

Standing Your Ground

By Lottie Gidal
News Editor

The trial for the August shooting in downtown Iowa City is the first major test of major stand-your-ground legislation passed earlier this year in the Iowa Congress. Many are worried that this law will disproportionately affect minorities.

One August morning, shots were fired in downtown Iowa City. 22-year-old Kaleek Jones was shot, along with two other men, and after remaining in critical condition for several days died in the hospital. Police charged Lamar Wilson of Iowa City with the murder, but then something changed.

Wilson's lawyers argued that he was justified in using force to protect himself. They used a stand-your-ground defense, citing the passage of a sweeping firearms law (House File 517) passed on July 1st in the Iowa legislature, and signed by then Governor Terry Branstad. The lawyers argued that because of this Wilson should be able to avoid prosecution if he establishes that he acted within the confines of the law.

"Lamar Wilson was lawfully in possession of a firearm and was lawfully concealing it on his person at the time he and others on the pedestrian mall were attacked," stated Wilson's lawyer John Bruzek in a motion filed on October 20th.

House File 517 states that a person does not have to retreat before using deadly force to defend themselves if they believe their life is in danger. Even if they interpreted the threat incorrectly, meaning that the person was not in immediate danger, they would still be found justified.

"HF 517 was the most significant firearms-related legislation in recent history," said Derek Drayer, the Communication Director of the Iowa Firearms Coalition, the first organization to support the law. "IFC was proud to work with the members of our legislature and support this legislation."

Wilson's lawyers called for a special evidentiary-based hearing and asked that if the judge found the shooting to be justified he would dismiss the case based on HF 517.

However, Sixth Judicial District Judge Paul Miller ruled on November 3rd that the stand-your-ground plea used by Wilson's lawyers could not be used until after the trial. Judge Miller said that he would hear both sides of the case and return with a ruling on the immunity issue afterwards, referencing State v. King, a similar Iowa case from 1989.

This case is one of the first major legislative tests of HF 517. When the law was first being discussed in the Iowa Legislature, many Democrats were especially concerned by the stand-your-ground provision. Representative Ras Smith spoke out against it by standing in front of the congress and pulling on a hoodie at the end of his speech, drawing attention to the fact that stand-your-ground laws are notorious for disproportionately affecting

minorities, specifically young black and Latino men.

"My role in stand-your-ground was to really do some research and to inform my caucus of what had happened in the past where we have seen this legislation and how it has impacted those communities," said Rep. Smith. "What we found is that [stand-your-ground] disproportionately and unfairly impacted minority communities more than any other in states where that legislation was input."

A study found in identical cases where the only difference was the race of the shooter and victim, juries were twice as likely to convict the perpetrator of a crime against a white person than against a person of color. A study analyzing FBI data found that homicides were found to be justified in 35% of white-on-black shootings, and only about 3% of black-on-white.

The study was conducted by researching 204 Florida stand-your-ground cases. Florida was the first state in the nation to enact such a law, and since then, 33 more states have followed. It was there that the infamous shooting of 17-year-old Trayvon Martin sparked national outrage in 2012. The shooter, George Zimmerman, was acquitted based on stand-your-ground.

"We as human beings have implicit bias. It's not something that we can control without training," said Rep. Smith. "Unfortunately, in this country our media teaches us certain things, it vilifies certain individuals that look a certain way."

The past few years has begun a discussion of how the news media may or may not further implicit bias. A 2015 study conducted by the University of Houston's Temple Northup found that the news overrepresented African-Americans as criminals.

"Based on the findings from the study in the U.S., long-term exposure to local television news, wherein African-Americans are depicted frequently and stereotypically as criminals, predicted increased negative implicit attitudes toward African-Americans," said Northup. "Viewers who watched more local television news demonstrated more unconscious negative attitudes toward African-Americans."

In each of those 33 states that has some form of the stand-your-ground law, the exact language can vary. At least 24 states do not require the shooter to retreat before shooting, and at least 22 provide civil immunity under certain circumstances.

In Iowa, both are true. But HF 517 did not only contain stand your ground provisions.

"It is now legal for underage shooters to learn how to shoot a handgun under the direction of an adult," said Drayer. "We believed that this restriction on the discretion of adults in Iowa was a tremendous overreach. Protecting the privacy of concealed-carry holders, redefining hostile language pertaining to armed with intent, emergency power restrictions, capitol carry, and stand-your-ground defense were also included. These expanded the rights of Iowans and make people safer."

"It's not a gun-rights or a gun-advocates issue," said Rep. Smith. "Stand-your-ground is more of a self-defense issue, but sometimes people can get misconstrued."

Self-defense is often equated with guns in today's world, as that is the most common way to defend oneself. So Smith, a gun owner and hunter, has definite views on the role of government when it comes to gun legislation.

