

## "Stand Your Ground" Law Tested In Recent Shootings

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### **"Stand Your Ground" Law Tested In Recent Shootings**

#### **News**

Posted by : Randy

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HELENA, Mont. (AP) -- A Montana man is accused of setting a trap and blindly blasting a shotgun into his garage, killing a 17-year-old German exchange student.



A Minnesota man is convicted of lying in wait in his basement for two teenagers and killing them during a break-in.

The two recent cases take the "stand your ground" debate to a new level: Do laws that allow private citizens to protect their property also let them set a trap and wait for someone to kill?

"We don't want it to be easy to be able to prosecute people. But we want to be able to hold individuals accountable when they have stepped outside the bounds of society," David LaBahn, president of the Washington, D.C.-based Association of Prosecuting Attorneys, said Wednesday.

More than 30 states have laws expanding the self-defense principal known as the "castle doctrine," a centuries-old premise that a person has the right to defend their home against attack, LaBahn said. The name evokes the old saying, "my home is my castle."

Most of these changes have come since Florida in 2005 became the first state to interpret the "castle doctrine" to apply outside the home with a measure known as the "stand your ground" law.

These laws make it far easier for a person to shoot someone and avoid prosecution by saying they felt an imminent danger - whether or not the person who was shot was armed.

The principle became central to the defense of a 2012 shooting of an unarmed Florida teenager, Trayvon Martin, by a neighborhood watch volunteer who was following the 17-year-old. George Zimmerman was acquitted last year.

The Montana and Minnesota cases involve homeowners who had been burglarized and said they were afraid of it happening again. Prosecutors say they lured intruders into fatal encounters.

In Montana, Markus Kaarma told investigators his Missoula home had been burglarized twice within the last week before Sunday's shooting death of 17-year-old Diren Dede. Kaarma told his hairdresser he had stayed up three nights waiting to shoot a kid, the woman told investigators.

The night of the shooting, Kaarma and his partner, Janelle Pflager, left their garage door open. Pflager left her purse in the garage "so that they would take it," she told a police officer. She also set up a video baby monitor and installed motion sensors, prosecutors said.

After midnight, they heard the sensors trip. Pflager turned to the video monitor and saw a man in the garage. Kaarma took his shotgun, walked out the front door and to the driveway.

He told investigators he heard metal on metal and without speaking fired four times - sweeping the garage with three low shots and a high fourth shot. Dede was hit in the head and the arm.

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Montana's law says a person is justified in using deadly force if they believe it necessary to prevent an assault or a forcible felony.

Since it passed in 2009, the law has been raised at least a dozen times in Montana cases. In several, it was the reason prosecutors decided against filing charges.

Kaarma attorney Paul Ryan said he intends to use that law as a defense in his client's deliberate homicide charge. That shifts the burden to prosecutors, who will have to prove their case and that deadly force wasn't justified, he said.

Kaarma didn't intend to kill Dede, Ryan said. "He was scared for his life. It shouldn't be up to a homeowner to wait and see if (an intruder) is going to shoot him when he announces himself," he said.

Because the laws typically leave it up to the shooter to decide if a danger exists, prosecutors often have no way to challenge such a claim. LaBahn said the case in Missoula appeared to reflect the same concerns raised repeatedly by prosecutors in Florida.

"It doesn't sound to me that a reasonable person is going to shoot through a garage door," LaBahn said.

He added there could be mitigating factors yet to emerge in the exchange student's death.

Minnesota law allows the use of deadly force in a home to prevent a felony, but it must be considered a reasonable response.

Byron Smith, a 65-year-old retiree, unsuccessfully used that defense to justify his shooting of Nick Brady, 17, and Haile Kifer, 18, after the cousins broke into his Little Falls home in 2012. Smith's attorney said his client's home had been burglarized, and he was afraid.

Smith was convicted of premeditated murder Tuesday. Prosecutors said Smith moved his truck to make it look as though no one was home. He turned on a handheld recorder, had a surveillance system running and waited in the basement with food, water and two guns.

Brady descended the basement stairs first, and Smith shot him three times, saying "You're dead." He dragged the body to another room and waited until Kifer followed, and he shot her. "You're dying," he told her, according to the audio recording.

Since Martin's death in Florida, lawmakers in at least seven states have introduced legislation to weaken or repeal self-defense laws. None of the measures have passed, according to the San Francisco-based Law Center to Prevent Gun Violence.

Gary Marbut, who heads the Montana Shooting Sports Association and helped draft the state's law, said Kaarma's case could help clarify it.

"If they're going to possess the means to apply lethal force," he said, "they need to have a good understanding of when and how that is permissible."