



Written by [Alex Newman](#) on August 14, 2012

Zimmerman Will Not Rely on “Stand Your Ground,” Defense Attorney Says

After announcing last week that George Zimmerman would [seek a “Stand Your Ground” hearing](#) to get the murder charges dismissed in the February shooting death of Trayvon Martin, defense attorney Mark O’Mara said Monday that his client would now be relying on a traditional self-defense argument instead. The lawyer argued that Zimmerman had no way to flee as Martin had him pinned to the ground, making “Stand Your Ground” protections unnecessary to win the case.



The latest development also proved to be an embarrassment for activists and anti-gun journalists who sought to demonize the Stand Your Ground law in the wake of the shooting. When the tragedy became national news, in typical fashion, [anti-gun zealots](#) and [some Democrats](#) promptly tried to exploit it, lobbying for more restrictions on the rights to self-defense and to bear arms. Certain establishment media outlets attempted in vain to manufacture a bogus “controversy” over Stand Your Ground laws, too.

Following months of phony hysteria, however, polls still showed that Americans were [overwhelmingly in favor of concealed-carry laws and the right to use deadly force in self-defense even in public settings](#). Zimmerman’s defense team indicated early on that they may not invoke Stand Your Ground in the case. But now that it has become official, more than a few mainstream media outlets and anti-Stand Your Ground lobbyists have been left with egg all over their faces.

The defense team still plans to seek immunity from criminal and civil charges during a hearing before the judge. Under state law, before the case goes to a regular jury trial, defendants may request a separate proceeding. The burden is higher: Zimmerman will have to persuade the judge that the evidence points to justified self-defense, rather than prosecutors having to prove guilt beyond a reasonable doubt. But it could bring the case to an early close.

If the defense succeeds during the hearing, the criminal charges against Zimmerman would be dropped and he would be protected from civil actions related to the fatal shooting. Prosecutors may appeal the ruling if Zimmerman is cleared. However, if the court denies Zimmerman’s motion to have the charges dismissed, absent a plea deal, the case will eventually go to a trial by jury.

Analysts say Zimmerman has a very good chance of succeeding at the hearing despite statements issued by an attorney for the Martin family. Numerous prominent experts including Harvard law Professor Alan Dershowitz have [slammed prosecutors](#) for continuing to pursue the charges and for concealing key information in the case that favored Zimmerman.

Still, evidence released so far tends to support Zimmerman’s claims of self-defense, according to legal experts. Medical reports, injury photographs, witness statements, and more all [indicate](#) that Martin was on top of Zimmerman, beating him, before the fatal shot was fired. Zimmerman’s nose was broken and



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he had multiple wounds on the back of his head, for example. And if Zimmerman's account is indeed true, that would mean he could not have retreated even if he had wanted to, making a traditional self-defense argument more plausible.

"The facts don't seem to support a 'stand your ground' defense.... I think the facts seem to support that though we have a stand-your-ground immunity hearing, what this really is, is a simple, self-defense immunity hearing," Zimmerman's defense lawyer O'Mara was [quoted as saying](#) by the Associated Press. "My concern with even calling it a 'stand your ground' hearing is we need to be more realistic. I've said from Day One we need to wait until all the evidence comes out."

Before Florida's Stand your Ground law was enacted in 2005, individuals often had a "duty" to at least attempt to retreat, if possible, before defending themselves. However, lawmakers in more than 20 states eventually decided that endangering people's lives by forcing them to run from would-be murderers, rapists, or other assailants before attempting to fight back was bad policy — as was prosecuting and jailing people who were simply trying to defend themselves or their loved ones from danger.

The Stand Your Ground law in Florida states: "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." In other words, if there is a reasonable fear of death or great bodily harm, would-be victims may defend their lives without fear of prosecution.

In the Zimmerman case, according to O'Mara and legal analysts, there was no way for Zimmerman to run anyway. "He wasn't in position where I think there was any suggestion where he could retreat, which he is allowed to do under the statute," O'Mara explained. "People look at 'stand your ground' and immediately think somebody's standing there with deadly force — be it a gun or a weapon — and having the opportunity to back up but not having the need to under the statute. I think the evidence in this case suggests that my client was reacting to having his nose broken and reacted to that by screaming out for help."

Experts cited in press reports said the latest legal strategy indicates that the defense is so confident about the strength of its case that it does not feel the need to invoke Stand Your Ground protections, which are broader than typical self-defense laws. On the other hand, however, it could be that the 2005 statute is simply irrelevant: According to Zimmerman, he was not "standing his ground," he was on the ground fighting for his life.

Zimmerman's defense team will also be [appealing a decision](#) by Seminole County Circuit Judge Kenneth Lester not to step down from the case. While O'Mara said he thinks the judge is "very fair," several incidents in recent months have become cause for concern. In early July, for example, Judge Lester clearly indicated that he did not trust Zimmerman after the court [agreed](#) with prosecutors that the defendant and his wife allegedly misled the court about how much money they had raised from supporters.

After being ordered back to jail, Zimmerman was eventually [freed on a \\$1 million bail](#) — far higher than the previous bond. But Judge Lester used "gratuitous, disparaging" language in his ruling, the defense claimed. According to O'Mara, the statements displayed "bias," and so, the judge should recuse himself from the case. "Mr. Zimmerman has lost faith in the objectivity of this court and has a reasonable, well-



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founded fear that he will not receive a fair trial by this court,” the defense said in a filing. A state appeals court is expected to rule on the motion sometime in the coming weeks.

The hearing with a judge to dismiss the charges will not take place for at least several months — possibly not until next year, according to legal experts. In the meantime, Zimmerman is living in Seminole County, Florida, like a “hermit,” his attorney [told](#) reporters. He is also running low on funds for his defense and may ask the court to declare him indigent.

Photo of George Zimmerman: AP Images

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