

IN THE SUPREME COURT OF FLORIDA

TASHARA LOVE,

Petitioner,

v.

Case No. SC18-747

STATE OF FLORIDA,

Respondent.

**MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF BY
EVERYTOWN FOR GUN SAFETY AND THE BRADY CENTER TO
PREVENT GUN VIOLENCE AND REQUEST TO FILE BRIEF 10 DAYS
AFTER RESPONDENT’S BRIEF IS FILED**

Everytown for Gun Safety (“Everytown”) and The Brady Center to Prevent Gun Violence (“Brady Center”), pursuant to Fla. R. App. P. Rule 9.370(a), respectfully request leave to jointly file an *amicus curiae* brief in this case, in support of the Respondent’s position regarding the retroactive application of § 776.032(4), Fla. Stat. (2017), and in opposition to both parties’ position regarding the constitutionality of the statute.¹ Given that their brief will in part support the position of the Respondent, Everytown and the Brady Center further request that this Court, pursuant to Rule 9.370(c), permit them to file their brief 10 days after Respondent’s brief is filed.

¹ The Brady Center filed an *amicus curiae* brief before the Third District Court of Appeal in *Rodriguez v. Florida*, Case No. 3D17-1633, where the constitutionality of § 776.032(4) was also at issue, although ultimately not addressed by that court.

RECEIVED, 07/24/2018 04:33:25 PM, Clerk, Supreme Court

Everytown and the Brady Center are two leading organizations in the nation devoted to advocating for responsible gun laws and reducing gun violence. Everytown is a movement of Americans working together to end gun violence and build safer communities; it was launched in 2014 by two predecessor organizations: Mayors Against Illegal Guns and Moms Demand Action for Gun Sense in America. Everytown's Litigation and Enforcement Team defends life-saving gun safety laws and regulations, challenges gun laws that undermine public safety, and advocates on behalf of individuals who were killed or injured because of dangerous, negligent or illegal actions by gun manufacturers or gun dealers. The Brady Center is dedicated to reducing gun violence through education, research, and direct legal advocacy on behalf of victims and communities affected by gun violence. The Brady Center's Legal Action Project represents victims of gun violence and defends reasonable gun laws, with the goal of reducing gun violence. Both Everytown and the Brady Center have filed numerous *amicus curiae* briefs in cases throughout the country involving firearms regulations and laws affecting gun violence.

The enactment in 2017 of § 776.032(4) improperly altered the procedure established by this Court in *Dennis v. State*, 51 So. 3d 456 (Fla. 2010) and *Bretherick v. State*, 170 So. 2d 766 (Fla. 2015), governing pretrial invocation of Florida's Stand Your Ground law in criminal proceedings. The Florida

Legislature's effort to abrogate the procedural framework developed by the Court violates the separation of powers provisions of the Florida Constitution and is of substantial concern to Everytown, the Brady Center, and supporters of reasonable gun laws in this State and elsewhere. Studies have found a connection between the passage of Stand Your Ground laws and an increase in homicides, including in Florida, with no evident deterrent effect on crime. In interfering with this Court's constitutional prerogative, the Florida Legislature has foisted onto the courts a procedure that makes pretrial invocation of Florida's Stand Your Ground statute easier, makes it harder to prosecute those who perpetrate gun violence, and ultimately encourages the unlawful and reckless use of firearms.

We respectfully submit that an *amicus curiae* brief filed by Everytown and the Brady Center would assist this Court in the disposition of this case by (i) providing further legal analysis in support of Respondent's position that § 776.032(4) should not have retroactive application; and (ii) arguing that, in enacting § 776.032(4), the Florida Legislature usurped the role of this Court, as set forth in the Florida Constitution, in establishing procedural rules for the courts of this State. In particular, as neither party will be advocating for the latter position (a position that was adopted by the trial court in this case, but was abandoned by Respondent on appeal), it is important that the Court receive robust briefing from *amici* regarding whether the statute is constitutional.

The undersigned has received consent from counsel of record for both the Petitioner and Respondent to file an amicus brief.

Wherefore, Everytown and the Brady Center respectfully request that this Court grant their Motion for Leave to File an *Amicus Curiae* Brief and permit them to file their brief 10 days after the filing of Respondent's brief.

Respectfully submitted,

/s/ Darren A. LaVerne

Darren A. LaVerne*

Kramer Levin Naftalis & Frankel LLP

1177 Avenue of the Americas

New York, New York 10036

(212) 715-9190

dlaverne@kramerlevin.com

**Pro Hac Vice* admission pending

/s/ Sean R. Santini

Sean R. Santini

SANTINI LAW

1001 Brickell Bay Drive, Suite 2650

Miami, Florida 33131

(305) 372-7307

Fla. Bar No. 832898

ssantini@santinilawfirm.com

*Counsel for Everytown for Gun Safety and
The Brady Center to Prevent Gun Violence*

CERTIFICATE OF SERVICE

Undersigned counsel certifies that a true and correct copy of the Motion for Leave to File Amicus Brief was emailed to the following on this 24th day of July, 2018:

Amit Agarwal
Solicitor General
Amit.agarwal@myfloridalegal.com
Edward M. Wenger
Chief Deputy Solicitor General
Edward.wenger@myfloridalegal.com
Office of the Attorney General
The Capitol, PL-01
Tallahassee, FL 32399

Marlon Weiss
Assistant Attorney General
crimappmia@myfloridalegal.com
marlon.weiss@myfloridalegal.com
Criminal Appeals Bureau
Office of the Attorney General
One SE Third Avenue, Suite 900
Miami, FL 33131

Jeffrey Paul DeSousa
Assistant Public Defender
appellatedefender@pdmiami.com
jdesousa@pdmiami.com
Public Defender
Eleventh Judicial Circuit of Florida
1320 NW 14th Street
Miami, FL 33125

DATED this 24th day of July 2018.

By: /s/ Darren A. LaVerne
Darren A. LaVerne