

INTRODUCTION TO FINAL INSTRUCTIONS

Members of the jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

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Clerk & Comptroller  
Pasco County, Florida

STATEMENT OF CHARGE

WILLIAM CLIFTON, the defendant in this case, has been accused of the crimes of Aggravated Assault.

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AGGRAVATED ASSAULT (Count One)

To prove the crime of Aggravated Assault, as to Count One of the Information, the State must prove the following four elements beyond a reasonable doubt. The first three elements define Assault.

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to William Adams.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of William Adams a well-founded fear that the violence was about to take place.
4. The assault was made with a deadly weapon.

If the circumstances were such as to ordinarily induce a well-founded fear in the mind of a reasonable person, then William Adams may be found to have been in fear, and actual fear on the part of William Adams need not be shown.

A "deadly weapon" is any object that will likely cause death or great bodily harm if used or threatened to be used in the ordinary and usual manner contemplated by its design and construction.

"Great bodily harm" means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

It is not necessary for the State to prove that the defendant had an intent to kill.

AGGRAVATED ASSAULT (Count Two)

To prove the crime of Aggravated Assault, as to Count Two of the Information, the State must prove the following four elements beyond a reasonable doubt. The first three elements define Assault.

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to Daniel Zweifel.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of Daniel Zweifel a well-founded fear that the violence was about to take place.
4. The assault was made with a deadly weapon.

If the circumstances were such as to ordinarily induce a well-founded fear in the mind of a reasonable person, then Daniel Zweifel may be found to have been in fear, and actual fear on the part of Daniel Zweifel need not be shown.

A "deadly weapon" is any object that will likely cause death or great bodily harm if used or threatened to be used in the ordinary and usual manner contemplated by its design and construction.

"Great bodily harm" means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

It is not necessary for the State to prove that the defendant had an intent to kill.

AGGRAVATED ASSAULT (Count Three)

To prove the crime of Aggravated Assault, as to Count Three of the Information, the State must prove the following four elements beyond a reasonable doubt. The first three elements define Assault.

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to Sara Connolly.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of Sara Connolly a well-founded fear that the violence was about to take place.
4. The assault was made with a deadly weapon.

If the circumstances were such as to ordinarily induce a well-founded fear in the mind of a reasonable person, then Sara Connolly may be found to have been in fear, and actual fear on the part of Sara Connolly need not be shown.

A "deadly weapon" is any object that will likely cause death or great bodily harm if used or threatened to be used in the ordinary and usual manner contemplated by its design and construction.

"Great bodily harm" means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

It is not necessary for the State to prove that the defendant had an intent to kill.

AGGRAVATED ASSAULT (Count Four)

To prove the crime of Aggravated Assault, as to Count Four of the Information, the State must prove the following four elements beyond a reasonable doubt. The first three elements define Assault.

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to Michael Krnjaich.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of Michael Krnjaich a well-founded fear that the violence was about to take place.
4. The assault was made with a deadly weapon.

If the circumstances were such as to ordinarily induce a well-founded fear in the mind of a reasonable person, then Michael Krnjaich may be found to have been in fear, and actual fear on the part of Michael Krnjaich need not be shown.

A "deadly weapon" is any object that will likely cause death or great bodily harm if used or threatened to be used in the ordinary and usual manner contemplated by its design and construction.

"Great bodily harm" means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

It is not necessary for the State to prove that the defendant had an intent to kill.

## LESSER INCLUDED CRIMES

Give before reading charges on lesser included crimes. If the evidence does not convince you that the defendant committed the main crimes of which he is accused, there may be sufficient evidence that he committed a lesser included crime or crimes. In other words, if you decide the main accusation has not been proved beyond a reasonable doubt, you will need to decide if the State proved beyond a reasonable doubt that the defendant is guilty of a lesser included crime. The lesser included crimes of Aggravated Assault are:

Improper Exhibition of a Firearm, and  
Assault.

