In The District Court of Appeal
Fifth District of The State of Florida

PROVIDED TO APALACHEE CORRECTIONAL INSTITUTION ON 2/4/09 FOR MAILING
DATE (JD)

John Dobbs,
Appellant,

vs.

D.C.A. case No. 5D07-1057

State of Florida,
Appellee.

Pro Se Request for clarification of decision

Comes now, Appellant pro se requesting that this Honorable court clarify it's decision upholding the trial court's decision to convict, and refute any assumption that the defendant is being penalized for acting pro se or presenting too many or unprofessionally addressed issues. Appellant respectfully requests a written opinion which specifies the factual basis upon which this court believes the conviction rests, which of the alternate theories of guilt the court adopted, i.e. 1) that Dobbs 'brought a Knife to a fist fight' [indicating that Dobbs used excessive force and therefore cannot avail himself of the claim of self defense] or 2) that Dobbs was the aggressor, attacking all the alleged victims one after the other [and therefore cannot avail himself of the claim of self defense]. The facts are indispute, as the excessive force theory has the fight occurring closer to Dobbs' vehicle where there is no evidence forfeiting his claim of self defense for threat of immenient danger, while the aggressor theory has the fight occurring by Blanco's vehicle where there is no evidence to support the accusation.

Appellant request clarification of why: 1) as to count one brought on behalf of the deceased William Troy, Andre Blanco's establishment as first in the fight and his testimony that at some

point he himself became the aggressor attacking Dobbs; Francisco Gotay's establishment as second in the fight which he willingly enters, making William Troy no less than Dobbs' third combatant; and Anthony Riollano's establishment as last of the group to enter the fight, with his testimony that he attacked Dobbs while Dobbs fought an unspecified member of his group; doesn't support Dobbs' claim of self defense, 2) as to count two brought on behalf of Francisco Gotay, Gotay's admission that he was the initial aggressor attacking Dobbs after Blanco approaches Dobbs and they start fighting; doesn't support Dobbs' claim of self defense, 3) as to count three brought by Andre Blanco the witness testimony and forensic evidence presented by the State doesn't raise reasonable doubt as a matter of law and 4) as to count four Hanzel Holiday's admission to puposely striking Dobbs' vehicle twice and attempting for a third time to run Dobbs off the road before seeing Dobbs with a gun in his hand; doesn't support Dobbs' claim of self defense? Mere prosecutorial assertion that Dobbs was not acting in self defense is legally insufficient as a matter of law, as all elements of guilt must be proven beyond a reasonable doubt.

Appellant also request clarification as to why this Honorable Court has found that the testimony of Andre Blanco during Adversary Preliminary Hearing and trial of how the fight transpired between Dobbs and his friends, which Attorney General Robin A. Compton conceded as inconsistent; is not material, and fails to establish Dobbs' Giglio claim that Prosecutor Kimberly Laskoff Knowingly used and failed to correct material perjured testimony? As well, as why this Court has found that Ms. Laskoff's cumulative improper remarks during closing arguments do not constitute fundamental error denieing Dobbs a fair trial by improperly influencing the jury, and exploiting the potential confusion of Dobbs' duty to and nonduty to retreat? Further, why this Honorable Court does not recognize as fundamental error

the giving of the invalid necessity instruction which assistant Attorney General Robin A. Compton conceded implies a duty to retreat (Which is contrary to Fla. Stat. 776.013 (3)) and allowed Dobbs to be found guilty as charged if he fails to prove that the harm he avoided out weighed the harm he was charged with, thereby allowing the jury to find Dobbs guilty based on non existent criminal elements, and releiving the State of its burden to prove each element of the charge beyond a reasonable doubt in order to convict? Isn't the rule to be applied that which requires a verdict to be set aside in a case where the verdict may be supportable on one ground but not on another and it is impossible to tell which ground the jury selected, as self defense and justifiable use of force are lawful defenses, and the necessity instructions as given allow for conviction of each charge by way of self defense? I.E. Second degree murder by justifiable use of force. How is it that a jury instruction that allows for Dobbs to be convicted of a charge without satisfying every element of the charge in the Statute or the information is not fundamental error?

Doesn't the combination of these errors as a whole amount to a denial of due process and fundamental error?

Wherefore the Appellant respectfully request clarification of these issues so that he might make adequate efforts for future appeal, and submits without clarification of which version of events and theory of guilt presented at trial, the court has adopted, given the variation of facts argued by the prosecution and the variation of defenses instructed, this court could not have adequately addressed the issues raised on appeal and therefore Dobbs is being denied his right to appeal. Appellant respectfully submits this Pro Se request for clarification in good faith to this Honorable Court in pursuit of clarity and justice and patiently awaits curative responses.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing 'Pro Se Request for clarification of decision' has been mailed to: The Honorable Bill McCollum's Attorney General's office, 444 Seabreeze Boulevard, Fifth Floor, Daytona Beach, Florida 32118, and to the Clerk of Court, Fifth District Court of Appeal 300 South Beach street, Daytona Beach, Florida 32114.

Under penalties of perjury, I declare that the facts as stated in this Pro Se Request for Clarification of decision are true and correct.

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Respectfully Submitted

John Dobbs
DC# C00618