

CR07-111

07/26/19

SELF-DEFENSE (USE OF DEADLY FORCE)

Evidence has been introduced bearing on the issue of self-defense, as justification for the [killing of (victim)_____] [use of deadly force by (Def)_____]. The State bears the burden of proving that the [killing] [use of deadly force] was unlawful. A [killing] [use of deadly force] committed in lawful self-defense is lawful, and not a crime. Here the State must have proven beyond a reasonable doubt that (Def)_____ did not act in self-defense. [He] [She] has no burden of proof on this issue.

A person has the right to defend [himself] [herself] when [he] [she] is attacked, or when [he] [she] reasonably believes [he] [she] is in imminent danger of being killed or suffering great bodily harm. A person in that situation has the right to use only such force as is reasonably necessary to repel the attack or the perceived imminent danger.

A [killing] [use of deadly force] is justified by self-defense if:

- (1) (Def)_____ reasonably believed that [he] [she] was in imminent danger of being killed or of suffering great bodily harm, and
- (2) (Def)_____’s use of deadly force was reasonably necessary to repel the perceived threat.

The right of self-defense does not require that a person actually be assaulted, but (Def)_____ must have believed that [he] [she] was in imminent danger of great bodily harm, and [his] [her] belief must have been reasonable under the circumstances. [His] [Her] expectation of harm must have been based upon fact, and not on some imaginary fear. Furthermore, if [he] [she] honestly and reasonably believed it was immediately necessary to use deadly force to protect himself from an imminent threat of death or serious bodily injury, the law does not require [him] [her] to retreat.

Self-defense requires that (Def)_____ must have had a reasonable fear of imminent harm. In deciding this issue, you may consider what [he] [she] knew about

(victim)_____ at the time. You may consider any previous interactions, including any aggressive or hostile conduct by (victim)_____, and any other evidence you consider relevant, including who started the confrontation.

When assessing the reasonableness of (Def)_____’s fear, you may consider the individual characteristics of (Def)_____ and (victim)_____, such as their respective size, gender, age, physical condition, strength, stamina, courage, and assertiveness.

Self-defense permits only the amount of force that is reasonably necessary to repel the perceived harm. A person may use the amount of force that reasonably appears to be necessary under all of the circumstances known to [him] [her] at the time. In this case you must decide whether (Def)_____ reasonably believed it was necessary to use the amount of force that [he] [she] did use. When a person has reasonable grounds to believe that an assault is imminent, [he] [she] need not wait until it actually occurs before [he] [she] may resort to self-defense.

Once the issue of self-defense appears in the case, the burden is on the State to prove, beyond a reasonable doubt, that (Def)_____ did not act in self-defense, or that the force used by (Def)_____ was excessive under the circumstances. (Def)_____ is not required to prove that [he] [she] acted in self-defense.