

Stand your ground's 'forcible felony' standard will be tested in 2015 undercover shooting

Attorney says John DeRossett thought police were kidnapping his niece

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BREVARD COUNTY, Fla. – A man accused of opening fire on three Brevard County deputies during a prostitution sting at his home in 2015 will use Florida's stand your ground law to seek immunity from prosecution.

In a recorded hospital bed interview the night of the shootout, John DeRossett, who 65 at the time, told a police officer he had no idea the men pulling his niece, Mary DeRossett Ellis, from his Cocoa home the night of Aug. 20, 2015, were sheriff's deputies.

I didn't know who they were," DeRossett said. "It could have been the man in the moon, it could have been anyone. Who knows?"

Under Florida's stand your ground statute a person is justified in the use of deadly force to prevent "the imminent commission of a forcible felony." In this case, the defense argues, that felony was a perceived kidnapping.

Orlando attorney Michael Panella said all the evidence points to a solid argument for immunity for his client under the new law, which went into effect in 2017. He will argue that during a hearing later this month.

DeRossett is charged with three counts of attempted murder of a law enforcement officer.

"The whole thing comes down to whether or not John DeRossett knew that the people at his house were police officers," Panella said. "What he perceived was an ongoing kidnapping."

In a sworn deposition, Officer John Casey Smith, who was hit in the lower abdomen the night of the shooting, said he did not recall anyone yelling, "Sheriff's Office."

According to police records, when DeRossett emerged from the back bedroom of his home he pointed his pistol upward and fired a warning shot.

Panella said that shot ignited a wave of gunfire of more than 40 shots.

"There was a volley of gunshots between all four of these people," Panella said. "In his mind, she (Mary Ellis) was being kidnapped and he had the legal right, at his own house to use a gun, (firing) a warning shot, saying let her go."

DeRossett said Ellis was screaming when he emerged from his home.

After her uncle was shot, she called 911 and told the dispatcher she didn't know who the men were.

Police said they had come to the residence after setting up a sex sting, posing as a john to contact Ellis on the Backpage.com website, recently seized and shut down by federal investigators.

Under Florida chapter 776.012, a person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.

The statute also notes that a person who uses or threatens to use deadly force in accordance with this subsection **does not have a duty to retreat and has the right to stand his or her ground** if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

Panella said police said they identified themselves to Ellis, but “that doesn’t change what my client perceived when he came out of the back bedroom.”

“I’m convinced that my client is telling the truth,” he said. “I hope the court applies the facts to the legal standard in this case in a way that is favorable to us.”

The hearing will be held in Brevard County Circuit Court on Aug. 27 before Circuit Judge Robin Lemonidis and is expected to last up to four days.