

STATE OF WYOMING	)	IN THE CIRCUIT COURT
	)	
	: ss	
	)	
COUNTY OF CARBON	)	SECOND JUDICIAL DISTRICT
THE STATE OF WYOMING,	)	Docket No. CR-2021-0800
	)	
<i>Plaintiff,</i>	)	
	)	
vs.	)	
	)	
JOEY CORRENTI IV,	)	
	)	
<i>Defendant.</i>	)	

DEFENDANT’S REPLY TO STATE’S RESPONSE ON MOTION TO DISMISS

COMES NOW Joey Correnti IV (Defendant), and respectfully replies to the State’s response to Defendant’s *Motion to Dismiss* as follows:

1. The State’s response, in section 1, notes that the date in which the incident occurred admitting to the Defendant becoming a victim of battery was October 13th, 2021. This could not be possible, as the Defendant was not in Saratoga Wyoming on October 13th, 2021 and so could not have been at 418 N. Veterans St. where the incident actually occurred on the date proposed by the State.

2. The State’s response, in section 2, notes that “Nicholas Chadwick was charged ‘simple battery’ in violation of W.S. 6-2-501”. This is inaccurate, as Mr. Chadwick was only cited for violation of W.S. 6-2-501 but ultimately charged by the court with violation of W.S. 6-2-501(b) which is clearly named in statute as “Battery” and not the less imposing term used by the State of “Simple Battery” which is a term that appears nowhere in Title 6 of Wyoming Crimes and Offenses. Additionally, as previously claimed by the State, the incident between the

Defendant and Mr. Chadwick did not occur until October 13th, 2021. Yet docket number CT-2021-6084 charges Mr. Chadwick for assaulting the Defendant on October 7th, 2021 therein making the assertion that any crime the Defendant is charged with stemming from the incident on October 7th, 2021 inconsistent with the facts of the case and therefore void.

3. The State's response, in section 3, contains statements from the defendant during SGT Christian's interview, and the State claims that the Defendant "fired in the direction of a streetlight and buildings across the street." This is inaccurate as the statement does not appear to be a direct quote from the Defendant or SGT. Christen as it lacks quotation marks in the statement, and therefore appears to be speculative as no credible evidence has been presented to show that there are any streetlights or buildings within the possible sector of fire available to the defendant on the evening of October 7th, 2021. Furthermore, the State asserts that the Defendant "fired in the direction of a streetlight and buildings across the street." As W.S. 6-2-504(b), which the Defendants is charged, clearly states "(b) Any person who knowingly points a firearm at or in the direction of another, whether or not the person believes the firearm is loaded, is guilty of reckless endangering..." As the defendant is not charged by a statute that includes or addresses the firing of a weapon, any mention of the weapon being fired fails to speak to the actual charge and is therefore irrelevant and prejudicial.

4. The State's response, in section 4, notes that "Chadwick and his wife argued about a car and marital issues." This is inaccurate and presents a biased account of the exchange as having mutual involvement from both parties in discussing and debating the specific matters mentioned by the State. As can be clearly heard in the audio recording of the incident on October 7th, 2021. The recording clearly shows that at no time does Mrs. Peth "argue" with Mr. Chadwick, as the only statements made by Ms. Peth were made in a calm

voice (until the end of the incident when Mr. Chadwick became physical), were deflective of Mr. Chadwick's accusations (not engaging in them), and only included the utterances of "No. don't fucking touch me. Get out. Get the fuck out. I didn't lie about anything. Go or I'll call the cops. Why are you even over here? I thought you were with your friends hanging out, But no, you're driving by stocking me, as usual. You need to leave. Leave this house. What? Dude leave. No, I never said that. Leave this house or I'm calling the cops. He helped me unpack my fucking car. This is ridiculous, we are just standing outside smoking. Right, my house, my driveway, not yours, you need to leave. Did I ever say that? Leave. Go. This is crazy. You need to leave right now. Leave now! Don't fucking touch me! Get the fuck away! Get the fuck out of my house! Oh my God!" None of these statements by Ms. Peth, viewed chronologically and in context with Mr. Chadwick's statements qualify as "arguing." Arguing would require Ms. Peth to "give reasons for or against a matter in dispute" which Ms. Peth did not do at any time during the three-minute recording of the incident, in which Ms. Peth had asked Mr. Chadwick to remove himself from her private property approximately 15 times.

