

IN THE CIRCUIT COURT FOR THE  
NINTH JUDICIAL CIRCUIT, IN  
AND FOR ORANGE COUNTY,  
FLORIDA

ROSE GRAFF,

CASE NO.: 2019-CA-12379-O

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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Petition for Writ of Prohibition  
Maureen A. Bell, Respondent Judge

Robert Wesley, Public Defender and  
Felipe Franca, Assistant Public Defender,  
for Petitioner.

Aramis D. Ayala, State Attorney and  
Matthew Kozyra, Assistant State Attorney,  
for Respondent.

Before MARQUES, KEST, JORDAN, JJ.

PER CURIAM.

Rose Graff petitions this Court for a writ of prohibition challenging the trial court's order denying her motion to dismiss, which was based on the Stand Your Ground law. § 776.032, Fla. Stat. We deny the petition.

The facts of the underlying case involve a physical altercation between a mother—Graff—and her daughter—the victim. Graff asserted that she was entitled to immunity from prosecution under the Stand Your Ground law. The trial court held a hearing, at the conclusion of which it evaluated the testimony and concluded that the State had carried its burden to prove by clear and convincing evidence that Graff had not acted in self-defense and denied her motion to dismiss.

See § 776.032(4), Fla. Stat. This petition challenging that decision followed. In this proceeding, our standard of review is that “the trial court's findings of fact are ‘presumed correct and can be reversed only if they are not supported by competent substantial evidence, while the trial court's legal conclusions are reviewed de novo.’” *State v. Kirkland*, 276 So. 3d 994, 996 (Fla. 5th DCA 2019) (quoting *Mobley v. State*, 132 So.3d 1160, 1162 (Fla. 3d DCA 2014)). Here, substantial evidence supports the trial court’s conclusions. Our review of the record demonstrates that the State indeed proved that nothing substantiated Graff’s self-defense claim. At the hearing, both the victim and an independent witness testified that the victim did not precipitate Graff’s action in briefly choking her daughter. Indeed, Graff herself could only muster that the victim was yelling at her and that she “accidentally grabbed her by the neck.” Ex. C at 49. Accordingly, we agree that the State carried its burden of proof and the motion to dismiss was properly denied.

Therefore, the petition for a writ of certiorari is **DENIED**.

**DONE AND ORDERED** in Chambers, at Orlando, Orange County, Florida, on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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**LETICIA MARQUES**  
**Presiding Circuit Judge**

KEST and JORDAN, JJ., concur.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Order has been furnished to: **Felipe Franca, Assistant Public Defender**, 435 N. Orange Avenue, Ste. 400, Orlando, Florida 32801; **Matthew Kozyra, Assistant State Attorney**, 415 N. Orange Avenue, Orlando, Florida 32801; **Honorable Maureen Bell**, 425 N. Orange Avenue, Orlando, Florida 32801 on this \_\_\_\_\_day of \_\_\_\_\_, 2019.

/S/ \_\_\_\_\_  
Judicial Assistant