

Could the Trayvon Martin verdict happen in Virginia under its self-defense laws?

Written by Australian Business

September 27, 2013 /**24-7PressRelease**/ -- The death of Trayvon Martin spurred national discussion about Florida's "Stand Your Ground" self-defense laws. At the closing of the case, a Florida jury brought down a decision in favor of the defendant, George Zimmerman. The notorious and highly publicized court decision has sparked confusion regarding [defense](#)

laws in other jurisdictions, including Virginia. For this reason, it is helpful to examine the case in the context of Virginia's self-defense laws, which differ immensely from Florida's legal codes.

The main issue is whether the defendant's actions were legally justified. In other words, did the defendant have protection under Virginia law for shooting the young teen?

First, it is important to note that Florida and Virginia both have laws, which deal with whether the defendant was in his or her home, car or a public place. The Trayvon Martin case dealt with an event that occurred in a public setting. Under Florida's "Stand Your Ground" law, citizens can use fatal force when they reasonably believe that they are in immediate danger.

If a person is in a public place in which he or she is legally entitled (for example, the sidewalk), a person can use deadly force in Florida. Yet, this may not be the case in Virginia. In both states, a person can use deadly force to defend his or her person from a "reasonable fear of death or great bodily harm." However, only in Florida may a person use fatal force to push away forcible felonies, which could occur without a weapon. In Virginia, one assaulted may use only such force as appears to him to be reasonably necessary to repel the attack.

Specifically, if a person were to approach the defendant on the sidewalk in an attempt to steal a wallet -- without a weapon -- the defender could shoot the aggressor in Florida under self-defense principles because the aggressor committed the forcible felony of robbery. Conversely, this is not allowed in Virginia. Virginia mandates that "reasonable fear of death or great bodily harm" exist in order to implement fatal force. Therefore, if a person wants to snatch a person's wallet, this is not enough to justifying killing the aggressor under Virginia's self-defense laws. Especially if the aggressor does not have a weapon, as it is extremely difficult to establish reasonable fear when the aggressor is unarmed.

In the public setting, the main distinction between Florida and Virginia laws rests on the presumption of reasonableness. Florida's controversial laws make room for a presumption of reasonable fear. This is why the outcome is essentially justified in Florida, regardless of whether the aggressor has a weapon in the scenario. This is not the case in Virginia, where it is hard to justify shooting an unarmed person.

Justifiable versus excusable homicide: the duty to retreat in Virginia

"Without fault" self-defense: Assuming the aggressor does have a deadly weapon, and the defendant was without any fault on his part in provoking or bringing on difficulty, the defendant could use deadly force for protection in Virginia. In this scenario, there is no requirement of retreat if there is "reasonable fear of death or great bodily harm." This means that the defendant would not have to back off and try to avoid the situation before applying deadly force. However, this is only true if the threat is reasonable (for example, when the attacker has a weapon) and the defendant is without any fault. If there exists any evidence that the defendant was confronted by an armed person and that the defendant was without any fault, the jury would receive an instruction that it could find the killing justified and the defendant not guilty.

"With fault" self-defense: Yet, Virginia does have a "minutest of faults" doctrine that requires significantly more of a defendant before employing deadly force if he or she was in any way at fault in provoking or bringing on the difficulty. Sometimes known as the "retreat to the wall doctrine", if there was evidence that a defendant was in any way responsible for the altercation, the defendant must retreat as far as possible and announce his or her desire for peace, before employing deadly force to preserve his or her own life or save himself from great bodily harm. In such cases, if the jury finds that the use of deadly was justifiable in that the defendant has done everything in his or her power to avoid fatal aggression, it may find the defendant not guilty.

The Trayvon Martin case

Ultimately, Florida retains a presumption of reasonableness in its "Stand Your Ground" law. Therefore, if someone is attacked in a public place, a defender can generally use lethal force -- whether or not the aggressor has a weapon. Yet, under Virginia's case law, the existence of a weapon and the level of fault of the defendant are very important. In the Trayvon Martin case, the aggressor was weaponless and George Zimmerman arguably may have been partly responsible for the confrontation in the first place. There was also little evidence that Zimmerman retreated as far as possible before employing deadly force or announced his desire for peace.

This case helps demonstrate the crucial distinctions in self-defense law, based on one's jurisdiction. Had the Trayvon Martin case played out in Virginia courts, the result could have been very different.

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If you have been [charged](#) with a serious crime, take the time to meet with an experienced criminal defense attorney. Criminal law is extremely complex, and it takes professional consideration to study and assess a case.

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