

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JUSTIN NELSON,)	
)	
Appellant,)	
)	
v.)	Case No. 2D18-39
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed March 18, 2020.

Appeal from the Circuit Court for Pinellas
County; Chris Helinger, Judge.

Howard L. Dimmig, II, Public Defender, and
Timothy J. Ferreri, Assistant Public
Defender, Bartow, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Laurie Benoit-Knox
Assistant Attorney General, Tampa, for
Appellee.

KHOUZAM, Chief Judge.

Justin Nelson appeals his conviction and sentence for aggravated assault.
He was found guilty by a jury after the circuit court denied his motion to dismiss based
on section 776.032, Florida Statutes (2017), Florida's "Stand Your Ground" law. Nelson

argues that he is entitled to a new immunity hearing because section 776.032 was amended in 2017 to shift the burden of proof from the defendant to the State. We agree and reverse. As to Nelson's remaining claim, we affirm without comment.

The Florida Supreme Court recently held in Love v. State, 286 So. 3d 177, 190 (Fla. 2019), that "[s]ection 776.032(4) is a procedural change in the law and applies to all Stand Your Ground immunity hearings conducted on or after the statute's effective date" (emphasis added). Because Nelson's immunity hearing was held on June 9, 2017, the same day the amendment became effective, he is entitled to a new immunity hearing conducted under the amended statute. Accordingly, we reverse and remand for proceedings consistent with this opinion.

Reversed and remanded with directions.

CASANUEVA and VILLANTI, JJ., Concur.