

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, PASCO COUNTY

STATE OF FLORIDA,

Plaintiff,

Case No. 2023-CF-000562-CFAXWS

vs.

WILLIAM ARSAND CLIFTON,

Defendant.

---

PROCEEDINGS:

Jury Trial - Day 2  
Volume V

DATE:

October 17, 2025

BEFORE:

The Honorable Mary M. Handsel  
Circuit Court Judge

PLACE:

West Pasco Judicial Center  
7530 Little Road, Suite 201  
New Port Richey, Florida 34654

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CROSS-EXAMINATION (CONTINUED)

BY MR. SARABIA:

Q You decided to help yourself.

A To move the speed bumps out of the roadway, yes.

Q And I believe you testified you -- you didn't know whose speed bumps they were. Correct?

A Correct.

Q Now, you knew they were your speed bumps. Right?

A Yes.

Q And you knew that there were a bunch of people -- because you said you want to be observant, there were a bunch of people right there in the immediate vicinity that appeared to be doing the things that were connected with the reason the speed bumps were there. Right?

A Yes.

Q You didn't try to ascertain -- you didn't try to figure out if any of them owned the speed bumps, did you?

A No.

Q Especially when, as you call him, the big guy was moving towards you, you didn't try to find out if they were his speed bumps, did you?

A No.

1 Q You didn't care, did you?

2 A No. I was trying to get away from him.

3 Q Well, even -- even before that, you didn't care,  
4 when you were going to remove the speed bumps, whose they  
5 were, did you?

6 A I didn't know who owned them, no.

7 Q You didn't care, did you?

8 A It -- I wouldn't say I didn't care. I just  
9 would say that I did not know who owned those speed bumps.

10 Q You made no effort to try and figure that out or  
11 to say, hey, sir, I've looked into it, I've researched it  
12 on the Internet, these speed bumps can't be here, and  
13 assist the rectify the situation that way. You didn't do  
14 that, did you?

15 A No.

16 Q Because you wanted to help yourself.

17 A I just wanted to move the speed bumps out of the  
18 roadway.

19 Q So then you -- you moved the first one, and then  
20 you're actively -- once you move the first one, your  
21 intent is to move the second one. Right?

22 A It was, yes.

23 Q So your intention was, I'm going to move over to  
24 the second one and remove that one. Right?

25 A If I had not been attacked, yes.

1 Q Of course. If you hadn't been stopped, you  
2 would have removed the second one. Is that fair?

3 A Yes.

4 Q Despite the fact that you say, oh, you went to  
5 the first one that you did first because the big guy was  
6 over there, you were still planning on moving the second  
7 one, regardless of the big guy. Right?

8 A Yes.

9 Q And so once he starts coming towards you and  
10 you're not acknowledging him, you're not engaging with  
11 him, you're not having a reasonable conversation with him,  
12 you're actually moving in the direction of that second  
13 speed bump. Do you agree?

14 A I was turning to get away from the guy.

15 Q Well, you're turning to avoid him in the  
16 direction of the second speed bump. You were trying to go  
17 around him. Right?

18 A No.

19 Q No?

20 A I'm trying to turn back the other direction.

21 Q Okay. But you had already been heading in the  
22 direction of that second speed bump. Do you agree?

23 A Yes.

24 Q And so when he shoved you, he was trying to keep  
25 you away from that second speed bump that we all

1 acknowledge your plan was to remove as well.

2 A Yes.

3 Q He didn't punch you. Right?

4 A No.

5 Q He didn't kick you. Right?

6 A He tripped me.

7 Q He tripped -- well, you tripped in the process  
8 of getting pushed. Right? We could all see the video.

9 A Yes.

10 Q And, granted, you lost your balance when you got  
11 pushed. You got kind of tripped up. Right?

12 A Yes.

13 Q You were able to regain your balance.

14 A Yes.

15 Q And now, once again, you want to take matters  
16 into your own hands. Right?

17 A No.

18 Q You want to let him know, don't mess with me.  
19 Right?

20 A No.

21 Q You still didn't try to have a conversation with  
22 him. Right?

23 A Right.

24 Q You're actively regaining your balance and  
25 pulling out the firearm at the same time. You agree?

1           A     My back is to the big guy, and yes, I was  
2 pulling my weapon out to defend myself.

3           Q     Yeah. And I think you said while your back was  
4 to the big guy, you had no idea what was going on behind  
5 you. Right?

