

MICHIGAN SUPREME COURT



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SHOOTER'S SELF-DEFENSE CLAIM AT ISSUE IN CASE SUPREME COURT WILL HEAR IN DEARBORN FOR 'COURT COMMUNITY CONNECTIONS' PROGRAM Dearborn-area high school students to hear oral argument, meet Supreme Court justices

LANSING, MI, May 2, 2011 – A Detroit man who claims self-defense in a shooting will have his case heard by the [Michigan Supreme Court](#) on May 10, when the Court convenes in Dearborn for “[Court Community Connections](#),” a Supreme Court program aimed principally at high school students.

The defendant in [People v Richardson](#) shot and seriously wounded two people during an altercation with his neighbors, who were standing outside the defendant's home. The defendant said that he feared for his wife and himself when one of the neighbors started hitting his screen door with a baseball bat. He was also fearful because of the neighbors' earlier hostility and because he believed that the two people he shot had been drinking and taking drugs, the defendant asserted. A jury found the defendant – who had no prior criminal record – guilty of assault and felony-firearm; the Michigan Court of Appeals affirmed those convictions. On appeal, the defendant argues in part that the trial judge did not properly instruct the jury on the elements of self defense, particularly as to whether the defendant had a duty to retreat from the attack.

The Supreme Court, which normally hears oral arguments at the Michigan Hall of Justice in Lansing, will hear oral argument in *Richardson* at the Ford Community and Performing Arts Center. Students and educators from Dearborn High, Fordson, Edsel Ford, Divine Child, Riverside Academy, and Henry Ford Academy will attend the 12:15 p.m. court session in the Michael A. Guido Theater Auditorium. Students and teachers will study the case in advance with the help of local judges and attorneys. Following the argument, the students will meet with the attorneys in the case for a debriefing.

This event is also open to the public, with reserved seating in the balcony. Seating is limited; those wishing to attend are encouraged to arrive early.

Chief Justice Robert P. Young, Jr. said that the Court started “Court Community Connections” in 2007 as an educational program. “Courtroom dramas, such as ‘Law & Order,’ are very popular, but they show little of what goes on at the appellate court level,” Young said.

“And yet, appellate courts make decisions that can profoundly affect peoples’ lives. Through this program, students not only learn about the appellate process; they get to see it in action.”

“Court Community Connections” takes the Court to different communities throughout Michigan, Young added. “The communities that have hosted us for these programs have been unfailingly gracious and supportive, and Dearborn is no exception. My fellow justices and I are very grateful to Dearborn’s educators and students, 19th District Court judges and staff, the city of Dearborn, and local attorneys for making this event possible.”

Dearborn’s 19th District Court Chief Judge Mark W. Somers said he sees “Court Community Connections” as a valuable experience in state government. “The judicial branch is probably the least understood of the three branches of government,” the judge said. “By participating in this program, students will see one aspect of their government at work. We hope that, through this event, students, teachers, parents, and the community will have a better understanding of their justice system and its role in their lives.”

Please note: The following summary provides a brief account of a complex case and may not reflect the way that some or all of the Court’s seven justices view the case. The attorneys may also disagree about the facts, the issues, the procedural history, or the significance of the case. Briefs are online at http://www.courts.michigan.gov/supremecourt/Clerk/MSC_orals.htm. For further details about the case, please contact the attorneys.

PEOPLE v RICHARDSON (case no. 141752)

Prosecuting attorney: Toni Ann Odette/(313) 224-2698

Attorney for defendant Donald C. Richardson: Marla R. McCowan/(313) 256-9833

Trial Court: Wayne County Circuit Court

At issue: During an altercation with his neighbors, who were standing outside the defendant’s home, the defendant shot two people, seriously wounding them. The defendant was charged with intent to do great bodily harm less than murder and possession of a firearm during the commission of a felony. The defendant claimed that he acted in self-defense, saying that he feared for his wife and himself when one of the neighbors started hitting his screen door with a baseball bat. The defendant also testified that he and his wife were fearful because the neighbors, who had been hostile to them before, had been drinking and taking drugs. A jury found the defendant guilty of assault and felony-firearm. The defendant challenged his convictions in the Court of Appeals, claiming in part that the evidence showed he acted in self-defense. But the Court of Appeals affirmed the defendant’s convictions. Did the defendant have a duty to retreat? Was there sufficient evidence to support defendant’s convictions? Was the jury properly instructed on the elements of self-defense? Was the defendant denied his constitutional right to due process because the trial court was allegedly biased against him?

Background: On September 25, 2008, Donald Richardson’s wife and several other people were throwing eggs and rocks, and yelling at each other, outside Richardson’s home on Forrer Street in Detroit. The altercation included Richardson’s neighbors Teresa Moore and Brandy Abrams. Following an exchange of threats and vulgar remarks, Abrams picked up a baseball bat and struck at the Richardsons’ porch railing and screen door. Dennis Dinwiddie, who was drinking beer at Moore’s house next door, came over and, according to his later testimony, tried to lead Abrams away. Richardson, who had pulled his wife inside the house, took out a gun and started

shooting, hitting Abrams four times and Dinwiddie twice. Richardson reloaded his revolver and waited on his porch until the police and EMS arrived.

