

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice and Trial Division**

STATE OF FLORIDA

CASE NO: 18-CF-004019

v.

RONNIE O'NEAL III,
Defendant.

DIVISION: TD1

**ORDER DENYING DEFENDANT'S AMENDED MOTION TO DISMISS COUNT ONE
OF THE INDICTMENT BASED UPON STATUTORY IMMUNITY PURSUANT TO
FLORIDA STATUTE § 776.032**

THIS MATTER is before the Court on “Defendant’s Amended Motion to Dismiss Count One of the Indictment Based Upon Statutory Immunity Pursuant to Florida Statute § 776.032,” filed on October 28, 2020. The Court held an evidentiary hearing on Defendant’s motion on December 3, 2020. After reviewing the motion and the testimony and evidence presented at the evidentiary hearing, the court file, and the record, the Court finds as follows:

In “Defendant’s Amended Motion to Dismiss Count One of the Indictment Based Upon Statutory Immunity Pursuant to Florida Statute § 776.032”, Defendant requests the Court to enter an order “declaring him immune from criminal prosecution regarding count one in this cause” because “his actions were necessary to prevent imminent death or great body harm to himself and/or his children and they were necessary to prevent Kenyatta Barron from committing a forcible felony (Aggravated Battery, Felony Battery, Attempted Murder) against him and/or his children.” The Defendant alleges that “[t]he circumstances leading to the death of Kenyatta Barron on March 18, 2018 occurred after she attacked Mr. O’Neal in the home they were both living in at the time.”

At the hearing on December 3, 2020, the State stipulated that the Defendant had alleged a prima facie claim of self-defense in his motion, and as such, the burden then shifted to the State to

establish by clear and convincing evidence that the Defendant is not entitled to immunity pursuant to Florida Statute § 776.032 (4). On December 3, 2020, the Court heard witness testimony from James Gray Jr., Thomas Dirks and Dr. Mary Mainland. Also admitted into evidence were two separate 911 calls and numerous autopsy photos.

Florida statutes section 776.012(1) prescribes that “[a] person is justified in using ... deadly force if he or she reasonably believes that using ... such force is necessary to prevent imminent death or great bodily harm to himself or herself or another.” § 776.012(2), Fla. Stat. (2018). Once “a prima facie claim of self-defense immunity ... 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.” § 776.032(4), Fla. Stat. (2018). Clear and convincing evidence is “evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief, without hesitation, about the matter in issue.” Fla. Std. Jury Instr. (Crim.) 3.6(a) (2017).

After reviewing the testimony and evidence presented at the December 3, 2020 hearing, the Court finds that the State has met its burden of proving, by clear and convincing evidence, that the Defendant is not entitled to immunity under section 776.032. Specifically, the Court finds that the State met its burden through the credible testimony of James Gray Jr. Mr. Gray testified that his then-fiancée, now wife, lived next door to the Defendant and Ms. Kenyatta Barron. Mr. Gray was visiting on the night of the incident, and he testified that evening he heard loud screaming and then loud banging on his fiancée’s front door. Mr. Gray initially opened the door to see what was going on outside, but told his fiancée and her daughter to stay inside the home and to call 911. Mr. Gray testified that when he stepped outside he could see two silhouettes at the end of a 6 to 8 foot long foyer, along with blood spatter along the foyer’s walls. One person was a black female on the ground face down, and standing over her was a black male holding onto the black female’s left

arm. The black male was also holding an item in his right hand, but Mr. Gray could not determine what it was. The black female was completely unresponsive, while the black male began shouting “you don’t understand”. Mr. Gray testified that he was attempting to get the black male to back away. At this time, Mr. Gray recognized the black male as the Defendant, and the black female as Kenyatta Barron, as he had seen both of these individuals previously and recognized them as neighbors of his fiancée. Mr. Gray testified that the Defendant continued to yell “Allah Akbar” and “you don’t understand, she killed me”. The Defendant then dropped Ms. Barron’s arm and retreated back into his own residence. Mr. Gray testified that Ms. Barron never regained any signs of consciousness during the entire episode, and he remained outside with her body until law enforcement arrived.