6           A     No.

7           Q     So you had no reason to believe that anything  
8 bad was going on behind you, did you? You had no idea.

9           A     I had just been attacked, and I didn't want to  
10 be attacked again.

11          Q     You'd just been prevented from going and messing  
12 with the property that was lying on the roadway that you  
13 knew probably belonged to one of these people. Right?

14          A     I did not know who it belonged to.

15          Q     But you had a good idea who belonged to, didn't  
16 you?

17          A     No, I didn't.

18          Q     You had a good idea that they belonged to one of  
19 that group of people.

20          A     I did not know who owned the speed bumps.

21          Q     You had no idea.

22          A     No.

23          Q     Even when the -- the big guy is coming towards  
24 you actively telling you, no, it's not illegal, about the  
25 speed bumps. You had no idea.

1 A They were actually illegal.

2 Q That wasn't my question, but thank you. So you  
3 knew that the big guy was coming out to confront you  
4 because of the speed bumps. Right?

5 A I did not know why he was coming out to confront  
6 me.

7 Q But you -- you strongly suspected that he was  
8 coming out because of the speed bumps. Right?

9 A I did not know.

10 Q That's what was being discussed as he was  
11 approach you. Right?

12 A I just remember them saying, hey, what are you  
13 doing? Hey, what are you doing? That's not your  
14 property.

15 Q And I believe that you said your response was,  
16 these speed bumps are illegal. Right? You can actually  
17 hear that on the video.

18 A Yes.

19 Q So you knew what he was coming out there for.

20 A I was just making a statement. I wasn't looking  
21 at anyone.

22 Q You weren't -- you weren't responding to him?

23 A No.

24 Q You just happen to be saying that of relevance  
25 to what he was talking about?

1           A     As I was getting closer, I just made the  
2 statement about the speed bumps.

3           Q     Okay.

4           THE COURT:   Give me a second.

5                   Does any of the jurors need anything?  Are we  
6 good?

7           JUROR NUMBER THREE:  I have a question.  He  
8 might have answered it but I --

9           THE COURT:  Okay.  Will you write it down for  
10 me?  Okay.

11          JUROR NUMBER THREE:  I'm just trying not to --

12          THE COURT:  Can you grab her question real  
13 quick?

14          THE BAILIFF:  Yes, Your Honor.

15          THE COURT:  I'll hold on to it.

16                   Real quick, can I have the lawyers at the bench?

17                   (Begin sidebar.)

18          THE COURT:  Juror number three's question is,  
19 did he research about the speed bumps before or after  
20 the incident and was he driving around looking for  
21 speed bumps?  If you want, I'm just going to -- if  
22 you defer questions, if you want to ask those  
23 questions, I -- I --

24          MS. STEVENS:  I think he did ask the speed bump  
25 question.

1 MR. SARABIA: Yeah. One of them I asked.

2 THE COURT: Yeah.

3 MS. STEVENS: I don't know if he gave an answer  
4 no.

5 THE COURT: If -- if you want to ask if he -- a  
6 question whether he researched the speed bumps before  
7 or after the incident is fine.

8 MS. STEVENS: I'm fine with that.

9 THE COURT: Okay? Okay.

10 MS. STEVENS: I was going to ask it on redirect,  
11 if you want or you --

12 THE COURT: No. We'll -- we'll clear --

13 (End sidebar.)

14 THE COURT: We'll clear it up. Thank you, juror  
15 number three.

16 BY MR. SARABIA:

17 Q And I think we covered this, but you researched  
18 about speed bumps, and you came to your own conclusion  
19 that they were illegal before you went driving that day.  
20 Right?

