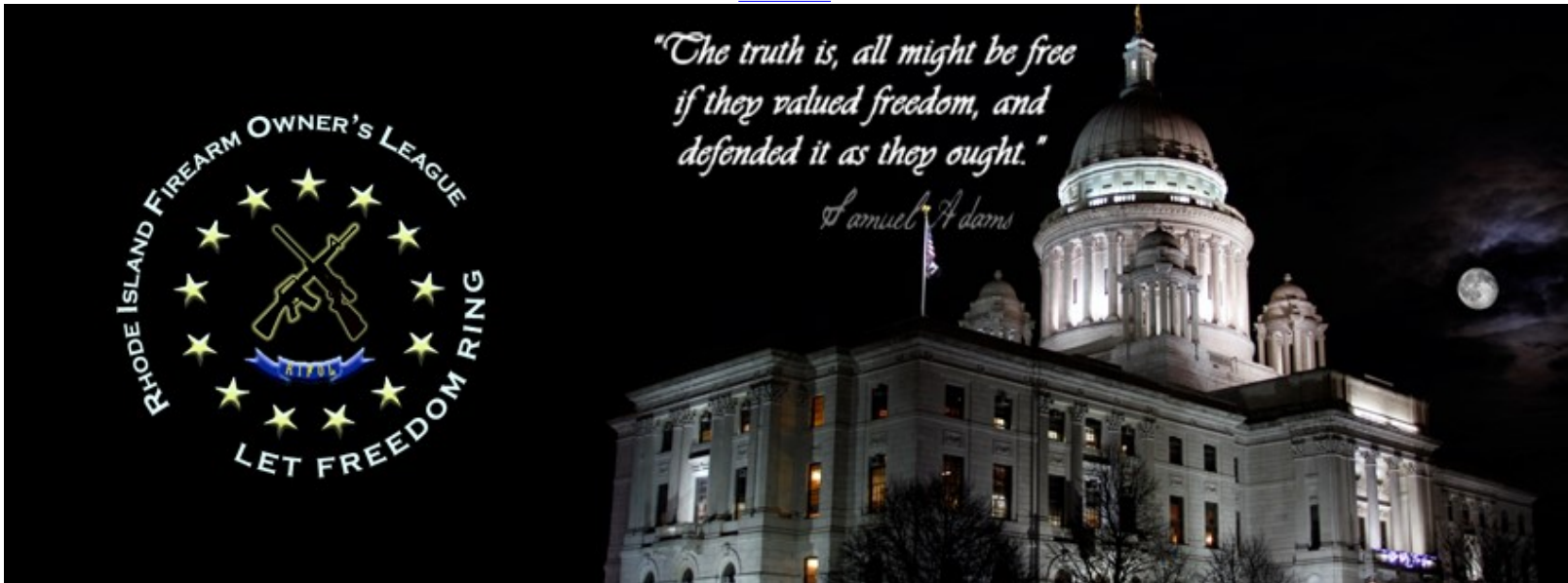
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The Castle Doctrine in Rhode Island

In general around the United States, the "Castle Doctrine" is the concept that a person, when attacked through no fault of their own, in their own home, with what he or she reasonably believes to be potentially lethal force, may defend himself or herself with a level of force necessary, including lethal force, without having to retreat or attempt to retreat from the attacker. In recent years, some states have extended the "Castle Doctrine" so that a person need not be in their home to avoid the retreat requirement. Most states, however, still have this or some other qualification. Contrary to popular belief, Rhode Island does have a Castle Doctrine. Actually, it is a fairly good one which applies in buildings other than one's home, but not on public streets or other outside areas. This article will discuss the Rhode Island's "Castle Doctrine" in detail.

Genesis

The basis of the "Castle Doctrine" here in Rhode Island begins with a 1956 statute and has been clarified and extended by case law from our Supreme Court. That statute, RIGL 11-8-8 reads:

§ 11-8-8 Injury or death - Defense. - In the event that any person shall die or shall sustain a personal injury in any way or for any cause while in the commission of any criminal offense enumerated in § 11-8-2 - 11-8-6, it shall be rebuttably presumed as a matter of law in any civil or criminal proceeding that the owner, tenant, or occupier of the place where the offense was committed acted by reasonable means in self-defense and in the reasonable belief that the person engaged in the criminal offense was about to inflict great bodily harm or death upon that person or any other individual lawfully in the place where the criminal offense was committed. There shall be no duty on the part of an owner, tenant, or occupier to retreat from any person engaged in the commission of any criminal offense enumerated in § 11-8-2 - 11-8-6.

