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2012 ELGIN SHOOTING

Woman won't face murder trial in slaying

Judge accepts 'stand your ground' defense in home-invasion case

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Sally Memmert doesn't have to stand trial for murder for killing a mentally distraught young woman she had been trying to help but who entered her Elgin home at night and attacked her.

Memmert, 60, "is immune from prosecution," wrote Circuit Judge Robert Hood in a 25-page order about the fatal Kershaw County shooting at Memmert's house in January 2012.

Hood cited the state's "stand your ground" law in making the rare immu-

nity ruling last week after two days of court hearings. Fifth Circuit solicitor's office prosecutors were trying to get Hood to rule Memmert had no immunity from prosecution and should stand trial for killing Petra Boykin, 29.

Columbia defense attorney Jack Swerling put up numerous witnesses, including Memmert, to persuade the judge to rule in her favor.

"The pretrial hearing was all about whether she had immunity or not, and we approached it as a trial, putting up the highlights of what our defense would have been at trial," Swerling said.

The office of 5th Circuit Solicitor Dan Johnson is considering the next step. "We are consulting with the attorney general's of-

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office about a potential appeal, and a decision will be made within the week," Johnson said Tuesday.

Kershaw County Sheriff Jim Matthews, whose office brought the original charges, had no second thoughts.



Memmert

"Our decision stands — had we not thought we had probable cause to bring the case, we would not have done it," Matthews said. "We had somebody dead."

It is difficult for a defendant to avoid a trial on murder charges.

Under state law, he not only first has to prove self-defense, but also that he had a right to stand his ground because he was attacked in a place where he had a right to be, including the home, and a right to use deadly force against his attacker.

Swerling said Hood's order is significant because it is among the first in the state, if not the first, where a judge has issued such a sweeping ruling, finding that multiple sections of the state's "stand your ground" act applied to a case. He ruled that Boykin was an intruder, not a social guest, and even if she was a social guest, Memmert had a right to use deadly force once she was in fear for her life, Swerling said.

In this case, Memmert had tried numerous times to help Boykin, who had two young children, according to Hood's order.

Hood's order gave the following version of events,

based on testimony at last winter's pretrial hearings:

Boykin, a U.S. Army veteran, had a documented history of post-traumatic stress disorder, and she had a history of violence, suicide attempts, depression, drug abuse, flying into rages and threatening people. In 2011, Boykin got in a fight with three Richland County deputies, kicking them and trying to bite them.

In the fall of 2011, Memmert invited Boykin — who had been kicked out of her parents' home — to come to her Elgin house and live. During that time, Memmert didn't charge rent, drove her places and babysat for her children. They celebrated Thanksgiving and Christmas together.

But in early January 2012, Boykin threatened Memmert at her home with a knife after Memmert asked her son not to use her computer for computer games. Memmert then called 911, and Kershaw County deputies came to the house. With deputies there, Memmert ordered Boykin to leave, and she did.

In the early morning hours of Jan. 17, 2012, Boykin came to Memmert's house in Elgin to retrieve some of her clothes, which had been left on the porch in bags. Memmert had told her earlier the clothes would be on the porch.

When Boykin got to the house, around 3 a.m., she pushed her way in through the front door. On hearing someone enter, Memmert got out of bed and encountered Boykin in a front hallway. Then, as Boykin slapped, choked and shoved her, Memmert begged her to stop and told her she had a gun and would have to shoot her.

Memmert "had never been beaten like that before, was afraid, and was

getting hurt," Hood wrote. "It was at this time, feeling like she had no other options, being afraid for her life, the Defendant pulled out the pistol and shot Ms. Boykin one time."

Prosecutors argued that Memmert had invited Boykin to get her clothes off Memmert's porch, and therefore Memmert had invited Boykin to come inside her dwelling. But Hood ruled against them.

Such an invitation, to come onto the porch of a house, "in no way could be construed as an invitation to enter her residence," Hood ruled. "This would lead to an absurd result and would allow any invitee or guest to a person's porch to feel free to enter the residence."

Swerling also put on the stand a former captain in the Kershaw County Sheriff's Department, Christopher Phillips, who was at the scene of the killing. Phillips testified he had told prosecutors it was a case of self-defense and "stand your ground."

Swerling said crime scene evidence about the shell casing, and where the bullet wound up after being fired, supported Memmert's story.

Prosecutors put up no testimony.

"Overwhelming evidence showed Sally Memmert did everything she could to avoid what happened," Swerling said. "Although it is tragic because someone is dead, Sally clearly acted within her right of self-defense under the stand your ground law and should not have to stand trial."

If Memmert were to go on trial and were found guilty of murder, she would automatically be sentenced to 30 years to life, with no parole.