21 A Yes. I had already done research.

22 Q Prior to February 9th of 2023?

23 A Yes.

24 Q And it's your testimony that you were not  
25 specifically out looking for speed bumps that night.

1 A Correct.

2 Q That's what you're claiming?

3 A Yes.

4 Q Okay. So you get pushed, immediately you're  
5 pulling out the firearm. You don't know what's going on  
6 behind you, but whatever's going on behind you, you point  
7 a firearm at the big guy.

8 A Yes.

9 Q And you acknowledge a firearm is a threat.  
10 Right? Pointing a firearm at somebody is a threat.

11 A I just wanted to stop him from attacking me.

12 Q But you're -- you're doing that by threatening  
13 him. If he continues -- in your mind, if he continues,  
14 then you'll shoot.

15 A I would defend myself, and that would be a hard  
16 decision to make.

17 Q Okay. But you agree it's a threat. That's my  
18 question.

19 A Yes.

20 Q And you agree that the threat with a firearm,  
21 the only -- the only thing the firearm is useful for --  
22 for threatening is deadly force. Right?

23 A No.

24 Q No? You're going to threaten to hit him with  
25 it? Throw it at him?

1 A No. You can display it, which I did --

2 Q Well, the --

3 A -- just to stop him from attacking me.

4 Q Well, let's flip it. I'm displaying a firearm  
5 right now. Right?

6 A Yes.

7 Q I'm not pointing at anybody, am I?

8 A No.

9 Q There's a difference between displaying a  
10 firearm, the word you're using, and pointing it at  
11 somebody. You would agree?

12 A Yes. Well, I --

13 Q You can --

14 A I used display because the date that it  
15 happened, that's the term I would use of showing it to the  
16 big guy to stop him from attacking me.

17 Q Right. You could display it just by pulling up  
18 your shirt and letting him know that it's there. Right?

19 A Not the training that I'd received, no.

20 Q Okay. But had you researched it on the  
21 Internet, you would know that would have been legal.  
22 Right? That -- that would be displaying it. If you had  
23 it in your belt and you just showed him that was there,  
24 you would agree that's displaying it. Right?

25 A Yes.

1 Q You went a step beyond that. You actually  
2 pointed at him. Right?

3 A Yes. Because he had attacked me.

4 Q And the point of pointing it at him was beyond  
5 displaying it, but to threaten him.

6 A No. It was just to show him that I did not want  
7 to be attacked again.

8 Q Okay. Well, you could have told him that.  
9 Right?

10 A It all -- it all happened so quickly, I wouldn't  
11 have had time.

12 Q You could have said I don't want to be attacked  
13 again. Right?

14 A I did not know if he was coming at me again with  
15 my back to him, so I made the -- the decision I did to  
16 defend myself.

17 Q Right. You didn't know if he was coming to  
18 attack you again. You -- you had no -- you didn't check  
19 in any way to see what was going on, see if there was any  
20 further danger, did you?

21 A No. Because I was scared that I had already  
22 been attacked, and I didn't want to be attacked again.

23 Q Okay. I think you at one point did agree with  
24 me it's a threat, but you don't want to agree that it's a  
25 threat to use deadly force. Is that fair?

1           A     When I think of deadly force, that means you're  
2 actually shooting the gun.

3           Q     Okay. Well, shooting the gun, that would be  
4 using deadly force. Right?

5           A     I was trained that deadly force means that you  
6 were shooting the person or shooting the animal or  
7 whatever that you're intending to kill.

8           Q     All right. And you may have been trained -- I  
9 don't know who you were trained by, but the reality is,  
10 you'd agree with me, if you shoot at somebody -- if you're  
11 shooting at somebody, that is actually using force --  
12 deadly force. Right?

13          A     Yes.

14          Q     So if you holding a firearm at him, you're  
15 threatening to use deadly force. You agree?

16          A     No.

17          Q     No. Okay. And I think you said you had  
18 training in the military? And then I'm sure you're aware  
19 in the military they train you never to point a weapon if  
20 you don't intend to shoot, especially at unarmed  
21 civilians?