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## IMPROPER EXHIBITION OF A FIREARM

To prove the crime of Improper Exhibition of a Firearm as a lesser included offense to Counts One, Two, Three, and Four, the State must prove the following three elements beyond a reasonable doubt:

1. WILLIAM CLIFTON had or carried a firearm.
2. WILLIAM CLIFTON exhibited the firearm in a rude, careless, angry, or threatening manner.
3. He did so in the presence of one or more persons.

A "firearm" means any weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer.

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ASSAULT (Count One)

To prove the crime of Assault as a lesser included offense to Count One of the Information, the State must prove the following three elements beyond a reasonable doubt:

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to William Adams.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of William Adams a well-founded fear that the violence was about to take place.

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ASSAULT (Count Two)

To prove the crime of Assault as a lesser included offense to Count Two of the Information, the State must prove the following three elements beyond a reasonable doubt:

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to Daniel Zweifel.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of Daniel Zweifel a well-founded fear that the violence was about to take place.

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ASSAULT (Count Three)

To prove the crime of Assault as a lesser included offense to Count Three of the Information, the State must prove the following three elements beyond a reasonable doubt:

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to Sara Connolly.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of Sara Connolly a well-founded fear that the violence was about to take place.

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ASSAULT (Count Four)

To prove the crime of Assault as a lesser included offense to Count Four of the Information, the State must prove the following three elements beyond a reasonable doubt:

1. WILLIAM CLIFTON intentionally and unlawfully threatened, either by word or act, to do violence to Michael Krnjaich.
2. At the time, WILLIAM CLIFTON appeared to have the ability to carry out the threat.
3. The act of WILLIAM CLIFTON created in the mind of Michael Krnjaich a well-founded fear that the violence was about to take place.

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## JUSTIFIABLE USE OR THREATENED USE OF DEADLY FORCE

It is a defense to the crime of Aggravated Assault if the actions of WILLIAM CLIFTON constituted the justifiable use or threatened use of deadly force.

"Deadly force" means force likely to cause death or great bodily harm. "Great bodily harm" means great as distinguished from slight, trivial, minor, or moderate harm.

WILLIAM CLIFTON does not have the burden of proving that he was justified in using or threatening to use deadly force. Instead, for you to find the defendant guilty, the State must prove beyond a reasonable doubt the defendant was not justified in using or threatening to use deadly force.

The law on the justifiable use or threatened use of deadly force is as follows:

WILLIAM CLIFTON was justified in using or threatening to use deadly force if he reasonably believed that such force or threat of force was necessary to prevent imminent death or great bodily harm to himself.

If WILLIAM CLIFTON was not committing any crime other than the alleged Aggravated Assaults for which the defendant is claiming self-defense, and if he was in a place where he had a right to be, then the defendant had no duty to retreat before using or threatening to use deadly force. On the other hand, 1) if at the time WILLIAM CLIFTON used or threatened to use deadly force, he was committing a theft or criminal mischief. The duty to retreat means the defendant had the legal obligation to use every reasonable means to avoid any danger before using or threatening to use deadly force. The law does not require the defendant to retreat if he was placed in imminent danger of death or great bodily harm against himself. But if the defendant had a duty to retreat and if he could have safely retreated, but did not do so, then his use or threatened use of deadly force was not justifiable.

A person commits "theft" if he knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently, deprive the other person of a right to the property or benefit from the property.

A person commits the offense of "criminal mischief" if he willfully and maliciously injures or damages by any means any personal property belonging to another.

In deciding whether WILLIAM CLIFTON was justified in the use or threatened use of deadly force, you must consider the circumstances at the time the force or threat of force was used. The danger need not have been actual; however, to justify the use or threatened use of deadly force, the appearance of imminent danger must have been so real that the defendant actually believed the use or threatened use of deadly force was necessary. Moreover, to justify the use or threatened use of deadly force, a reasonably cautious and prudent person under the same circumstances would have believed the use or threatened use of deadly force was necessary.

However, the use or threatened use of deadly force is not justified if you find that WILLIAM CLIFTON used force or the threat of force to initially provoke the use or threatened use of force against himself, unless the force or threat of force asserted toward the defendant was so great that he reasonably believed that he was in imminent danger of death or great bodily harm and had exhausted every reasonable means to escape the danger, other than using or threatening to use deadly force on Michael Krnjaich.

