FIRST PRINCIPLES

READ THE STATUTES

• "A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability."

• G.S. 14-51.2(E) (HOME, WORKPLACE, MOTOR VEHICLE); G.S. 14-51.3(B) (DEFENSE OF PERSON)

READ THE STATUTES (AND TAKE THEM SERIOUSLY)

* "A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability."

* G.S. 14-51.2(E) (HOME, WORKPLACE, MOTOR VEHICLE); G.S. 14-51.3(B) (DEFENSE OF PERSON)
COROLLARY # 1

THE STATUTES ARE DIFFERENT THAN THE COMMON LAW

STATUTES ARE DIFFERENT (OR AT LEAST CLEARER)

• “[A] PERSON IS JUSTIFIED IN THE USE OF DEADLY FORCE AND DOES NOT HAVE A DUTY TO RETREAT IN ANY PLACE HE OR SHE HAS THE LAWFUL RIGHT TO BE”
• G.S. 14-51.3(a) (DEFENSE OF PERSON)

APPELLATE DECISIONS

• COMMON AREA OF APARTMENT COMPLEX
  • STATE V. BASS, __ N.C. ___, 822 S.E.2D 322 (OCT. 2018)
• SIDEWALK
  • STATE V. LEE, 370 N.C. 671 (APR. 2018)
  • STATE V. IRABOR, ___ N.C. APP. ___ (NOV. 2018)
• WHILE DRIVING ON PUBLIC ROAD
  • STATE V. AYERS, ___ N.C. APP. ___, 819 N.C. APP. 407 (SEPT. 2018)
COROLLARY # 2

THE STATUTES ARE BETTER AND WORSE THAN THE COMMON LAW

BETTER

- "THE LAWFUL OCCUPANT OF A HOME, MOTOR VEHICLE, OR WORKPLACE IS PRESUMED TO HAVE HELD A REASONABLE FEAR OF IMMINENT DEATH OR SERIOUS BODILY INJURY"
- G.S. 14-51.21(B) (HOME, WORKPLACE, AND MOTOR VEHICLE)

APPELLATE DECISIONS

- STATE V. KWOK, ___ N.C. APP. ___, 817 S.E.2D 828 (JUL. 2018)
- CURTILAGE INCLUDES AREA AROUND HOME
- CURTILAGE NEEDS TO BE ENCLOSED
- FORCIBLE ENTRY MAY BE THREATS OF VIOLENCE
WORSE

* "THE JUSTIFICATION DESCRIBED IN G.S. 14-51.2 AND G.S. 14-51.3 IS NOT AVAILABLE TO A PERSON ... WHO WAS ATTEMPTING TO COMMIT, COMMITTING, OR ESCAPING AFTER THE COMMISSION OF A FELONY"
* G.S. 14-51.4(1) (JUSTIFICATION NOT AVAILABLE)

APPELLATE DECISIONS

* STATE V. CRUMP, ___ N.C. APP. ___, 815 S.E.2D 415 (APR. 2018), REVIEW ALLOWED, ___ N.C. ___, 815 S.E.2D 415 (DEC. 2018)
  * FELONY NEED NOT BE CAUSALLY RELATED TO NEED TO ACT IN SELF-DEFENSE

COROLLARY # 3
KNOW THE COMMON LAW
COMMON LAW ISSUES

- Is intent to kill required for use of deadly force not resulting in death?
  - State v. Ayers, ___ N.C. App. ___ (N.C. App. 467 (Sept. 2018))
- Can the defendant introduce specific prior acts of a victim if not known to the defendant?

INTERRELATIONSHIP BETWEEN STATUTES AND COMMON LAW

- Interpretive aid
- Separate defenses?

FINAL PRINCIPLES

If you have questions, feel free to contact me at rubin@sog.unc.edu