Additionally, introduced into evidence at the hearing was State’s Exhibit 1, which was the 911 call made by Kenyatta Barron at 11:43 PM on the night of the incident. On the 911 call, Ms. Barron is heard screaming “I’m shot, help me please”, and tearfully repeating over and over “I’m so sorry”. At some point on the 911 call, you can no longer hear the voice of Ms. Barron. At approximately 11:47 PM, the voice of James Gary is heard on the 911 call telling his fiancée to stay inside the house and call 911.

The State next called Thomas Dirks¹ with the Hillsborough County Sheriff’s Office. On the incident date Mr. Dirks was an HCSO detective in the homicide division. Mr. Dirks testified that he arrived at the crime scene on the night of the offense, and observed the victim’s body on the ground covered by a sheet. Ms. Barron was partially clothed in a tank top, underwear and socks. She had a gunshot wound to her arm and trauma to her face and upper body. Mr. Dirks also discovered numerous pieces of a shotgun in the general area of the victim, including the barrel,

¹ Mr. Dirks is now a general manager with HCSO.

wooden stock and other miscellaneous mechanical pieces of a shotgun. Mr. Dirks testified that the shotgun had either been broken apart or disassembled.

The State next introduced the 911 made by the Defendant at 11:49 PM on March 18, 2018, as State's Exhibit 2. This 911 call was made approximately six minutes after the 911 call made by Kenyatta Barron. In the Defendant's 911 call he can be heard stating, "I just been attacked, Keke tried to kill me."

The State's final witness was Dr. Mary Mainland, a medical examiner for Hillsborough County. Dr. Mainland arrived at the crime scene on the evening of March 18, 2018 and later performed an autopsy of Kenyatta Barron at the ME's office. Dr. Mainland testified that Ms. Barron suffered a gunshot wound to her right back shoulder, and another much larger gunshot wound to her right elbow, where actual pellets from the shotgun were recovered. Dr. Mainland stated that Ms. Barron's right arm was broken in two separate places, but that these wounds would probably not have been lethal by themselves. Dr. Mainland also testified that Ms. Barron suffered numerous injuries to her head, including over 15 separate lacerations to her head, numerous abrasions and contusions on mainly the left side of Ms. Barron's head, 6-7 fractures of her skull including a fractured jaw, fractured facial bones behind Ms. Barron's lip, and several fractures at the base of Ms. Barron's skull. Several of Ms. Barron's teeth were also missing. Ms. Barron died from brain hemorrhaging as a result of blunt force trauma.

As stated, the Court finds the testimony of Mr. Gray to be credible. The evidence establishes that Ms. Barron was still alive at 11:43 PM on the night in question, when she placed the 911 call begging for help because she had been shot. The evidence establishes that approximately 4 ½ minutes after Ms. Barron calls 911, she is no longer conscious as Mr. Gray can be heard telling his fiancée to go inside and call 911, and Mr. Gray credibly testified that he never

saw the victim move at all from the time he first observed her that night. There is clear and convincing evidence before this Court that Ms. Barron was beaten to death by the Defendant, presumably by the shotgun found broken into pieces by Mr. Dirks, during the intervening 4 ½ minutes from Ms. Barron’s initial 911 call, to the time Mr. Gray stepped out of his home to see what was happening. Other than the Defendant’s self-serving hearsay statement to law enforcement in his 911 call, there is no other evidence to support that the Defendant was in imminent fear of death or great bodily harm to himself or to his children. The assertions made in the Defendant’s 911 call lack credibility as the call was made after Ms. Barron was deceased, and after Mr. Gray, who knows the Defendant and could identify him, saw the Defendant holding onto the lifeless body of Ms. Barron. Consequently, the Court finds the State sufficiently proved Defendant was not in danger of imminent death or great bodily harm during the incident that occurred on the evening of March 18, 2018 that immediately preceded the death of Ms. Barron. **Consequently, the Court finds that Defendant is not entitled to relief.**

It is therefore **ORDERED AND ADJUDGED** that “Defendant’s Amended Motion to Dismiss Count One of the Indictment Based Upon Statutory Immunity Pursuant to Florida Statute § 776.032” is hereby **DENIED**.

DONE AND ORDERED in Chambers, in Hillsborough County, Florida, this 27th day of December, 2020.


MICHELLE SISCO, Circuit Judge

Copies provided via to:
Carolyn Schlemmer, Assistant Public Defender
Ron Gale, Assistant State Attorney