

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

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

MILTON STACY MADDOX,

Appellant,

v.

Case No. 5D19-352

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 27, 2019

Appeal from the Circuit Court
for Sumter County,
Michelle T. Morley, Judge.

James S. Purdy, Public Defender, and
Matthew Funderburk, Assistant Public
Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

COHEN, J.

Milton Maddox was charged with three counts of aggravated assault with a firearm and one count of felony fleeing or attempting to elude. Maddox appeals the denial of his motion for immunity from prosecution of the aggravated assault charges pursuant to Florida's Stand Your Ground statute, section 776.032, Florida Statutes (2017).

In 2015, when Maddox committed the alleged crimes, a defendant had the burden to prove Stand Your Ground immunity by a preponderance of the evidence. Bretherick v.

State, 170 So. 3d 766, 779 (Fla. 2015). In 2017, section 776.032 was amended, providing that after a defendant raises a prima facie claim of self-defense, the burden shifts to the State to prove by clear and convincing evidence that the defendant is not immune from prosecution. See Ch. 2017-72, § 1, Laws of Fla.

Maddox filed his Stand Your Ground motion in 2017, pursuant to the amended version of section 776.032. At the hearing on his motion, Maddox argued that the change to the burden of proof was procedural in nature and therefore applied retroactively to his case. The trial court rejected that argument, ruling that Maddox was required to establish his entitlement to Stand Your Ground immunity by a preponderance of the evidence.

Subsequently, in Fuller v. State, 257 So. 3d 521, 535–37 (Fla. 5th DCA 2018), this Court ruled that the amendment to section 776.032 was procedural and should be applied retroactively. We noted in Fuller that “the issue of who bears the burden of proof may well be significant where the case is an extremely close one, or where only limited evidence is presented for the trial court’s consideration.” Id. at 539 (quoting Bretherick, 135 So. 3d at 341).

Although the trial court’s determination as to the retroactivity of the amendment was contrary to Fuller, the trial court nonetheless found that the State “provided clear and convincing evidence that [Maddox] [was] not entitled to immunity from criminal prosecution.”¹ Given that finding, as well as an independent review of the record, we are confident that Maddox had a full and complete evidentiary hearing on his claim of immunity, and that no useful purpose would be served in requiring a new Stand Your Ground hearing because his claim failed under either burden of proof. See Mency v.

¹ A jury also rejected Maddox’s self-defense claim.

State, 44 Fla. L. Weekly D1537 at *1 (Fla. 1st DCA June 12, 2019) (holding that defendant was not entitled to new Stand Your Ground hearing pursuant to correct burden of proof because trial court ruled that defendant was not entitled to immunity regardless of which party had burden).

AFFIRMED.

EVANDER, C.J., and WALLIS, J., concur.