

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

785

**KA 22-01787**

PRESENT: CURRAN, J.P., BANNISTER, OGDEN, DELCONTE, AND HANNAH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RONALD DENT, DEFENDANT-APPELLANT.

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JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (JAMES ECKERT OF COUNSEL),  
FOR DEFENDANT-APPELLANT.

RONALD DENT, DEFENDANT-APPELLANT PRO SE.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (BRIDGET L. FIELD OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County  
(Thomas E. Moran, J.), rendered July 11, 2022. The judgment convicted  
defendant upon a jury verdict of assault in the first degree.

It is hereby ORDERED that the judgment so appealed from is  
unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him  
upon a jury verdict of assault in the first degree (Penal Law § 120.10  
[1]). We affirm.

Contrary to defendant's contention in his main brief, Supreme  
Court did not err in refusing to charge the jury on the defense of  
justification. "The defense of justification provides that a person  
may use physical force to defend [themselves] against an assailant's  
'imminent use of unlawful physical force,' but does not authorize the  
use of 'deadly physical force . . . unless . . . [t]he [person]  
reasonably believes that [the assailant] is using or about to use  
deadly physical force' " (*People v Castillo*, 42 NY3d 628, 631 [2024],  
quoting Penal Law § 35.15 [1], [2] [a]; see *People v T.P.*, — NY3d —,  
—, 2025 NY Slip Op 03642, \*1 [2025]; *People v Swanton*, 216 AD3d 1441,  
1442 [4th Dept 2023]). "Justification has both a subjective  
requirement, that 'defendant . . . actually believed . . . [they were]  
threatened with the imminent use of deadly physical force,' and an  
objective requirement, that defendant's 'reactions were . . . those of  
a reasonable [person] acting in self-defense' " (*Castillo*, 42 NY3d at  
631, quoting *People v Collice*, 41 NY2d 906, 907 [1977]). "When  
considering a request for a justification charge, courts examine the  
evidence in the light most favorable to the defendant, and must  
provide the instruction if there is any reasonable view of the

evidence that defendant was justified in [their] actions" (*id.*; see *People v Heiserman*, 39 NY3d 988, 990 [2022]; *People v Rayford*, 213 AD3d 1337, 1338 [4th Dept 2023]). " '[W]hen no reasonable view of the evidence would support a finding of [justification], the court is under no obligation to submit the question to the jury' " (*Heiserman*, 39 NY3d at 990, quoting *People v Watts*, 57 NY2d 299, 301 [1982]; see *People v Brown*, 33 NY3d 316, 321 [2019], *rearg denied* 33 NY3d 1136 [2019]; *People v Rivera-Mateo*, 208 AD3d 1578, 1579 [4th Dept 2022], *lv denied* 39 NY3d 964 [2022]). Here, viewing the record in the light most favorable to defendant, we conclude that there is no reasonable view of the evidence that defendant was anything other than the initial aggressor in his use of deadly physical force and, thus, "he is not entitled to a jury instruction on justification" (*Brown*, 33 NY3d at 325; see *People v Taylor*, 134 AD3d 508, 509 [1st Dept 2015], *lv denied* 28 NY3d 1075 [2016]; *People v Caldwell*, 98 AD3d 1272, 1273 [4th Dept 2012], *lv denied* 20 NY3d 985 [2012]; *People v Robinson*, 283 AD2d 989, 991 [4th Dept 2001], *lv denied* 96 NY2d 906 [2001]). For the same reasons, we reject the additional contention of defendant in his main brief that the court erred in denying his motion to set aside the verdict pursuant to CPL 330.30 (1) on the ground that the court should have given a justification charge.

Contrary to defendant's further contention in his main brief, he was not entitled to be present, or to have defense counsel present, at a proceeding where the People sought a material witness order. "Neither the defendant nor the prosecution is entitled to notice of an application for a material witness hearing, and neither party has standing to contest or to participate in a hearing on an application made by the other" (*People v Fermin*, 150 AD3d 876, 878 [2d Dept 2017], *lv denied* 30 NY3d 1060 [2017] [internal quotation marks omitted]; see *People v Phillips*, 203 AD3d 1636, 1637 [4th Dept 2022]; *People v Brown*, 195 AD2d 967, 967 [4th Dept 1993], *lv denied* 82 NY2d 804 [1993]). Here, the material witness proceeding was held only to determine what steps should be taken to secure the witness's testimony and, contrary to defendant's assertion, the court did not pressure the witness to alter her testimony, nor did the hearing veer into "the content of the witness's testimony or any legal or factual issue that might involve the opposing party in the underlying criminal case" (*People v Mauro*, 49 AD3d 268, 269 [1st Dept 2008], *lv denied* 10 NY3d 961 [2008]; see generally *People v Bond*, 95 NY2d 840, 843 [2000]).

Contrary to defendant's contentions in his pro se supplemental brief, we conclude that the conviction is supported by legally sufficient evidence (see *People v Bleakley*, 69 NY2d 490, 495 [1987]) and, upon viewing the evidence in light of the elements of the crime of which defendant was convicted as charged to the jury (see *People v Danielson*, 9 NY3d 342, 349 [2007]), we further conclude that the verdict is not against the weight of the evidence (see generally *Bleakley*, 69 NY2d at 495).