

IN THE SUPREME COURT OF FLORIDA

JUAN JAVIER OQUENDO,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

Case No. SC23-0807
L.T. No. 2D21-2408

RESPONDENT'S JURISDICTIONAL BRIEF
ON REVIEW FROM THE SECOND
DISTRICT COURT OF APPEAL
STATE OF FLORIDA

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STATEMENT OF THE ISSUES

Whether evidence the Petitioner suffered from (PTSD) was relevant to the issue of self-defense?

STATEMENT OF THE CASE AND FACTS

The pertinent history and facts are set out in the decision of the lower tribunal in Oquendo v. State, which can be found at 357 So. 3d 214 (Fla. 2d DCA 2023). Respondent accepts Petitioner's Statement of Case and Facts for purposes of addressing the jurisdictional issue in this case.

SUMMARY OF THE ARGUMENT

Petitioner argues the Second District's opinion in Oquendo v. State, 357 So. 3d 214 (Fla. 2d DCA 2023), expressly or directly conflicts with the First District's decision in State v. Mizell, 773 So. 3d 618 (Fla. 1st DCA 2000), on the same question of law. Respondent contends the decision in Mizell was an aberration and not one with broader legal ramifications. For this reason, Respondent respectfully requests this Court exercise its discretion and deny review of the instant case.

ARGUMENT

WHETHER THIS COURT SHOULD EXERCISE ITS DISCRETIONARY JURISDICTION AND REVIEW THE SECOND DISTRICT'S OPINION IN OQUENDO V. STATE, 357 SO. 3D 214 (FLA. 2D DCA 2023), ON THE BASIS OF EXPRESS AND DIRECT CONFLICT WITH THE FIRST DISTRICT'S DECISION IN STATE V. MIZELL, 773 SO. 3D 618 (FLA. 1ST DCA 2000), ON THE SAME QUESTION OF LAW.

Petitioner argues the Second District Court of Appeal's opinion in Oquendo v. State, 357 So. 3d 214 (Fla. 2d DCA 2023), expressly or directly conflicts with the First District's decision in State v. Mizell, 773 So. 3d 618 (Fla. 1st DCA 2000), on the same question of law. Specifically, whether evidence of Petitioner's post-traumatic stress disorder (PTSD) is relevant on the question of self-defense.

Article V, §3(b)(3), of the Florida Constitution provides: "The supreme court . . . [m]ay review any decision of a district court of appeal . . . that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law." See also Fla. R. App. P. 9.030(a)(2)(A)(iv). The conflict between decisions "must be express and direct" and "must appear within the four corners of the majority decision." Reaves v. State, 485 So. 2d 829, 830 (Fla. 1986).

In Mizell, the First District Court of Appeals held evidence of the

defendant's PTSD is relevant to the question of self-defense because the self-defense jury instruction includes the language that "a defendant's perceptions are relevant when assessing the applicability of self-defense". See id. at 621 (relying on the jury instruction's admonition, "[b]ased upon appearances, (defendant) must have actually believed that the danger was real." (quoting Fla. Std. Jury Instr. (Crim.) 45, 48)).

In Oquendo, the Second District Court of Appeal held that evidence Petitioner suffered from PTSD was not relevant to the issue of self-defense and certified conflict with Mizell. The decision in Oquendo appears to be in "express and direct" conflict with the decision in Mizell on the same point of law.

Even so, Respondent contends this Court should exercise its discretionary jurisdiction and decline review because the conflict resulting from the two decisions appears to be an aberration and not one with broader legal ramifications for self-defense litigation in Florida.

Significantly, the Second District in Oquendo found the legal conclusion in Mizell – that PTSD evidence is relevant on the question of self-defense - was based on a flawed and incomplete analysis of the self-defense jury instruction. Mizell mistakenly drew support for its legal conclusion by analogy to this Court's decision in State v. Hickson, 630

So.2d 172, 175 (Fla. 1993)(approving admission of battered-spouse syndrome as relevant to the justification of self-defense).

However, in Hickson, the purpose of admitting testimony regarding battered spouse syndrome was not to explain the defendant's state-of-mind perceptions at the time of the confrontation with the victim. Rather, evidence of battered spouse syndrome was probative to provide background from which a jury could get a better understanding of why a person suffering from the syndrome would have remained on the same premises with her partner while having suffered the prior abuse. Id. at 175. The evidence was not offered to assert the defendant truly thought he or she saw the victim reach for a gun when the victim did not even have a gun.

It should also be noted Mizell was decided in the year 2000. Yet, the instant issue has not been recurring or widespread in the last twenty-three years. It is apparent, Mizell's assertion of relevance to the defendant's "state-of-mind" at the time of the shooting – that he mistakenly, but truly, believed he saw the victim reach for a weapon – incorrectly construes the often restated holding the relevant state of mind for a claim of self-defense is based on an objective standard, not on the defendant's subjective state of mind. See Reimel v. State, 532 So. 2d 16, 18 (Fla. 5th DCA 1988)(“The

law does not ascribe a subjective standard as to a defendant's state of mind but concerns a reasonably prudent person's state of mind"); see also Chaffin v. State, 121 So. 3d 608 (Fla. 4th DCA 2013) (same); Dias v. State, 812 So. 2d 487, 491 (Fla. 4th DCA 2002); Radler v. State, 290 So. 3d 87 (Fla. 4th DCA 2020).

It follows, any conflict resulting from the decisions in Oquendo and Mizell appears to be an aberration and not one with broader legal ramifications.

CONCLUSION

For these reasons, Respondent respectfully requests this Honorable Court exercise its discretionary jurisdiction to decline review in this case.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 29, 2023, I electronically filed the foregoing with the Clerk of the Court by using the e-portal filing system which will send notice of electronic filing to: Rachel Paige Roebuck, Esq., Assistant Public Defender, P.O. Box 9000 – Drawer PD. Bartow, FL. 33831; email: rroebuck@pd10.org

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this response is 14-point Arial, in compliance with Fla. R. App. P. 9.045(b). This response contains 836 words.

Respectfully submitted,
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