

# TWO LIVES LOST

LESSONS LEARNED FROM  
THE DREJKA SHOOTING

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**R**ecent defensive gun-use news tells the tragic tale of two men who became victims of an incident in a Circle A Food Store parking lot. It is not our intent to make a judgment as to who was right or who was wrong in the situation — the court have accomplished that. Yet, when you step back and review the facts and dig deeper into the actions of all involved, you might come away with a lesson or two that could prevent future tragedies.

We hope that this impartial review of the facts may enhance your understanding of the legal analysis that caused 12 men and women to render a guilty verdict after less than seven hours of deliberation. Was the verdict morally fair? It depends on who you ask. Was it legally sound? It depends on an interpretation of the facts.

## SETTING THE STAGE

Here's what we know from the media: On July 19, 2018, in Clearwater, Florida, Markeis McGlockton's girlfriend, Britany Jacobs, drove McGlockton and their three children to the Circle A Food Store. Jacobs parked her car in a handicapped-accessible parking space. McGlockton went inside the convenience store to purchase some snacks.

Michael Drejka arrived and parked perpendicular to Jacobs' car, then surveyed the rear of the vehicle as well as the front for signs of a handicapped plate or placard. When Drejka didn't find any indication of the car being appropriately marked for the parking space, he began to berate Jacobs.

After a few minutes, McGlockton exited the store, noticed Drejka aggressively interacting with the mother of his children and reactively pushed Drejka to the ground. Approximately 2.5 seconds after Drejka was knocked to the ground, he unholstered his lawfully carried handgun. McGlockton took a step back, and Drejka fired a single shot, which subsequently killed McGlockton. The local sheriff's misunderstanding of Florida's "stand your ground" law caused Drejka to not be immediately arrested.

## A HISTORY OF AGGRESSIVE BEHAVIOR

There are facts of this incident and the subsequent trial of which the public — and most likely the jury — weren't aware. Jacobs had parked in the only improperly marked handicapped

parking space, located on the side of the building, thereby blocking access to the wheelchair ramp. Drejka's car, perpendicular to her car, was also illegally parked and blocking alternate access to that same ramp. Furthermore, while both Drejka and McGlockton were regular customers, the store's owner, Abdella "Ali" Salous (not present at the time of the shooting) said he had previously had issues with Drejka at his business. Another customer, Richard Kelly, told Spectrum News that he had an interaction with Drejka after parking in the same improperly marked handicapped parking space weeks prior to the fatal shooting.

According to Kelly, "[Drejka] flipped out on me [and] called me every n-word. Said he's going to shoot me." Kelly went on to say, "He said he was going to kill me, and he went back to his truck, got something out of his truck and walked back up on me."

Salous came out and defused the confrontation.

According to documents from the Piellias County Clerk of the Circuit Court, Drejka had been named the accused aggressor in four prior road incidents ranging from 2012 to 2018. In three of these cases, prosecutors allege Drejka threatened drivers with a gun.

Drejka's interaction with Jacobs was so extreme that another customer entered the convenience store and informed the store clerk of the situation. This apparently prompted McGlockton to leave the store and investigate. When McGlockton approached Drejka, Drejka was standing on a raised portion of the wheelchair-access ramp, the store's security camera captured the incident. It shows that, in addition to McGlockton's push, Drejka's fall to the ground was caused by the elevation difference between the ground and his reach on the access ramp.

While we can't conclusively estimate the force of McGlockton's shove, it's reasonable to conclude that the elevation difference factored into the fall. Even just the slightest push back, or Drejka tapping back quickly, could have induced the same fall to the ground.

### FROM AGGRESSOR TO VICTIM

Based on statements from the store owner and Kelly, it's clear that Drejka had issues with motorists parking improperly in handicapped spaces. In the post-shooting interview, Drejka told detectives that it's one of his "pet peeves." We don't know if Drejka knew the space was improperly marked, so for the purpose of this analysis, we presume that he thought it to be properly marked.

His first mistake wasn't a concealed carry permit doesn't authorize you to enforce any law, with or without a gun. Concealed carry is for personal defense, defense of another and defense of life in preventing a forcible felony. This is the reason states issue a permit for your wallet that allows you to carry a firearm, not a badge for your shirt or any other expectation or authorization.

Here, Drejka serves as the initial aggressor of the incident. His interaction with the girlfriend, Jacobs, made her the victim of his verbal abuse. Next, we see McGlockton intervene with physical force. Many feel this then makes Drejka the victim. It's easy to see how the now-victim Drejka — looking up from the ground after having been pushed by a younger and somewhat larger McGlockton — felt reasonable fear that he was in imminent danger of lethal force.

Just to keep everyone on the same page, lethal force is not only force that is capable of causing death but also force that is capable of causing serious bodily harm. In most U.S. jurisdictions, serious bodily harm is injury that is potentially permanent, disabling or crippling in nature. Also note that for self-defense, the fear of lethal force doesn't have to be an absolute fear but simply a reasonable fear. Whenever you have a defensive gun use, remember the letters CYA. By that we mean, "Can You Articulate" why you felt the need to use lethal force?

