

STAND YOUR GROUND AND SELF-DEFENSE

There is no duty to retreat.

Deadly Force: A person may use deadly force in self-defense if she

1. Is without fault;
2. Is confronted with unlawful force; and
3. Reasonably believes that she is threatened with imminent death or great bodily harm.

‘Stand Your Ground’ is not a law. The Defendant uses an Affirmative Defense called Self-Defense. If the jury accepts the Affirmative Defense, then the Defendant’s actions are legally **justified** and hence not appropriate for criminal punishment.

‘Stand Your Ground’ is widely misunderstood- from there being no legal duty to retreat and that the term ‘Stand Your Ground’ is not a legal pleading; the proper term is Self-Defense (as a Affirmative Defense). The word “affirmative” in the term refers to the requirement that the defendant prove the defense- as opposed to negating the prosecution’s evidence of an element of the crime.

The Burden of Proof for the Defendant: The Defendant must offer proof at trial supporting the affirmative defense, meeting the standard of proof set by state law (usually a preponderance of the evidence (which is a 50% certainty that the Defendant was, in fact, justified in the use of self-defense- which is a lesser standard than the Prosecution’s [beyond a reasonable doubt, or 99% certainty that the Defendant committed all elements of the crime). If the jury concludes that a preponderance of the evidence supports the defendant’s claim of self-defense, it must acquit.