

Is a parking space worth losing your life or your freedom

Lessons Learned from the Drejka Shooting 2 Lives Lost Due to Poor Training

The latest defensive gun use news tells the tragic tale of two men; both of whom became victims of an unforeseen incident in a Circle A Food Store parking lot. It is not our intent to make a judgment as to who was right or who was wrong in that situation. The courts and the media have done that. Yet, when you step back and review the facts and dig deeper into the actions of all involved, one might come away with some serious food for thought. One might learn a life lesson that could possibly prevent such tragedies from happening in the future. Our hope is that this impartial review of the facts may enhance your understanding of the legal analysis that caused twelve men and women to render a verdict of guilt after six and a half hours of deliberation. Was the verdict morally fair? It depends on who you ask. Was it legally sound? It depends on an interpretation of the facts. Let's look at those facts.

For those unfamiliar with the case, here's what we know from the media. On July 19th, 2018, in Clearwater Florida, Markeis McGlockton's girlfriend, Britany Jacobs drove Markeis and their 3 children to the Circle A Food Store and illegally parked her car in a handicap parking space. McGlockton went inside the convenience store to purchase some snacks. Michael Drejka arrived and parked perpendicular to Jacobs' car, surveyed the rear of the car as well as the front for signs of a handicap plate or placard. When Drejka didn't find any indication of the car being legal for the parking space, he began a loud conversation with the driver Jacobs. After a few minutes, a concerned McGlockton exits the store, notices Drejka aggressively interacting with the mother of his children, and reactively pushes Drejka to the ground. Approximately 2.5 seconds

after Drejka is knocked to the ground, he unholsters his lawfully carried handgun, McGlockton takes a step back, and Drejka fires a single shot, subsequently killing McGlockton. Initially Drejka was not arrested due to the local sheriff's misunderstanding of Florida's "Stand Your Ground" law.

There are facts involving this incident and subsequent trial, that you the reader, and most likely even the jury weren't aware of. McGlockton's girlfriend, Jacobs, had parked in the only improperly marked handicapped parking space, located on the side of the building. Thereby blocking access to the handicap ramp. Drejka car perpendicular to her car, was also illegally parked and blocking alternate access to the handicap ramp. Furthermore, while both Drejka and McGlockton were regular customers of the convenience store, the owner of the store, Abdalla "Ali" Salous (not present at the time of the shooting) said he had previously had issues with Drejka at his business that needed to be addressed over the span of Drejka patronizing the store. Another customer, Richard Kelly told Spectrum News that he had an interaction with Michael Drejka after he had parked in the same improperly marked handicapped parking space weeks prior to the fatal shooting. According to Kelly, "He flipped out on me called me every n-word, said he's going to shoot me,". Kelly went on to say, " He said he was going to kill me, and he went back to his truck, got something out of his truck and walked back up on me." Store owner Ali Salous came out and shutdown the confrontation.. According to documents from the Pinellas County Clerk of the Circuit Court, Drejka had been named the accused aggressor in four prior road incidents ranging from 2012 to 2018. In three of these cases, prosecutors allege Drejka threatened drivers with a gun.

Drejka's interaction with Britany Jacobs was so extreme that another customer entered the convenience store and informed the store clerk of the situation, which was apparently why McGlockton suspended paying for his items at the store to investigate. When McGlockton approached Drejka, Drejka was standing on a raised portion of the handicap access ramp. The store video captures the incident. It shows that, in addition to McGlockton's pushing Drejka, his fall to the ground was additionally caused by losing firm footing due to the elevation difference

between the ground and his perch on the access ramp. While we can't conclusively estimate the force of McGlockton pushing Drejka, it's reasonable to conclude that the elevation difference factored into the fall. Even a slight push back, or Drejka stepping back quickly, could have induced the same fall to the ground.

Let's start our analysis by discussing Drejka's role. Based on statements from both store owner Salous and customer Kelly, it's clear that Drejka had issues with motorists parking in a handicap space. In the post shooting interview, Drejka told detectives that it's one of his "pet peeves". We don't know if Drejka knew the space was improperly marked, so for the purpose of this analysis, we presume that he knew it to be properly marked. That is his first mistake, a concealed carry permit doesn't allow you to enforce any law, with or without a gun. CCW is for personal defense, defense of another, and defense of life in preventing a forcible felony. This is the reason states issue a permit for your wallet allowing you to carry a **firearm**, not a badge for your shirt or any other expectation or authorization to enforce any law. Here we see Drejka as the initial aggressor of the incident, where his interaction with the girlfriend, Jacobs, made her the victim of his verbal abuse for a period of time. Next we see McGlockton intervene with physical force, many feel this changes the scenario to Drejka being the victim.¹ Once on the ground, after being pushed by a younger and somewhat larger McGlockton, it's easy to see where the now victim Drejka, looking up from the ground, may be in fear of further violence, and from a ground position may have felt reasonable fear that he was in imminent danger of lethal force. Note - Lethal force is not only force that is possible of causing death, but also force that is capable of causing serious bodily harm. In most US jurisdictions, serious bodily harm is injury that is potentially permanent, disabling, or crippling in nature. Also note that for self-defense, the fear of lethal force doesn't have to be an absolute fear, it simply needs to be a reasonable fear. Whenever

¹ Past acts of violence by the victim are admissible in Illinois as what is called "Lynch" material (See *People v. Lynch*, 104 Ill.2d 197) and can be used to justify the deadly force used in an encounter. The past violent acts by the victim need not be known to the accused at the time of the deadly force for the force to be justified.

you have a defensive gun use, remember the letters CYA. By that, we mean, ‘Can You Articulate’ why you felt the need to use lethal force.

