

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2008

JOSEPH ATTARDO,

Appellant,

v.

Case No. 5D07-3255

STATE OF FLORIDA,

Appellee.

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Opinion filed October 24, 2008

Appeal from the Circuit Court
for Volusia County,
James R. Clayton, Judge.

Steven J. Guardiano, Daytona Beach,
for Appellant.

Bill McCollum, Attorney General, Tallahassee,
and Kristen L. Davenport, Assistant Attorney
General, Daytona Beach, for Appellee.

PER CURIAM.

Appellant, Joseph Attardo ["Attardo"], appeals his conviction and sentence for manslaughter by culpable negligence with a firearm. Attardo argues that his motion for judgment of acquittal was erroneously denied and that there were errors in the jury instructions.

We find no reversible error. The question whether Attardo was justified in the use of deadly force in defense of another was a question of fact for the jury to decide, given the evidence of events and circumstances surrounding the shooting. See § 776.012,

Fla. Stat. (2006). The errors asserted in the jury instructions were not fundamental, if error at all.

AFFIRMED.

PALMER, C.J., GRIFFIN and LAWSON, JJ., concur.