IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

TIMOTHY RAY MARTIN,   )
)
            Appellant,   )
)
v.   )   Case No. 2D16-4468
)
STATE OF FLORIDA,   )
)
            Appellee.   )
_____   )

Opinion filed December 9, 2020.

Appeal from the Circuit Court for
Hillsborough County; Chet A. Tharpe,
Judge.

Howard L. Dimmig, II, Public Defender and
Kevin Briggs, Assistant Public Defender,
Bartow, for Appellant.

Ashley Moody, Attorney General,
Tallahassee and Jonathan A. Hurley,
Assistant Attorney General, Tampa,
for Appellee.

                ON REMAND FROM THE FLORIDA SUPREME COURT

PER CURIAM.

            This matter is before us on remand from the Florida Supreme Court for

reconsideration based on its decision in Love v. State, 286 So. 3d 177 (Fla. 2019).

Timothy Ray Martin was convicted of felony battery, see § 784.041(1), Fla. Stat. (2016), following a jury trial and sentenced to three years in prison followed by two years of probation. Prior to trial, Mr. Martin filed a motion to dismiss the information charging him with aggravated battery based on section 776.032, Florida Statutes (2016), Florida's "Stand Your Ground" law. After an evidentiary hearing, the trial court denied the motion after applying the statutory burden of proof in effect at that time. Mr. Martin appealed, and this court reversed Mr. Martin's judgment and sentence and remanded for a new immunity hearing under the amended Stand Your Ground law. See Martin v. State, 43 Fla. L. Weekly D1016 (Fla. 2d DCA May 4, 2018), disapproved of by Love, 286 So. 3d at 190. On remand, we now conclude that Mr. Martin is not entitled to a new immunity hearing because his immunity hearing occurred before the amended statute's effective date. See Love, 286 So. 3d at 188 ("[Section 776.032(4)] applies to those immunity hearings, including in pending cases, that take place on or after the statute's effective date."). Accordingly, we affirm Mr. Martin's judgment and sentence.

Affirmed.

CASANUEVA, SLEET, and LUCAS, JJ., Concur.