### THE FIVE PILLARS TEST

We're all entitled to our opinions, but we have to share the same legal truths. On Aug. 23, 2019, Drejka was found guilty of manslaughter with the use of a firearm. To understand how that came to pass, let's look at the legal requirements for a justifiable claim of self-defense.

Typically, there are five pillars required to support such a claim: innocence, imminence, avoidance, proportionality and reasonability. Just as joists hold up a structure, the absence of any of these pillars weakens a claim of self-defense. Innocence means that you were not the aggressor, that you were not in the commission of a crime or fleeing a crime, and that you were legal to be where you claim to have defended yourself.

This incident demonstrates how quickly the role of aggressor changes. Drejka went from being the aggressor to victim and then to ultimate aggressor (surveillance video shows McGlockton had taken approximately three steps away from Drejka after seeing the firearm). While the law does allow for an initial aggressor to claim self-defense, the initial aggressor must first withdraw from physical contact with the assailant and indicate clearly to the assailant that he or she desires to withdraw and terminate the use of force. Historically, judges and juries rarely believe that the guy that started the fight is justified in a claim of self-defense. Don't be that guy.

When we discuss imminence, that means that the person believes the attack is occurring at that moment. When an incident occurs in a short time frame, there's rarely a question of imminence. When it comes to avoidance, the courts and a civil society expect that a person takes measures to avoid the use of force. That is, even though you are the person being attacked, in many jurisdictions, you may have to prove that you fulfilled the requirement of a duty to retreat (if safely possible).

This is where "stand your ground" laws can come into play. In Florida and other jurisdictions, "stand your ground" laws merely take away the requirement that you first attempt to retreat before defending yourself against an attack. While there are statutes that allow immunity from prosecution, the "stand your ground" statute simply reinforces or eliminates the duty to retreat. The media (and even the sheriff in the county) stated Drejka's case was a "stand your ground" case, but it was not a test of that statute.

### PROPORTIONALITY AND REASONABLE

As we come to proportionality, the question is, "Was the defensive force used proportional to the attack or pre-sumed attack?" Those unfamiliar with violence might argue that a firearm is not proportional to an unarmed attack. Drejka believed that after being pushed to the ground, more blows would come, and that McGlockton would "finish [him] off."

Which brings us to the question of reasonability: How would a reasonable and prudent person have acted given the same information at the same time? Drejka gave a videotaped interview without the benefit of legal counsel — not knowing at the time that there was video that told a different story. He made statements that, while he may have believed them to be true, admitted his actions were not reasonable. During the interview, Drejka said, "If he's retreating, then I don't need to use my firearm."

There's a lot to be learned by studying this truly tragic case. Drejka, by his own admission, didn't have any formal training, and this may have contributed to his failure to understand the responsibility of carrying a firearm. He may not have fully comprehended the principles of self-defense nor the importance of avoidance. It's obvious he had not considered the aftermath of defensive gun use and the importance of having your attorney present before making any statements to law enforcement other than "I had no choice but to defend myself" and "I intend to comply with your investigation as soon as I have my lawyer present."

Having an attorney present during questioning and the growing expense of competent defense counsel and expert witnesses are compelling reasons why anyone carrying a firearm should also carry the USCCA's Self-Defense SHIELD. I don't mean to make this sound like an infomercial, but it really is an essential component of your EDC.

### ACTIONS HAVE CONSEQUENCES

Many may sympathize with Drejka's "pet peeve," but it's essential that we refrain from taking the law into our own hands. It's important to know what to do in the aftermath of a circumstance under which you use or even present deadly

force. After a traumatic incident where you find yourself thrown to the ground, you may be confused about the exact nature of the incident, and most people will suffer from some degree of time distortion. They may not recall distances accurately, nor will they comprehend the time and order of events accurately. That's why we suggest always having an attorney present before making any statements other than that you were attacked and felt the need to defend yourself.

You carry a firearm to protect yourself and others, as you should. You must seek out proper training, not just in using your firearm but in knowing the laws surrounding self-defense. It's for all these reasons that we suggest the comprehensive training provided by USCCA Certified Instructors. You should also retain access and the means for comprehensive defense by being a member of the USCCA Self-Defense SHIELD program.

We hope that all citizens capable of legally carrying a firearm do so every day and in a lawful manner. Most importantly, we hope and pray that you will never have to use it. We train our students to be effective handlers of firearms, but we also train our students to never put themselves in harm's way.

Not only did this incident result in one man losing his life, but another man lost his freedom. At 49 years of age, two or more decades of incarceration is essentially a life sentence. Two lives lost, and the lives of many more — friends and family of all involved — forever altered by a few minutes of chaos culminating in a tragedy that never should have happened.

### ENDNOTES

(1) Past acts of violence by the victim are admissible in Illinois as what is called "19th" material (See People v. Lynch, 104 Ill.2d 197) and can be used to justify the deadly force used in an encounter. The past violent acts by the victim need not be known to the accused at the time of the deadly force for the force to be justified.



# SIGHTS

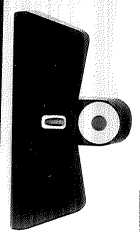
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