5. The State's response, in section 5, notes that "It is not uncommon for the state to prosecute mutual combatants while they are both victims and defendants in simultaneous cases." The Defense asserts that the intent of the State's statement may or may not be correct, but by presenting to the court a situation that did not actually exist at the time causes the entire statement by the State to become marred and ultimately incorrect, therefore becoming periductal toward the Defense. As The Supreme Court of Illinois stated in the case of *People v. Austin* and The Appellate Court of Illinois in the case of *People v Thompson* that mutual combatants exist only when there is "a fight or struggle which both parties enter willingly or where two persons, upon a sudden quarrel and in hot blood, mutually fight upon equal terms and where death results from the combat." Additionally, The Supreme Court of Georgia in the

case of *Donaldson v. State* "Mutual combat is not a mere fight or scuffle. It generally involves deadly weapons and the mutual intention of using them." Furthermore, the Court of Appeals of Georgia in *Loudermilk v. Tate* stood firm on the term mutual combat as when "both parties enter willingly or in which two persons, upon a sudden quarrel, and in hot blood , mutually fight upon equal terms. In mutual combat, both parties are armed with deadly weapons and does not mean a mere fist fight or scuffle." Finally, in the *State of Iowa v. Christopher Spates*, the Supreme Court of Iowa upheld that "Mutual combat is more than a reciprocal exchange of blows. It requires a mutual intention, consent, or agreement preceding the initiation of hostilities. A charge on mutual combat is warranted only when the combatants are armed with deadly weapons and mutually agree to fight. Thus, an express or tacit agreement to engage in violence, while sufficient, is not required; it is enough that there was a concurrent or mutual expectation that a street battle would ensue. To constitute mutual combat there must exist a mutual intent and willingness to fight and this intent may be manifested by the acts and conduct of the parties and the circumstances attending and leading up to the combat." The State's claim of the existence of mutual combat has no basis in law or fact, as the Defendant at no time willingly offered, signaled, or expressed any "consent, or agreement preceding the initiation of hostilities" by Mr. Chadwick. Furthermore, no death resulted from the incident as required by the Illinois cases, nor did the Defendant and Mr. Chadwick "mutually fight upon equal terms" as the defendant never returned any blow delivered to him by his assailant. Finally, the term mutual combat would also require "equal terms" to be established only when "the combatants are armed with deadly weapons and mutually agree to fight." This assertion by the State of "mutual combatants" is contradictory to future statements made by the State in section 9 of the State's response, in which the State presents Mr. Chadwick as an "unarmed assailant" multiple times. Unless the State is stipulating that Mr. Chadwick was armed, which cannot be proven or disproven even today, let alone known by the Defendant at the time of the incident.

6. The State's response, in section 7, notes that The Defendant does not allege, and has never alleged in any of his recorded statements an "imminent peril of death or serious bodily injury to another" or "unlawful forcible entry was or would occur." The State is correct in this assessment, but fails to mention to the court that the cursory onsite interview conducted by SGT Christen and a short telephone conversation with the State initiated by the Defendant himself, were only related to the battery charge against Mr. Chadwick and were the only interviews conducted with the Defendant (who was never mirandized or in any way informed of his rights in either interview.) Defendant was only ever interviewed as a victim of assault and not as a person of interest in a crime. At no time did Sgt Christen or the State ask any deep probing questions of the defendant related to anything other than the assault committed by Mr. Chadwick, and therefore the answers and statements the State is claiming were required had never been sought out by law enforcement or the State, when either entity could have easily mirandized the Defendant and asked a question directly related to a specific charge that ultimately wasn't brought to the court for nearly two months after the incident. Additionally, If the Defendant had been mirandized and interviewed, the Defendant would have had the right to remain silent, but would not be limited to only the statements made to the Police or the State while mirandized to use as a defense with the court.