Richardson was charged with two counts of assault with intent to do great bodily harm less than murder (MCL 750.84) and possession of a firearm during the commission of a felony (MCL 750.227b). Richardson claimed self-defense, asserting that he honestly and reasonably believed that he and his family were in imminent danger of severe injury or death. At trial, Richardson testified that Abrams broke his glass screen door and hit him in the chest with the baseball bat; moreover, Richardson said, Abrams, Dinwiddie, and Moore had threatened him. Richardson also saw Dinwiddie running toward him but, Richardson said, he could not see if Dinwiddie was carrying anything in his hand. Richardson testified that Moore's friends or relatives had acted in a threatening manner toward him in the past, but that the police did not help. Richardson presented evidence that he has a reputation for being law-abiding and peaceful; he had no prior criminal record and had lived for 34 years at the same address without incident. He also presented evidence that Abrams and Dinwiddie were under the influence of both alcohol and drugs during the altercation, and that he knew this at the time.

Other witnesses testified that Abrams did not walk onto the Richardsons' porch. No other witness testified that Abrams hit Richardson with a baseball bat, or that she broke Richardson's screen door as he claimed. (Later, Richardson conceded that he did not testify truthfully about Abrams hitting him with the bat.) Other witnesses either denied threatening the Richardsons, or admitted to making the threats, but only from Moore's porch.

The trial judge instructed the jury on self-defense, using CJI2d 7.16, "Duty to Retreat to Avoid Using Deadly Force": "A person can use deadly force and self-defense only where it is necessary to do so. If the Defendant could have safely retreated but did not do so, you may consider that fact in deciding whether the Defendant honestly and reasonably believed he needed to use deadly force and self-defense. However, a person is never required to retreat if attacked in his or her own home, nor if the person reasonably believed that the attacker is about to use a deadly weapon, not if the person was subject to a sudden fear and violent attack."

For purposes of self-defense, a person's "own home" includes "curtilage," meaning "land or yard adjoining a house usually within an enclosure," the judge explained. The judge added that the definition can include "a structure or shelter that is used permanent or temporarily as a place of abode ... like ... enclosed porches...." Richardson's attorney expressed satisfaction with the court's instructions. Later, when the jury was having trouble reaching a verdict, the judge reinstructed the jury on self-defense, and again, Richardson's attorney indicated that he was satisfied with the jury instruction. However, the judge declined the defense attorney's request to define "curtilage" again.

The jury found Richardson guilty of two counts of assault with intent to do great bodily harm and felony-firearm. The judge sentenced Richardson to 36 to 120 months in prison for each assault conviction and two years for the felony-firearm conviction.

Richardson appealed, but the three-judge Court of Appeals panel affirmed his convictions in a unanimous, unpublished opinion. With regard to Richardson's self-defense argument, the Court of Appeals held "that the prosecutor established, beyond a reasonable doubt, that when defendant [Richardson] shot Ms. Abrams and Mr. Dinwiddie, he did not have an honest or reasonable fear of imminent harm." The panel went on to say:

"Defendant's best evidence to support his theory of self-defense is that Ms. Abrams yelled at and threatened Mrs. Richardson while carrying a bat, and she admittedly hit defendant's porch railing and screen door with the bat. However,

ample other evidence showed that Ms. Abrams never walked up onto the porch to physically confront Mrs. Richardson or defendant, defendant had pushed Mrs. Richardson inside the house when Ms. Abrams hit the porch and door (thus getting her out of the way of any potential harm), defendant had armed himself earlier in the day with three loaded guns, Mr. Dinwiddie attempted to defuse the situation by pulling Ms. Abrams away from the confrontation, the two were heading back toward Ms. Moore's house when defendant began to shoot, and the first shot coming from defendant's gun hit Mr. Dinwiddie in the back. This evidence, if believed by the jury, establishes beyond a reasonable doubt that defendant could not have had a reasonable belief that he needed to use deadly force against either Ms. Abrams or Mr. Dinwiddie to prevent imminent death or great bodily harm to himself or his family."

The Court of Appeals also rejected Richardson's claim that the trial judge was biased against him and had a "hostile attitude" toward his attorney when the lawyer was cross-examining Abrams. "The record reflects, however, that the trial court was merely attempting to control defense counsel's improper cross-examination," said the Court of Appeals. The appellate panel also rejected Richardson's claim that the trial judge gave confusing and improper jury instructions. "The trial court fully, accurately, and repeatedly instructed the jury on self-defense, explicitly defining the word curtilage to the full satisfaction of defense counsel," the Court of Appeals stated. Moreover, "[t]here is simply no reason to presume that the jury failed to understand the definition as given by the court."

Richardson appealed to the Michigan Supreme Court. In a March 11, 2011 order, the Court directed parties to appear for oral argument on whether to grant the application or take other peremptory action.

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