"There were parts of that bill that I had issue with, such as the age for shooting," said Rep. Smith. "We lowered the age for

allowing handgun safety to be taught to kids in the state of Iowa to eight years old—or really however old you want it to be—with a parent or guardian. Now, those are things that I didn't necessarily oppose...that's a family and a parenting decision. I don't necessarily agree with it as a parent, but I also don't agree with the government dictating what, as a parent, you can and cannot teach your child. I think that if you are willing to assume that risk as a parent that that is not a place for the government to overstep."

But there are so many different facets to stand-your-ground that Rep. Smith does not believe that legislation can cover them all. In the Lamar Wilson case, for example, gang activity and gang affiliation were involved, and he says that this changes the way stand-your-ground should be interpreted.

"I think that that is one of the very dangerous things about this stand-your-ground legislation is...all those nuances legislation can't really account for," said Rep. Smith. "I think that's a loophole that myself and the district attorneys for several counties are very much opposed to because it does give loopholes for those who are gang-affiliated. They kind of get a 'get out of jail free' card."

All of these different aspects to stand-your-ground have made interpreting how the law can be applied incredibly difficult. Wilson's case is the first of many ways in which it will be applied in Iowa.

But while Florida was the first state to codify stand-your-ground in 2005, these laws far predate that legislation, dating from 17th-century England. English common law stated that when being threatened or attacked by another, there was a duty to retreat. Then, if there was no other means of escape, deadly force could occur. A self-defense argument could only be used for homicide if the defendant could prove that they were preventing

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death or serious bodily harm. English law attempted to preserve human life as much as possible, but this changed when the law began to be used in the colonies.

Castle Doctrine Law, the name given to these self-defense regulations in 18th-century America, compared one's home to a castle and carried over the idea of justified deadly force when defending the home. It stated that there was no need to retreat in one's own home and that deadly force could be used despite a lack of force originally exerted by the other party and regardless of a lack of fear of imminent death.

Over the years, the definition of a person's 'castle' has extended to include public spaces. In *Brown v. US* (1921) the court ruled that a person did not have to retreat in any place that they felt threatened before using deadly force.

Iowa had previously passed some self-defense laws, but nothing quite as extensive as stand-your-ground.

"We expect to see some further clarification from the legislature on this topic in 2018," said Drayer. "Stand-your-ground will likely be a hot topic if it is ever tested in court. We found some common misconceptions and weaknesses in the self-defense laws in Iowa, but we believe this addition will extend Iowans' gun rights beyond the home and make people safer."

However, it has been shown that there is a correlation between the states with the strictest gun laws and the ones with the least number of homicides.

Especially in the past few months, there has been a slew of mass shootings across the country, from Las Vegas to a small town in rural Texas. Many people are asking what can be done to stop these killings. But legislative response has been next to nothing.

"As a gun owner, the last thing that I want is someone shooting a gun that shouldn't have one," said Rep. Smith. "We can make it damn difficult, and if we do that we are doing our jobs. If we continue to look at this as a political issue we are going to continue to keep failing not only the people of Iowa but the country as a whole. We owe people safe communities."

Smith believes that gun violence should not be treated as a political

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issue, citing the polarization that has occurred between the left and right on that issue.

"Gun violence is a public health issue, not a political issue," said Smith. "You're not going to stop the flu, you're going to make it way harder for people to get it by making a vaccination."

There are huge disagreements between the left and right as on how to handle stand-your-ground, and more widely, the entire issue of gun ownership. But Smith says that the first thing to do is start a conversation.

"A couple weeks back I did a discussion with a class at UNI. What I found out was that those extremely liberal students there on campus were expecting me to come in and do a bunch of 'I told you so' to the Republican students in that class. That's not what I'm about. Because if we are going to move things forward we have to be inclusive of everybody. We have to find that common ground."

And that common ground is not so far off. According to a study by the Pew Research Center, 90% of Democratic gun owners and 88% of Republican owners are in favour of preventing the mentally ill from purchasing guns. 86% of Democratic owners and 70% of Republican owners are in favour of background checks for gun sales at private shows.

"I believe there is a place in our community for guns, but how do we do it safely? How do we do it so nobody feels attacked?" said Smith. "We have to really change the tone of the conversation because if we keep blaming each other, we are never gonna get anywhere."

But when it comes to stand-your-ground, Smith is quite sure. "Because at the end of the day, I don't care about your implicit bias. I care that you took somebody's life," said Smith. "And this law makes it so that you can."

ABOVE: The downtown Iowa City ped mall at night, the scene of the shooting that took place in early fall, killing two men and injuring another PHOTO COURTESY OF THE PRESS-CITIZEN
ABOVE: Models posed in humanize my hoodie sweatshirts PHOTO BY JONAH TERRY