7. The State's response, in section 7, additionally contains the claim that the "Defendant has not alleged any theory of self defense against the 'person or person(s) who occupied or may have occupied the various structures and or residences in the direction of the shot' " This appears to be highly speculative as no credible evidence has been presented to show that there are "various structures and or residences in the direction of the shot" which is especially concerning as the State has previously stated, in Section 3, that the shot was "aimed

up at [an angle of] forty-five [degrees]” yet the shot still must have been fired within the within the possible sector of fire available to the defendant on the evening of October 7th, 2021. This would imply a trajectory for the bullet being a “reckless danger” to “various structures and or residences” hundreds of feet in the air, with no credible evidence being presented to support that, or show that is even possible, let alone a fact. Had the “shot” not been “aimed up at [an angle of] forty-five [degrees]” and had been fired any lower to provide a trajectory with an altitude that could potentially hit any unsubstantiated “structures and or residences in the direction of the shot” there would have been no concern as to where the bullet went or who it may have endangered other than the Defendant’s assailant, as it would have been found squarely within Mr. Chadwick’s body. Furthermore, the State asserts that the Defendant “shot” the weapon. As W.S. 6-2-504(b), which the Defendants is charged, clearly states “(b) Any person who knowingly points a firearm at or in the direction of another, whether or not the person believes the firearm is loaded, is guilty of reckless endangering...” As the defendant is not charged by a statute that includes or addresses the firing of a weapon, any mention of the weapon being fired fails to speak to the actual charge and is therefore irrelevant and prejudicial.

8. The State’s response, in section 8, notes that “The Defendant’s claim of self-defense fails this analysis” when challenged by the “Defense of Others and Alter Ego Rule” cited from *Smith vs State*. State further asserts that “defense of another takes its form and content from defense of self...” Yet the specific situations, actions, exchanges, and outcomes of *Smith vs State* do not reflect any of the specific situations, actions, exchanges and outcomes of this case. The chronology of the incident on October 7th, 2021 shows that the “defense of others” posture was legitimate at the initiation of physical hostilities by Mr. Chadwick when the Defendant witnessed Mr. Chadwick attempt to steal Ms. Peth’s property (phone) to stop her from contacting the police, and then Mr. Chadwick escalated his hostility by violating W.S. 6-

2-501 (g) - Unlawful Contact (“A person is guilty of unlawful contact if he: (i) Touches another person in a rude, insolent or angry manner without intentionally using sufficient physical force to cause bodily injury to another”) this caused the Defendant to intervene to stop the escalation of hostility by Mr. Chadwick as it had become physical, in which Mr. Chadwick immediately escalated his display of hostility and violence when he violated W.S. 6-2-105 (b) and committed battery on the Defendant by having pushed and then punched the Defendant in the head. The escalation of hostile violence displayed by Mr. Chadwick gave the Defendant every reason to hold the view that an “honest belief that the danger exists whether the danger is real or apparent” as bodily injury to the Defendant had already occurred and that “the use of defensive force whether actual or threatened, is [was] reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more.” As the Defendant believed that if Mr. Chadwick had continued to assault him unchallenged, the potential for the Defendant to become incapacitated was imminent and therefore placing Ms. Peth and her home in greater physical peril than she was already in by having a violent and enraged Mr. Chadwick unlawfully enter the home (after already being told to leave approximately 15 times) and continuing to be physically violent toward Ms. Peth. This legitimate concern of the imminent threat is specifically outlined as credible in W.S. 6-3-307 “Unlawful entry into an occupied structure” (a) A person is guilty of unlawful entry into an occupied structure if, without authority, he enters or remains in an occupied structure and attempts to commit or commits battery as defined in W.S. 6-2-501 or domestic battery as defined in W.S. 6-2-511. Throughout this incident the Defendant was defending Ms. Peth as well as himself under the provisions of 6-2-602 (a), (b)(i), (b)(ii), (d) which include “(a) The use of defensive force whether actual or threatened, is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more... (b) A person is presumed to have held a reasonable fear of imminent peril

of death or serious bodily injury to himself or another when using defensive force, including deadly force if: (i) The intruder against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, another's home or habitation or, if that intruder had removed or was attempting to remove another against his will from his home or habitation; and (ii) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring. (d) A person who unlawfully and by force enters or attempts to enter another's home or habitation is presumed to be doing so with the intent to commit an unlawful act involving force or violence.”

