

If the defendant was not the aggressor, and had reasonable grounds to believe and actually did believe that the defendant was in imminent danger of death or serious bodily harm that the defendant could avoid only by using deadly force against the assailant, the defendant had the right to employ deadly force in defense. "Deadly force" means force which is likely to cause death or serious bodily harm.

In order for the defendant to have been justified in the use of deadly force in self-defense, the defendant must not have provoked the assault on the defendant or have been the aggressor. Mere words, without more, do not constitute provocation or aggression.

The circumstances under which the defendant acted must have been such as to produce in the mind of a reasonable prudent person, similarly situated, the reasonable belief that the other person was then about to kill the first person or to do that person serious bodily harm. In addition, the defendant must have actually believed that the defendant was in imminent danger of death or serious bodily harm and that deadly force must be used to repel it.

If evidence of self-defense is present, the Government must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the Government has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty. In other words, if you have a reasonable doubt whether or not the defendant acted in self-defense, your verdict must be not guilty.

If the defendant had reasonable grounds to believe and actually did believe that the defendant was in imminent danger of death or serious bodily harm and that deadly force was necessary to repel

such danger, the defendant would be justified in using deadly force in self-defense, even though it may afterwards have turned out that appearances were false. If these requirements are met, the defendant could use deadly force even though there was in fact neither purpose on the part of the other person to kill the defendant or do the defendant serious bodily harm, nor imminent danger that it would be done, nor actual necessity that deadly force would be used in self-defense.

If the defendant was justified in using deadly force in self-defense, the defendant was not required to retreat or to consider whether the defendant could safely retreat. The defendant was entitled to stand the defendant's ground and use such force as was reasonably necessary under the circumstances to protect from serious bodily harm.

However, if the defendant could have safely retreated but did not do so, the defendant's failure to retreat is a circumstance which you may consider, together with all other circumstances, in determining whether the defendant went farther in repelling the danger, real or apparent, than the defendant was justified in doing under the circumstances.