

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC-17-1978

STATE OF FLORIDA

Petitioner,

vs.

PETER PERAZA,

Respondent.

On discretionary review of a certified question of great public importance
of a decision of the Fourth District Court of Appeal

**MOTION OF THE FRATERNAL ORDER OF POLICE, LODGE #31
TO FILE AN *AMICUS CURIAE* BRIEF
IN SUPPORT OF RESPONDENT
(parties have consented to appearance of amicus)**

Pursuant to Rule 9.370, Fla.R.App.P., the Fraternal Order of Police, Fort Lauderdale, Lodge #31 (“FOP”), respectfully moves for leave to file an *amicus curiae* brief in support of Respondent, Deputy Sheriff Peter Peraza in this case.

The Fraternal Order of Police, Fort Lauderdale, Lodge #31 is the labor union

and state certified Collective Bargaining Unit for Fort Lauderdale police officers, sergeants, and captains. FOP Lodge #31 provides its members with legal defense arising out of their actions as police officers and union representation in the employment grievance procedure. FOP Lodge #31 represents over 500 sworn officers all of whom have a keen interest in any rule of law clarified, interpreted, or promulgated by this Supreme Court in response to the certified question, because this case does not just affect Broward Sheriff's Deputy Peter Peraza, it affects all police officers who must contemplate and train for real-life confrontations with life and death or shoot- don't-shoot scenarios.

The case at bar directly concerns all police officers who are duty bound to confront dangerous suspects and balance the safety of the public and fellow officers with safe constitutional investigations and apprehension of those suspects. FOP #31 believes the Circuit Court and the Fourth District Court of Appeal correctly decided this case.

The certified question is:

WHETHER A LAW ENFORCEMENT OFFICER, WHO WHILE MAKING A LAWFUL ARREST, USES DEADLY FORCE WHICH HE OR SHE REASONABLY BELIEVES IS NECESSARY TO PREVENT IMMINENT DEATH OR GREAT BODILY HARM TO HIMSELF OR HERSELF OR ANOTHER OR TO PREVENT THE IMMINENT COMMISSION OF A FORCIBLE FELONY, IS LIMITED TO

INVOKING A DEFENSE UNDER SECTION 776.05(1), OR IS ALSO PERMITTED TO SEEK IMMUNITY FROM CRIMINAL PROSECUTION UNDER SECTIONS 776.012(1) AND 776.032(1), FLORIDA STATUTES (2013), MORE COMMONLY KNOWN AS FLORIDA'S "STAND YOUR GROUND" LAW.

Ultimately, the certified question must be answered in order to have a uniform and clear rule of procedure throughout the State and recognize in the context of the "Stand your Ground" statute, police officers are "persons" too, entitled to evidentiary review at the earliest stage of a criminal proceeding.

In light of the effect this case will have on all police officers, we respectfully request the Court grant leave for FOP #31 to submit an *amicus* brief in order to express its views on the importance of a clear uniform procedural rule, which includes police officers; and, one that is consistent with the plain language of the statute. The *amicus* brief should assist the Court in its understanding how the statute does not require courts treat a police officer differently than any citizen.

The Petitioner, the State of Florida, through the Office of the Attorney General, Melanie Dale Surber and the Respondent, Deputy Sheriff Peter Peraza, through his counsel, Eric T. Schwartzreich, have consented to this request that the Court allow FOP Lodge #31 to file a brief in this matter.

FOP Lodge #31 respectfully requests this Court allow it to file an *amicus*

brief in accordance with the Rules of Procedure.

Respectfully submitted,

BUSCHEL GIBBONS, P.A.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document has been filed through the Statewide e-filing Portal, which will serve all counsel of record named below, by e-mail service, this 24th day of April, 2018.

_____/s/ Robert Buschel_____
Robert C. Buschel

AAG, Melanie Dale Surber
Office of the Attorney General

Eric T. Schwartzreich
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