9. The State’s response, in section 7, notes that “Nor has Defendant alleged in his motion or any of his recorded statement an unlawful forcible entry was or would occur. Defendant’s statements at the time were all confrontations, both between Defendant and Chadwick and Chadwick and Chadwick’s wife, occurred on a front porch.” Additionally, in section 8, the State notes that “Defendant indicated all threats to Chadwick’s wife had ended when defendant intervened and physically came between them. From that point forward, according to Defendant, Chadwick’s wife was no longer in danger thanks to Defendant’s intervention.” The State’s apparent perception of “since a few of the many provisions of W.S. 6-2-602 may not be met at this time, that none of the provisions of W.S. 6-2-602 are being met at all” seems to be attempting to develop an incomplete or false narrative in these statements, without presenting any evidence other than an interpretation of an interview where at no time did Sgt Christen or the State ask any deep probing questions of the defendant related to anything other than the assault committed by Mr. Chadwick and therefore the answers and statements the State is claiming were required were never sought out by law enforcement or the State when either entity could have easily mirandized the Defendant and asked a question directly related to a potential charge that ultimately wasn’t brought to the court for nearly two

months after the incident. Additionally, If the Defendant had been mirandized and interviewed, the Defendant would have had the right to remain silent but would not be limited to only the statements made to the Police or the State to use as a defense with the court. If the State is claiming that no danger existed or currently exists to Ms. Peth's home because "all confrontations took place on a front porch", and that no danger existed or currently exists to Ms. Peth because the Defendant intervened and she had retreated from the porch to just inside the doorway to the home, and is therefore now safe from any of Mr. Chadwick's violence, what legitimate concern existed to compel the Saratoga Police (via Sgt Christen) to have cause or concern enough to issue a no trespass order to Mr. Chadwick mandating that he is not authorized to "enter or remain on certain premises of another" known to be the property at 418 N. Veterans St. and not only the specific the "Home" or "Habitation" located on that property. "Premises" is not specifically defined in Wyoming Statute, yet "Home" and "Habitation" are. Therefore, the specific wording of the Criminal Trespass issued to Mr. Chadwick mandating that he stay off and out of the "premises" at 418 N. Veterans St. would indicate that the entire property (to include the home and the front porch) be restricted to him because of the concern or threat of danger he presents by being anywhere on those premises. Furthermore, If the State is claiming that no danger existed or currently exists to Ms. Peth's home because "all confrontations took place on a front porch" and that no danger existed or currently exists to Ms. Peth because the Defendant intervened and she had retreated from the porch to just inside the doorway to the home, and is therefore now safe from any of Mr. Chadwick's violence, what legitimate concern existed to compel the this very court have cause or concern enough to issue an Order of Protection against Mr. Chadwick mandating that he shall not commit any of the following acts: (A) Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of the Petitioner (Ms. Peth); (B) Placing the Petitioner in reasonable fear of imminent physical harm; or (C)

Causing the Petitioner to engage involuntarily in sexual activity by force, threat of force, or duress, to not initiate contact with the petitioner anywhere either directly or indirectly, to not be at Petitioner's place of employment or residence or so near the same as to upset the life of the Petitioner under any circumstances, and must always remain 500 feet away from the Petitioner and these prescribed locations. The issuance of this Order of Protection by the Court stating the Court's honest belief that the danger listed above exists, and that the above listed restrictions on Mr. Chadwick are valid and substantiated by cause, directly challenges the State's theory that simply because the incident took place on a front porch and Ms. Peth had retreated inside the home at some point after the Defendant intervened, that Ms. Peth and the Defendant are now, and has been completely free from, an honest belief that danger exists (whether the danger is real or apparent) of any potential injury, loss, or unlawful and forceable attempts to enter Ms. Peth's home, by Mr. Chadwick, with the legitimate concern that Mr. Chadwick would do so to commit an unlawful act involving force or violence.

10. The State's response, in section 9, notes that the "Defendant's response to a single blow from an unarmed assailant was to brandish a firearm and threaten to 'put him down' ". This assertion is presumptive, speculative, and incorrect. The State describes Mr. Chadwick as an "unarmed assailant" multiple times throughout their response, which has never been established by evidence as Mr. Chadwick left the scene prior to the arrival of the Police and was not contacted by the police until the next day. The only fact that is known is that Mr. Chadwick did not display a weapon during his escalation of hostilities against Ms. Peth and the Defendant, making the claim by the State that Mr. Chadwick was in fact an "unarmed assailant" presumptive and biased to the Defense with no basis in fact or evidence to support the claim. If the State is continuing to stipulate that Mr. Chadwick was not armed at the time of the incident, which still cannot be proven or disproven even today, let alone known by the

