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Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 PETER SANTILLI,)
)
 Defendant.)
 _____)

Case No. 3:16-cr-00051-BR

**DECLARATION OF THOMAS
COAN**

State of Oregon)
)
 County of Multnomah) **ss**

I, Thomas Coan, under penalty of perjury, declare the following to be true and accurate:

1. I represent defendant Peter Santilli in this case.
2. Santilli is an independent new media journalist who broadcasts a daily news shows and produces live-stream video through various Internet web sites and channels.

3. For approximately the past year, Santilli has been producing his shows in his studio apartment in Cincinnati, Ohio.

4. I consulted with Cincinnati criminal defense lawyer Bill Gallagher regarding Ohio laws relating to defense of person and defense of home. Attorney Gallagher told me that under Ohio Revised Code (ORC) 2901.05(B)(1) provides for a presumption of self defense if you are in your home and the other person has no right to be there, and that no duty is imposed to identify yourself or announce your intent. Further, ORC 2901.09 provides there is no duty to retreat if you are in your own residence or vehicle.

5. Copies of these statutes are attached and marked as Exhibit A.

DATED this 22nd day of February 2016.

Thomas K. Coan
Thomas K. Coan, OSB 89173
Attorney for Defendant Santilli

2901.09 No duty to retreat in residence or vehicle.

(A) As used in this section, "residence" and "vehicle" have the same meanings as in section [2901.05](#) of the Revised Code.

(B) For purposes of any section of the Revised Code that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self-defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self-defense or defense of another.

Effective Date: 2008 SB184 09-09-2008

2901.05 Burden of proof - reasonable doubt - self-defense.

(A) Every person accused of an offense is presumed innocent until proven guilty beyond a reasonable doubt, and the burden of proof for all elements of the offense is upon the prosecution. The burden of going forward with the evidence of an affirmative defense, and the burden of proof, by a preponderance of the evidence, for an affirmative defense, is upon the accused.

(B)

(1) Subject to division (B)(2) of this section, a person is presumed to have acted in self defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force.

(2)

(a) The presumption set forth in division (B)(1) of this section does not apply if the person against whom the defensive force is used has a right to be in, or is a lawful resident of, the residence or vehicle.

(b) The presumption set forth in division (B)(1) of this section does not apply if the person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that residence or vehicle.

(3) The presumption set forth in division (B)(1) of this section is a rebuttable presumption and may be rebutted by a preponderance of the evidence.

(C) As part of its charge to the jury in a criminal case, the court shall read the definitions of "reasonable doubt" and "proof beyond a reasonable doubt," contained in division (D) of this section.

(D) As used in this section:

(1) An "affirmative defense" is either of the following:

(a) A defense expressly designated as affirmative;

(b) A defense involving an excuse or justification peculiarly within the knowledge of the accused, on which the accused can fairly be required to adduce supporting evidence.

(2) "Dwelling" means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes, but is not limited to, an attached porch, and a building or conveyance with a roof over it includes, but is not limited to, a tent.

(3) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest.

(4) "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.

(E) "Reasonable doubt" is present when the jurors, after they have carefully considered and compared all

the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reason and common sense. Reasonable doubt is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt. "Proof beyond a reasonable doubt" is proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person's own affairs.

Effective Date: 11-01-1978; 2008 SB184 09-09-2008