In considering the issue of self-defense, you may take into account the relative physical abilities and capacities of WILLIAM CLIFTON and Michael Krnjaich.

## JUSTIFIABLE USE OR THREATENED USE OF NON-DEADLY FORCE

It is a defense to the crimes of Aggravated Assault, if the actions of WILLIAM CLIFTON constituted the justifiable use or threatened of non-deadly force.

"Non-deadly" force means force not likely to cause death or great bodily harm. "Great bodily harm" means great as distinguished from slight, trivial, minor, or moderate harm.

WILLIAM CLIFTON does not have the burden of proving that he was justified in using or threatening to use non-deadly force. Instead, for you to find the defendant guilty, the State must prove beyond a reasonable doubt the defendant was not justified in using or threatening to use non-deadly force.

The law on the justifiable use or threatened use of non-deadly force is as follows:

WILLIAM CLIFTON was justified in using or threatening to use non-deadly force against Michael Krnjaich and had no duty to retreat if he reasonably believed that such conduct was necessary to defend himself against Michael Krnjaich's imminent use of unlawful force.

In deciding whether WILLIAM CLIFTON was justified in the use or threatened use of non-deadly force, you must consider the circumstances at the time the force or threat of force was used. The danger need not have been actual; however, to justify the use or threatened use of non-deadly force, the appearance of imminent danger must have been so real that the defendant actually believed the use or threatened use of non-deadly force was necessary. Moreover, a reasonably cautious and prudent person under the same circumstances would have believed the use or threatened use of non-deadly force was necessary.

However, the use or threatened use of non-deadly force is not justified if you find that WILLIAM CLIFTON used force or the threat of force to initially provoke the use or threatened use of force against himself, unless the force or threatened force asserted toward WILLIAM CLIFTON was so great that he reasonably believed that he was in imminent danger of death or great bodily harm and had exhausted every reasonable means to escape the danger, other than using non-deadly force on Michael Krnjaich.

In considering the issue of self-defense, you may take into account the relative physical abilities and capacities of WILLIAM CLIFTON and Michael Krnjaich.

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REQUESTED JUSTIFIABLE USE OF FORCE INSTRUCTION

This instruction only applies to Count Four.

Michael Krnjaich was justified in using non-deadly force against WILLIAM CLIFTON and had no duty to retreat if:

1. WILLIAM CLIFTON was about to trespass or was trespassing or was about to wrongfully interfere or was wrongfully interfering with personal property;

and

2. The personal property was lawfully in Michael Krnjaich's possession, or in the possession of a member of his immediate family or household;

and

3. Michael Krnjaich reasonably believed that his use of force was necessary to prevent or terminate WILLIAM CLIFTON'S wrongful behavior.

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TRANSFERRED INTENT

If you find an Aggravated Assault against Michael Krnjaich would, under all the circumstances, have been justifiable upon the theory of self-defense, then the unintended Aggravated Assault against a bystander, by the pointing of the firearm in the proper and prudent exercise of such self-defense, is also justifiable.

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## PLEA OF NOT GUILTY; REASONABLE DOUBT; AND BURDEN OF PROOF

The defendant has entered a plea of not guilty. This means you must presume or believe the defendant is innocent. The presumption stays with the defendant as to each material allegation in the information through each stage of the trial unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence, the State has the burden of proving the crime with which the defendant is charged was committed and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" are used, you must consider the following:

Proof beyond a reasonable doubt does not mean proof beyond all doubt. A reasonable doubt is not a mere possible doubt, a speculative, imaginary, or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if, after carefully considering, comparing, and weighing all the evidence, there is not an abiding conviction of guilt, or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt, and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence, or the lack of evidence.

If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

## WEIGHING THE EVIDENCE

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness's testimony agree with the other testimony and other evidence in the case?
6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?
8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave in court?
9. Has the witness been convicted of a felony or misdemeanor involving dishonesty or false statement?
10. Does the witness have a general reputation for dishonesty or truthfulness?