Defendant at the time of the incident, it would ultimately call into question the credibility and legitimacy of the State's "Mutual Combatants" statement in section 5. Additionally, the State claims that the only initiating factor to the Defendant's response was "a single blow." This is also incorrect and speculative, as the State has never interviewed the Defendant in relation to this charge and therefore has never inquired or established any details regarding the Defendant's state of mind at the time of the incident. As previously mentioned in section 8 of this reply, Mr. Chadwick engaged in a series of escalations of hostility leading up to delivering that "single blow." This fact, along with the Defendant's known history of his aggressor, well establishes a legitimate concern of bodily injury to himself and Ms. Peth. This pre-existing legitimate concern over Mr. Chadwick's known history to the Defendant is evident in the fact that the Defendant had the forethought to turn on the recorder in his phone to document the exchange as evidence immediately upon identifying Mr. Chadwick as the individual approaching Ms. Peth, her residence, and the Defendant. The Defendant knew the phone was recording the entire time of the incident, reacted to being assaulted in the manner in which he did knowing that recording was being made, and conscientiously admitted on the recording that he had been assaulted and had fired his pistol prior to ending the recording in order to call the police, as evidence. This clearly shows the state of mind of the Defendant as legitimately concerned, under the impression that he is acting responsibly and legally in the face of bodily harm to himself and another, knowingly documenting the actions during the exchange for the benefit of later investigation, and in no way attempting to be the initiator or aggressor of hostiles during the incident. Furthermore, the State claims that the Defendant "threaten[ed] to put him [Chadwick] down." This is also incorrect and highly preductal as the recording provided by the Defendant clearly shows the Defendant offering Mr. Chadwick an opportunity, not a threat, to cease his violent attack, or force the Defendant to commit to an action that the Defendant was clearly hoping to avoid. The recording clearly has the Defendant stating "If you

hit me again, I will fucking put you down!” which is an obvious presentation of an option to Mr. Chadwick with a consequence attached, not an unwarranted or baseless stand alone threat. This option was an appeal by the Defendant to Mr. Chadwick for making the better choice to deescalate his hostile violence which was reiterated by the Defendant when stating “I don’t want to, I don’t fucking want to...” as Mr. Chadwick continued to advance on the Defendant, and attempted to disarm the Defendant, so that Mr. Chadwick could presumably continue his course of violence against the Defendant and Ms. Peth, if the attempted disarming had been successful.

11. The State’s response, in section 9, notes that “Defendant’s actions escalated this situation from simple battery to a potentially lethal conflict, with Defendant threatening to use deadly force against his unarmed assailant.” The Defense’s previous arguments against the term “simple battery” not being a legitimate legal term or appearing in statute, and the continued assertion that Mr. Chadwick was unarmed still being unproven and unprovable notwithstanding, this statement is still incorrect and has no basis in fact or law. In W.S. 6-2-606 (g)(iii) Deadly force is defined as “Deadly Force: means force that is intended or likely to cause death or serious bodily injury.” As is clearly shown in the State’s response, the only actual “force” that was applied was the “shot” that was intentionally fired at a 45 degree angle over Mr. Chadwick’s head and therefore could not have been, and was intentionally made to not be, deadly to Mr. Chadwick. This fact shows that the “threat of force” by the defendant was present only in the pointing of the weapon, and only after Mr. Chadwick had already caused an injury by his hostile violence which presented the Defendant with an honest belief that the danger of further injury existed, whether that danger was real or apparent. However, the actual “use of force” in firing the “shot” was conscientiously aimed above Mr. Chadwick making it not

“deadly force” at all, and so this assertion by the State appears to be prejudicial and has no basis in fact or law.

WHEREFORE IT IS RESPECTFULLY REQUESTED that the Court disregard the above listed content of the State’s response, and their related sections in the State’s response, and continue to consider immediately dismissing this matter with prejudice taking into consideration only the State’s content remaining unchallenged by the Defense.

DATED this 17th day of January 2022.

Joey Correnti IV
Defendant
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I received a copy of the foregoing Reply to State’s Response in the Circuit Court of the Second Judicial District at the Interim Carbon County Courthouse, 812 E. Murray Street, Rawlins, Wyoming 82301, ___ day of January 2022, and will deliver a copy to the Honorable Susan Stipe RE: Docket No. CR-2021-0800.

Recipient of Reply to State’s Response