



Written by [Alex Newman](#) on August 10, 2012

Zimmerman Seeks “Stand Your Ground” Hearing to Dismiss Charges

George Zimmerman, accused of murder by state prosecutors in Trayvon Martin’s fatal shooting, will be seeking a hearing aimed at getting the charges dismissed by a judge before the case even goes to trial, his attorney announced on Thursday in a widely anticipated move. Legal analysts say that, based on Florida’s “Stand Your Ground” self-defense law and available evidence, Zimmerman has a good chance at success. An attorney for Martin’s family, however, vehemently disagreed.



Under state law, a defendant asserting self-defense may request a hearing with a judge to get the charges thrown out before the case actually makes it to a jury trial. Still, the burden is much steeper. In a regular trial, prosecutors must prove guilt beyond a reasonable doubt. But in a “Stand Your Ground” hearing, Zimmerman and his defense team will have to convince the judge that the evidence in the case points to justified self-defense.

“Now that the State has released the majority of their discovery, the defense asserts that there is clear support for a strong claim of self-defense,” Zimmerman’s legal team, led by attorney Mark O’Mara, said in a [statement](#) released online on the official defense website. “Most of the arguments, witnesses, experts, and evidence that the defense would muster in a criminal trial will be presented in the ‘Stand Your Ground’ hearing.”

The hearing will hinge on whether or not the presiding judge can be persuaded that Zimmerman had a “reasonable” fear of death or great bodily harm — the standard for invoking Florida’s Stand Your Ground law. If the court rules in his favor, Zimmerman would be immune from criminal prosecution and civil actions related to the February 26 shooting in the town of Sanford. If not, absent a plea deal, the case will go to a jury trial.

According to O’Mara, the upcoming hearing will be like a “mini trial,” allowing the defense to present its evidence and witnesses before the judge. Preparing for it will require the same amount of time and resources that would be necessary to prepare for an ordinary trial, the defense team added in the statement. But the fact that all of the evidence will be presented, legal analysts said, could be one of the strategy’s potential pitfalls: It will give prosecutors a chance to find out exactly what the defense plans to argue at trial if the case ends up going that far.

Experts, however, believe that Zimmerman has a good chance at beating the case during a hearing — at least based on the evidence that has been released by prosecutors so far. “He’s assaulted, and he claims he’s on the ground, fighting for his life. I don’t see how a judge does not grant that motion,” Florida defense lawyer Robert Buonauro, who has worked on multiple “Stand Your Ground” cases, [told](#) the *Orlando Sentinel*. “He was in a place where he had a right to be. He wasn’t violating any laws. He was attacked. There’s no other witness to contradict his testimony.”



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Numerous other defense attorneys quoted in media reports expressed similar sentiments, with most arguing that Zimmerman had a very good chance of getting the charges dropped during a Stand Your Ground hearing. It is also highly probable that Zimmerman, as the only surviving witness to the shooting, will testify in his own defense. But that could work for or against him.

One of the biggest issues surrounds Zimmerman's credibility. Seminole County Circuit Judge Kenneth Lester, who is overseeing the case and has refused to step down, already indicated that he does not trust the defendant. Citing Zimmerman's initial failure to disclose well over \$100,000 raised from supporters during a bond hearing, as well as a second passport he did not surrender after being released on bail, the judge even [suggested](#) Zimmerman may have been preparing to flee.

Still, medical records and photographs taken shortly after the shooting show that Zimmerman, consistent with his original story, [suffered from](#) a broken nose and several injuries to the back of his head. According to Zimmerman's account, after reporting a suspicious person to police, he walked back to his truck. Then, Martin attacked him and beat him while he was pinned to the ground before Martin allegedly reached for Zimmerman's pistol. Zimmerman said he was finally forced to shoot in self-defense.

Florida's Stand your Ground law, enacted in 2005 and still [overwhelmingly supported by most Americans in polls](#), protects the right to self-defense without having to retreat in certain circumstances. "A person who is not engaged in an unlawful activity ... has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony," the law states.

Zimmerman, then, must convince the judge that he "reasonably" believed shooting Martin was necessary to prevent his own death or serious injury. And numerous high-profile legal experts, most notably Harvard University law Professor Alan Dershowitz, have [blasted prosecutors](#) for continuing to pursue the case despite so much publicly available evidence that is consistent with Zimmerman's self-defense claims.

But attorney Benjamin Crump, who represents Martin's parents, released a statement on Thursday claiming to be confident that Zimmerman would lose at the upcoming hearing. The family, he added, believes that the case "should and will" be decided by a jury during a criminal trial. "A grown man cannot profile and pursue an unarmed child, shoot him in the heart and then claim stand your ground," Crump [said](#). "Trayvon's parents do not feel that this is a man that feared for his life the night he shot and killed their child, this is a man whose only fear is spending his life in prison."

Prosecutors originally declined to file charges in the case. But after a hysterical media frenzy and a wave of protests whipped up by race profiteers like Al Sharpton and Jesse Jackson — Martin, 17, was black, while Zimmerman, 28, is Hispanic — Florida Governor Rick Scott appointed a special prosecutor to investigate the case. Authorities eventually decided to pursue second-degree murder charges against Zimmerman.

Race activists and anti-gun zealots had originally hoped to exploit the tragedy for profit and political gain, seizing what they thought would be an opportunity to raise funds and restrict self-defense rights. However, it appears that the rush to judgment may have been premature, and the oftentimes deceptive media reporting has caused a strong backlash among critics.

Zimmerman's Stand Your Ground hearing will probably not take place for at least several months,



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according to defense attorney O'Mara. Some analysts said it might not happen until next year. Experts cited in press reports also believe that even if the judge rules in Zimmerman's favor, it might not be the end of the saga — prosecutors could still decide to appeal the ruling.

Zimmerman is currently [out on \\$1 million bail](#) under severe restrictions. His wife, Shellie, meanwhile, was [charged with perjury](#) for failing to disclose the funds raised online for Zimmerman's defense during the original bond hearing. She is also out on bond.

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Photo of George Zimmerman (left), Mark O'Mara, and Sean Hannity



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