We’re all entitled to our own opinions, but we all have to share the same legal truths that found Drejka guilty. On August 23, Drejka was found guilty of manslaughter with the use of a firearm). Let’s look at the legal requirements for a justifiable claim of self-defense. Typically, there are 5 pillars required to support a claim of self-defense. Those pillars are innocence, imminence, avoidance, proportionality and reasonability. Just as joists hold up a structure, the absence of any of these pillars weakens a claim of self-defense. Innocence means that you were not the aggressor, that you were not in the commission of a crime or fleeing a crime, that you were legal to be where you claim to have defended yourself. We can see the role of aggressor change quickly during this tragic incident, Drejka went from being the aggressor, to victim and to ultimate aggressor (surveillance video shows McGlockton had taken approximately 3 steps away from Drejka after seeing the firearm). While the law does allow for an initial aggressor to claim self-defense, first the initial aggressor must withdraw from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use of force. However, the assailant continues or resumes the use of force. Historically, the courts (judges and juries) rarely believe that the guy that started the fight is justified in a claim of self-defense. Don’t be that guy.

When we discuss imminence, that means that the person believes the attack is occurring at that moment. When there is a short time frame of an incident, there’s rarely a question of imminence. When it comes to avoidance, the courts and rightfully a civil society, expect that a person takes measures to avoid the use of force. That is, even though you are the person being attacked, in many jurisdictions you may have to prove that you fulfilled the requirement of a duty to retreat (when safely possible).

“Stand Your Ground” comes into play. In Florida, and other jurisdictions with a “Stand Your Ground” law, it merely takes away the requirement that you first attempt retreat, before defending yourself against an attack. While there are statutes that allow immunity from prosecution, the “Stand Your Ground” statute simply reduces or eliminates the duty to retreat. While the media (and even the sheriff in the county) stated Drejka’s case as a “Stand Your

Ground” case, it was not a test a test of that statute. As we come to proportionality, the question is, ‘was the defensive force used, proportional to the attack or presumed attack?’.

Those unfamiliar with violence might argue that a firearm is not proportional to an unarmed attack. Drejka believed that after being pushed to the ground, more blows would come and that McGlockton would “Finish (him) off”. Finally, there’s the question of reasonability. How would a reasonable and prudent person have acted given the same information at the same time. Drejka gave a video taped interview without the benefit of legal counsel, and at that time not knowing there was video that told a different story. He made statements that (while he may have believed to be true) admitted that his actions were not reasonable. During the interview Drejka said that “If he's retreating then I don't need to use my firearm”.

There’s a lot to be learned by studying this truly tragic case. Drejka, by his own admission didn’t have any formal training. This may have contributed to a failure of understanding the responsibility of carrying a firearm, He may not have fully understood the principles of self-defense nor the importance of avoidance. It’s obvious he had not considered the aftermath of a defensive gun use and the importance of having your attorney present. The importance of having an attorney present during questioning, the growing expense of having not only competent defense counsel, but also the expense of expert witnesses, are compelling reasons why anyone carrying a firearm should also carry USCCA Shield. It’s not our intent to make this sound like an infomercial for USCCA, but it really is an important tool to carry along with your firearm.

Many may understand Drejka’s “pet peeve” (his admission during the interview), but it’s important that we refrain from taking the law into our own hands. It’s important to know what to do in the aftermath. After a traumatic incident where you find yourself thrown to the ground, it may be common to be confused about the exact nature of the incident. Most people will immediately suffer from some degree of time distortion. They may not recall distances accurately, nor will they comprehend the time and order of events accurately, and that’s why we suggest always having an attorney present before making any statements other than you were attacked and felt the need to defend yourself.

You carry a firearm to make you hard to kill, to protect yourself and others under the right circumstances. You must have the proper training not just in using your firearm but as importantly knowing the law of self-defense. Knowledge and application of the law makes you hard to convict. It's for all these reasons that we suggest the comprehensive training provided by USCCA Certified instructors, but also having access and the means for comprehensive defense, by being a member of the USCCA Shield program.

We hope that all citizens capable of legally carrying a firearm do so every day and in a lawful manner. Most importantly, we hope and pray that you will never have to use it. We train our students to never put themselves in harm's way where one may be forced to defend yourself. Not only has this incident resulted in one man losing his life, but another man losing his freedom, and at 49 years of age, 2 or more decades of incarceration is essentially a life sentence. Sentencing for Michael Drejka is scheduled for October of this year, and it's expected that he may be incarcerated for 25 years or more. Again, 2 lives lost, and many more lives affected by friends and family of Markeis McGlockton as well as Michael Drejka. This is a tragedy that never should have happened.