

IN THE SUPREME COURT OF OHIO

SCT NO. 2024-1715

STATE OF OHIO	:	
Appellant	:	
vs.	:	On Appeal from the Belmont County Court of Appeals, Seventh Appellate District of Ohio,
TIMOTHY DAMIEN BRADLEY	:	Case No. 24 BE 0003
Appellee	:	

BRIEF OF AMICUS CURIAE
OHIO ASSOCIATION OF CRIMINAL DEFENSE LAWYERS (OACDL)
IN SUPPORT OF APPELLEE TIMOTHY DAMIEN BRADLEY

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SUMMARY OF ARGUMENT

When a shooter intends to harm another's person or property, that bullet carries the shooter's intent to harm. Should the bullet hit an unintended target, the defendant is deemed to have intended to have shot that unintended target. This doctrine of transferred intent is neither novel nor controversial. As every law student know, if A shoots B with intent to kill, misses and kills C instead, A is guilty of the murder of C – you don't get excused for being a bad shot.

In the instant case, the only reason the State of Ohio made a *prima facie* case against Timothy Bradley for the crime of discharging a firearm into an occupied structure in violation of R.C. 2923.161(A) was on the basis of transferred intent. There was no evidence that Mr. Bradley intended to shoot his neighbor's house when the bullets he fired at a home intruder continued on a path that struck the dwelling. But, when the bullet landed, it carried the same intent as when it left the muzzle of the gun.

But the Bradley bullets, besides carrying that intent to hit the intruder, also carried with them the justification of self-defense, i.e. the justification for their having been fired in the first place. That justification of self-defense is the only practical interpretation of the jury's acquittal of Mr. Bradley for the crime of felonious assault on his intended target, because there was no question those bullets were knowingly fired and intended to cause harm to the intruder. But for the fact that those shots were justified, Mr. Bradley would have been guilty of felonious assault.

The problem in this case was that the jury was fully informed of how the intent followed the bullet but the jury was not fully informed of how the justification also followed the bullet. A jury instruction was needed to make that point for the jury. The Seventh District Court of Appeals correctly determined that the failure to provide such an instruction constituted plain

error because this obvious error was the only rational explanation for an acquittal of felonious assault and a conviction for discharge into a habitation.

INTEREST OF AMICUS CURIAE

The Ohio Association of Criminal Defense Lawyers (OACDL) is an organization of approximately 700 dues-paying attorney members. Its mission is to defend the rights secured by law of persons accused of the commission of a criminal offense; to foster, maintain and encourage the integrity, independence and expertise of criminal defense lawyers through the presentation of accredited Continuing Legal Education programs; to educate the public as to the role of the criminal defense lawyer in the justice system, as it relates to the protection of the Bill of Rights and individual liberties; and to provide periodic meetings for the exchange of information and research regarding the administration of criminal justice.

STATEMENTS OF THE CASE AND FACTS

Amicus defers to the factual and procedural statements set forth in Appellee's merit brief.

ARGUMENT

In opposition to Appellant State of Ohio's sole proposition of law (as posited by Appellant):

It is not plain error for a Trial Court not to instruct the jury as to transferred self-defense when the Trial Court correctly instructs the jury as to self-defense.

It is understood that self-defense justifies what is otherwise, inter alia, a murder or felonious assault. It is not that the killing or assault is unintentional – the mens rea is present, but the defendant is not held criminally liable by virtue of self-defense as a justification.

In some cases, this can even justify the killing of an innocent person, for example, where the defendant sincerely and reasonably perceives a threat from a person who actually had no intentions of harming the defendant. While the victim's death is tragic, it is not criminal. The law does not punish the killer who acted in a justifiable manner, even though the killing of an

innocent person is anything but a just result. *See, e.g., State v. Fry*, 2017-Ohio-9077, ¶ 22 (9th Dist.) (“For the purposes of self-defense, it matters not whether a defendant's honest belief that she was in imminent danger of bodily harm was a mistaken belief or an accurate one.”).

Similarly, here, Mr. Bradley acted with justification when he fired at his armed assailant. Yet the jury was not allowed to consider that justification when it came to their evaluation of whether those shots also constituted shooting into his neighbor’s habitation. In effect, the trial court took away from Mr. Bradley the full protection of the doctrine of self-defense – because the justification only went as far as the intended target.

This Court should adopt the substance of the Opinion Below. As discussed more fully in Appellee’s merit brief, in so doing, this Court will find itself in accord with other cases in Ohio and throughout the United States as well as with respected scholarship. *See e.g., State v. Clifton*, 32 Ohio App.2d 284, 287, 290 N.E.2d 921 (1st Dist. Hamilton 1972) (“The inquiry must be whether the killing would have been justifiable if the accused had killed the person whom he intended to kill, as the unintended act derives its character from the intended.”); *People v. Matthews*, 91 Cal.App.3d 1018, 1024, (Cal. App. 3rd Dist. 1979) (“[T]he doctrine of self-defense is available to insulate one from criminal responsibility where his act, justifiably in self-defense, inadvertently results in the injury of an innocent bystander.”); *People v. Koper*, 488 P.3d 409 (Col App. Div. I, 2018) (collecting cases).

