

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Xzariera O. Gray, Appellant.

Appellate Case No. 2024-000993

Appeal From Greenwood County
Frank R. Addy, Circuit Court Judge

Unpublished Opinion No. 2026-UP-460
Submitted September 1, 2026 – Filed October 28, 2026

AFFIRMED

Appellate Defender Sarah E. Shipe, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, and Senior
Assistant Deputy Attorney General Melody Jane Brown,
all of Columbia; and Solicitor David M. Stumbo, of
Greenwood, all for Respondent.

PER CURIAM: The circuit court's judgment is affirmed because there are no errors of law, and there is evidence supporting the denial of Appellant's request for immunity under the Protection of Persons and Property Act. *See* S.C. Code Ann. §§ 16-11-410 to -450 (2015).

This case was previously remanded for the circuit court to make specific findings supporting its determination of Appellant's entitlement to immunity. *State v. Gray*, 438 S.C. 130, 142, 882 S.E.2d 469, 475 (Ct. App. 2022). The written order issued after the remand applies the proper burden of proof (preponderance of the evidence), weighs the evidence, and finds Appellant at fault in bringing on the difficulty because he stole the decedent's firearm. *See State v. Cervantes-Pavon*, 426 S.C. 442, 451, 827 S.E.2d 564, 569 (2019) (detailing the circuit court's duties when reviewing an immunity motion). Testimony from two witnesses and circumstantial evidence support this finding. *See State v. Dennis*, 447 S.C. 323, 335–36, 926 S.E.2d 250, 257 (2026) (holding no abuse of discretion occurred when evidence supported the circuit court's decision).

Appellant suggests a footnote in the order indicates the circuit court applied a burden of proof higher than preponderance of the evidence. In this footnote, the circuit court comments on the somewhat awkward posture of considering Appellant's entitlement to immunity after a jury found Appellant guilty of murder. We see no reason to look past the rest of the order's substance and fixate on the footnote. The complete order illustrates the circuit court's understanding of the applicable law, sound analysis of the evidence, and intent to rule with evidentiary support. Our supreme court has explained a decision doing those things will "almost always" be within the circuit court's discretion. *State v. Heyward*, 441 S.C. 484, 504, 895 S.E.2d 658, 669 (2023).

Appellant also argues the remand required the circuit court to hold a second immunity hearing. We respectfully reject this argument. The prior mandate instructed the circuit court to make specific findings of fact. *Gray*, 438 S.C. at 142, 882 S.E.2d at 475. In a similar case, our supreme court left the decision to hold a second immunity hearing in the circuit court's discretion. *See State v. McCarty*, 437 S.C. 355, 375–76, 878 S.E.2d 902, 913 (2022). We see no basis for holding a second immunity hearing was mandated here.

AFFIRMED.¹

GEATHERS, HEWITT, and VINSON, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.