That's a mouthful, but what does it mean? In a nutshell, it means that if you are in a building and someone breaks in, it is usually reasonable for you to think they are going to do serious bodily harm to you and you are presumed to be in the right if you use lethal force in your own defense, even if you do not first attempt to retreat. This provides you, as a defender, with a powerful defense not just to criminal charges, but also in a case where you are sued in a civil court as well. There are a few caveats. One caveat is that you have to be in a building. How do we know it applies to buildings, even though it does not mention them, as opposed to a public street, outdoors? Because it only applies when you are defending yourself against a criminal who is committing a crime defined in RI General Law sections 11-8-2 through 11-8-6, which address "breaking and entering". Those statutes include breaking and entering into a "dwelling house," which is what we typically think is protected by the Castle Doctrine, but also pretty much any other building, including banks, churches, schools, and even ships and railroad cars. The law is drafted so broadly that if there is a building and you're in it, you have a legal presumption of reasonable self-defense if you defend yourself against someone who is breaking in. You do not need to attempt to retreat and you need not own or rent the building, you only need to be an occupant of the building. If you are in a building that is not a dwelling house, the rules are a little more constrained. During the daytime, if you are in a building that is not a dwelling house, the person breaking in must be doing so "with intent to commit murder, sexual assault, robbery or larceny, ..." At nighttime, it can be "with intent to commit larceny or any felony or misdemeanor ..." How are you, as an occupier of a building, supposed to know the intent of the person breaking in? This is a problem with the law and it has not, to my knowledge, been addressed in case law. Still, many times this may not be a problem. Imaging you are in a line at a bank, its 3:00 and the manager has locked the door. A criminal then breaks through that locked door brandishing a pistol and demands all the money in the vault. While it would seem that all the conditions are met, let's hope you never become the test case. In order for this statute to help you, at least two important conditions must be met. First, you must be in a building, ship, railroad car or trailer (of a tractor trailer) AND second, the person against whom you defend yourself must have been breaking in. If it is daytime and the building is not a dwelling house, the criminal must be breaking in with the intent to commit a felony listed above. If at night time, they must be breaking in with the intent to commit a felony or a misdemeanor. If these conditions are met, a prosecutor in a criminal case or a plaintiff in a civil case would have to prove that you were not, in fact, acting in self-defense when you used force to defend yourself. This is actually a pretty difficult burden to prove. That all said, it must be remembered that these are important limitations. In particular, the "breaking and entering" qualification is significant. As this statute is written, if you're in your home, and another person is in there lawfully but attempts to harm you, you're not covered by the plain language of this statute. This is where the case law comes in.

Case Law

The Rhode Island Supreme Court has, through several important cases, defined and extended the "Castle Doctrine." In one case, they placed an important limitation upon it.

State v Fetzik

The first case of relevance and importance to the "Castle Doctrine" here in Rhode Island is State v Fetzik, (1990.RI.0001524). In this 1990 case, Mr. Walter Fetzik was confronted by a man who walked into his apartment through an open door. The man was not invited, but he walked in after a dispute at the apartment

across the hall. The man made threats and at one point appeared to reach under his coat for a weapon. At this point, Mr. Fetzik fired his shotgun at the man, killing him. The plain language of RIGL 11-8-8 would not apply to this circumstance, because the man shot had not broken in. Mr. Fetzik was convicted and upon appeal, the RI Supreme Court held (among other things) "This court has recognized that the General Assembly has by virtue of 11-8-8 created a presumption in favor of one who defends his home against a person who feloniously enters in the event that the intruder sustains a personal injury or dies. Consequently we are of the opinion that defendant was under no duty to retreat when the assailant had entered defendant's dwelling." Through this holding, the court extended 11-8-8 such that if you are in a dwelling house, or at the very least your own home, is someone enters by any means and you defend yourself, you may avail yourself of the protection afforded by RIGL 11-8-8, even if the person against whom you defended yourself did not break in.

State v Walton

The next relevant case extends the "Castle Doctrine" even further. In *State v Walton* (1992.RI.0001105) Mr. Richard Walton invited a guest into his home. The two men were drinking beer and a dispute arose between them. Walton asked his guest to leave, but the guest refused, instead attacking Mr. Walton. In the ensuing conflict, Walton stabbed the guest to death. Walton was later convicted of murder in the second degree, and appealed his conviction. The issue before the court was whether Walton was required to retreat from this guest, and flee from his own home. This case differs from the criteria of the statute because, again, the guest had not broken in. Nor had the guest entered without breaking in but with intent to commit a crime, as in the Fetzik case discussed above. Rather, the man killed was a "social guest" who had been invited in. The court said "We have held that one has no duty to retreat if attacked by an intruder/trespasser. We now hold that one who is attacked in his dwelling by one who initially entered as a social guest but who has become a trespasser by remaining after being ordered to leave is similarly absolved from the duty to retreat."

State v Quarles

In this case, we look at an exception to the "Castle Doctrine," which is a time when you may not use lethal force in your defense, even if you are in your own home, if an avenue of retreat is available and known to you. Simply put, you can't use lethal force against a cohabitant of your home without trying to retreat first. Ronald Quarles was convicted of killing his girlfriend. In his testimony, he said that she attacked him with a knife, that at one point he was able to take control of the knife and leave, but he did not do so. He said that the stabbing was accidental while he was struggling with the victim. Quarles argued that 11-8-8 should provide him a presumption of self-defense, but the court did not agree. Instead the court held "... the obligation to attempt retreat exists where one is assaulted in his or her own living quarters by his or her co-occupant."

Summary

In general, the Castle Doctrine defines times when one may use force, even lethal force, to defend themselves without a requirement to retreat. In Rhode Island, the Castle Doctrine is defined in RIGL 11-8-8 and the accompanying case law. Our Castle Doctrine provides strong protections to someone who defended himself or herself using lethal force under certain circumstances. The strongest protection is provided to those in their own homes, when defending themselves against persons who broke in, who entered without breaking in but with illicit intentions and even against those who were initially guests but later directed to leave and did not, but rather attacked you. The most important exception to this protection is that when attacked by someone who also lives in the home, you must attempt retreat before resorting to lethal force. If you are in a building which is not a dwelling house, you are also protected by our Castle Doctrine against those who would break in to the building you are in with the intent to commit larceny and certain other more serious crimes. If it is nighttime, you are protected when using force against those who break in with the intent to commit a misdemeanor or a felony. In Rhode Island, the Castle Doctrine provides you with no protection if you are attacked in an outside area and do not attempt to retreat first. In all cases where 11-8-8 and the relevant case law does not apply, the basic law of self-defense does apply. This means that when faced even with lethal force, you must retreat or

attempt to retreat if (1) an avenue is available to do so and (2) if you know about this avenue of retreat.

Source: Citizens Rights Action League in Rhode Island (CRALRI)