While case law often characterizes the notion of extending the justification of self-defense to unintended targets as one of “transferred intent,” Amicus believes the better phrase is “transferred justification.” As discussed above, self-defense is not unintentional, as the mens rea for the assault is present in the mind of the person acting in self-defense. Rather, self-defense negates illegality because, despite the requisite mens rea, there is a justification. Put a different

way, “transferred intent” explains why, in defining a crime, A’s shooting at B with intent to kill but missing and killing C is still murder – the mens rea for murder transfers from B to C. One does not avoid criminal liability by being a bad shot. Similarly, A’s intentionally shooting at B in self-defense but unintentionally hitting and killing C (or, in this case, shooting C’s home) is still self-defense – the justification for the shooting transfers (or continues through) from intended-target B to non-target C.

The Seventh District’s decision is consistent with the General Assembly’s efforts over the past 20 years to expand self-defense protections. In Ohio, the elements of self-defense are largely drawn from common law. However, three significant legislative modifications to common-law self-defense have taken place since 2008. In 2008, S.B. 184 amended R.C. 2901.05 to encompass the Castle Doctrine, which created a presumption that a defendant acts in self-defense when defending themselves in their own home or vehicle against an unlawful invader. R.C. 2901.05(B)(2)-(3). In 2018 (eff. March 28, 2019), H.B. 228 amended R.C. 2901.05(B)(1) to change the burden of proof so that, if there is evidence that tends to support a claim of self-defense, the prosecution bears the burden of disproving self-defense beyond a reasonable doubt. Finally, in 2020 (eff. April 6, 2012), S.B. 175, amended R.C. 2901.09 to add a “Stand Your Ground” provision that largely eliminated the duty to retreat in deadly force situations. The common denominator of these legislative changes was to make self-defense more available to lawful Ohioans. Not recognizing the concept of transferred justification is inconsistent with this legislative action.

The State’s brief challenges the defense to identify a single Ohio case that has ever given a transferred justification instruction, and further questions whether such an instruction is practicable. While not available to the State at the time its brief was written, the Cuyahoga

County Court of Common Pleas, in *State v. Deaver, et al.*, Cuyahoga C.P. Case No. 694514 (Mazzone, J.)¹ recently instructed a jury, over State's objection, on this very issue in a case where two defendants (Juwone Deaver and Jemerious Davis, who were tried together) claimed self-defense against persons they believed to be attacking them but in which a bystander was killed and a neighboring home was shot. The instruction given by the Court on June 10, 2025, was as follows:

AN INDIVIDUAL, ACTING IN SELF-DEFENSE, IS NOT GUILTY OF A CRIMINAL OFFENSE EVEN IF HIS CONDUCT RESULTS IN THE DEATH OF A BYSTANDER, A SUBSTANTIAL RISK OF PHYSICAL HARM TO ANOTHER, OR CAUSED SERIOUS PHYSICAL HARM TO ANOTHER'S PROPERTY. IN THIS CASE, YOU MUST DECIDE WHETHER THE STATE PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT DID NOT ACT IN SELF-DEFENSE. IF THE STATE FAILED TO PROVE THE ABSENCE OF SELF-DEFENSE, THEN THE DEFENDANT IS NOT GUILTY EVEN IF A BYSTANDING PERSON OR BYSTANDING PROPERTY WAS KILLED, OR PLACED AT SUBSTANTIAL RISK OF PHYSICAL HARM, OR EVEN IF PROPERTY SUFFERED SERIOUS PHYSICAL HARM.

It can be done and has been done.

Finally, this Court should affirm the Seventh District's holding that the error in the instant case was plain. As discussed above, and as further discussed in Appellee's merit brief, the case law supports the principle of transferred justification. Its rationale is sound. Its underlying policy consistent with that of the General Assembly. In short, it is an obvious error. And that it

¹ At the time this brief is being filed, the case is awaiting sentencing. A transcript is unavailable.

was outcome determinative is evinced by the jury's not-guilty verdict in Count One (where transferred justification was not an issue) and the guilty verdicts in Counts Two and Three (where transferred justification was necessary and the jury did not receive the transferred justification instruction). While the State attempts to dismiss the inconsistency by arguing that inconsistent verdicts do not constitute error in and of themselves, the State misses the bigger picture: In our appellate jurisprudence, where juries are presumed to follow the court's instruction, an inconsistency does not have to be per se error to still indicate the impact of the jury instructions on a jury's verdict.

CONCLUSION

For these reasons, Amicus urges this Court to affirm the decision of the Seventh District Court of Appeals.

Respectfully submitted,

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SERVICE

On this 16th day of July, 2025, one true copy of the foregoing was served via electronic mail upon Aaron Brockler, counsel for Appellee at ajb@brocklerlaw.com, and to APA Jacob Manning, counsel for Appellant, at jacob.manning@co.belmont.oh.us.

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