Whether the State has met its burden of proof does not depend upon the number of witnesses it has called or upon the number of exhibits it has offered, but instead upon the nature and quality of the evidence presented.

The fact that a witness is employed in law enforcement does not mean that his or her testimony deserves more or less consideration than that of any other witness.

The defendant in this case has become a witness. You should apply the same rules to consideration of his testimony that you apply to the testimony of the other witnesses.

It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited by talking to a lawyer about his or her testimony.

You may rely upon your own conclusion about the credibility of any witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

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## RULES FOR DELIBERATION

These are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict:

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter.
2. This case must be decided only upon the evidence that you have heard from the testimony of the witnesses and have seen in the form of the exhibits in evidence and these instructions.
3. This case must not be decided for or against anyone because you feel sorry for anyone, or are angry at anyone.
4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decision in this case.
5. Your duty is to determine if the defendant has been proven guilty or not, in accord with the law. It is the judge's job to determine a proper sentence if the defendant is found guilty.
6. Whatever verdict you render must be unanimous, that is, each juror must agree to the same verdict.
7. The jury is not to discuss any questions that jurors wrote that were not asked by the court, and must not hold that against either party.
8. Your verdict should not be influenced by feelings of prejudice, bias, or sympathy. Your verdict must be based on the evidence, and on the law contained in these instructions.

CAUTIONARY INSTRUCTION

Deciding a verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think I preferred one verdict over another.

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## VERDICT

You may find the defendant guilty as charged or guilty of such lesser included crime as the evidence may justify or not guilty.

If you return a verdict of guilty, it should be for the highest offense on the verdict form for each count that has been proven beyond a reasonable doubt. If you find that no offense has been proven beyond a reasonable doubt, then, of course, your verdict must be not guilty.

The verdict must be unanimous, that is, all of you must agree to the same verdict. Only one verdict may be returned as to each crime charged. The verdict must be in writing and for your convenience, the necessary verdict forms have been prepared for you. They are as follows:

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SINGLE DEFENDANT, MULTIPLE COUNTS OR INFORMATIONS

A separate crime is charged in each count of the information and, although they have been tried together, each crime and the evidence applicable to it must be considered separately and a separate verdict returned as to each. A finding of guilty or not guilty as to one crime must not affect your verdict as to the other crime(s) charged.

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## SUBMITTING CASE TO JURY

In just a few moments, you will be taken to the jury room by the bailiff. The first thing you should do is choose a foreperson who will preside over your deliberations. The foreperson should see to it that your discussions are carried on in an organized way and that everyone has a fair chance to be heard. It is also the foreperson's job to sign and date the verdict forms when all of you have agreed on a verdict and to bring the verdict forms back to the courtroom when you return.

During deliberations, jurors must communicate about the case only with one another and only when all jurors are present in the jury room. If a juror goes to the restroom, the deliberations should stop until the juror returns. You are not to communicate with any person outside the jury about this case. Until you have reached a verdict, you must not talk about this case in person or through the telephone, writing, or electronic communication, such as e-mail or any other means. Do not contact anyone to assist you during deliberations. These communications rules apply until I discharge you at the end of the case. If you become aware of any violation of these instructions or any other instruction I have given in this case, you must tell me by giving a note to the bailiff.

Many of you may have cell phones, tablets, laptops, or other electronic devices here in the courtroom. The rules do not allow you to bring your phones or any of those types of electronic devices into the jury room. Kindly leave those devices on your seats where they will be guarded by the bailiff while you deliberate.

If you need to communicate with me, send a note through the bailiff. If you have voted, do not disclose the actual vote in the note.

If you have a question, I will talk with the attorneys before I answer, so it may take some time. You may continue your deliberations while you wait for my answer. I will answer any questions, if I can, in writing or orally here in open court.

During the trial, items were received into evidence as exhibits. You may examine whatever exhibits you think will help you in your deliberations.

These exhibits will be sent into the jury room with you when you begin to deliberate.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdict. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For more than two centuries, we have lived by the Constitution and the law. No juror has the right to violate rules we all share.

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