22                   MS. STEVENS: Objection. Compound.

23                   THE COURT: Overruled.

24                   THE WITNESS: Yes.

25 BY MR. SARABIA:

1 Q That's -- that's what they train you to do?

2 A In the Navy, but not in civilian life.

3 Q Okay. Because you would agree, you didn't do  
4 that. Right? You pointed your loaded firearm at an  
5 unarmed civilian. Right? You agree?

6 A I pointed it to defend myself, yes.

7 Q That wasn't my question. You pointed it at an  
8 unarmed civilian. Correct?

9 A He could use his muscular size as a weapon  
10 against me.

11 Q Again, that wasn't my question. You agree you  
12 pointed your firearm at an unarmed civilian.

13 A Yes.

14 Q Okay. They also teach in the military that when  
15 you're not -- absent combat or military -- military police  
16 duty, to never have a chambered round. Right?

17 MS. STEVENS: Objection. Relevance. Facts not  
18 in evidence.

19 THE COURT: What's not in evidence?

20 MS. STEVENS: The --

21 THE COURT: In evidence is --

22 MS. STEVENS: The details of his training, Your  
23 Honor.

24 THE COURT: He's reading -- he can answer no.  
25 He's asking were you trained this in the military.

1 He can say no. He can -- I assume he's reading for  
2 something specific, but, hey, he gets to ask the  
3 question. Your client can answer no.

4 So, sir, if you want to answer that question?  
5 If you want to repeat the question.

6 MR. SARABIA: Okay.

7 BY MR. SARABIA:

8 Q The military trains you that if you're not in  
9 combat and not on the military police duty, never have a  
10 chambered round. Right?

11 A It depends on your duty station.

12 Q Okay. But you -- you did have a chambered  
13 round.

14 A On February 9th, yes.

15 Q Okay. While you were driving around going to  
16 the gas station.

17 A Yes.

18 Q So you're pointing the gun at Michael. Michael,  
19 you call him the big guy. And Michael's actively running  
20 away as soon as he sees the firearm. Right?

21 A Yes.

22 Q And as he's retreating, you're continuing to  
23 point the firearm at him. Right?

24 A Yes.

25 Q And at that point, he's retreating. He's not a

1 danger to you. Right?

2 A Right.

3 Q And it's your testimony that you don't point it  
4 at any of these other three individuals.

5 A Correct.

6 Q Okay. Just want to be clear. Because you agree  
7 there would be no reason to point at the other three  
8 individuals. Right?

9 A No. They were on the other side of my car and I  
10 couldn't see them.

11 Q Okay. And there was absolutely nothing that  
12 they did that would give you any reason to believe that  
13 there was any danger from them. Right?

14 A Correct.

15 Q Okay. So a couple things you said. In terms  
16 for -- of the big guy, as you call him, you wanted to stop  
17 him from attacking you. He'd already shoved you, though.  
18 Right?

19 A Yes.

20 Q There was no reason to believe any further  
21 attack would come. Right?

22 A I did not know.

23 Q Right. Well, you knew what he was doing. He  
24 was keeping you away from the -- the speed bump that you  
25 were actively trying to remove. Right?

1 A The speed bump was already on the curb.

2 Q Well, the other speed bump that you wanted to  
3 remove. He was keeping you away from that. Right?

4 A Yes.

5 Q And now you're away from that.

6 A Yes.

7 Q So there was no reasonable reason to believe  
8 that he was still going, to your words, attack you.  
9 Right?

10 A I had my back to him. I was scared. I didn't  
11 know what he was doing.

12 Q Sure. But not knowing what he's going to do --  
13 when you -- when you drove up and got out of your car, did  
14 you know what he was going to do?

15 A No.

16 Q Did you point your firearm at him then?

17 A No.

18 Q Did you know what any of the people on the side  
19 of the road were going to do when you drove up and got out  
20 of your car?

21 A No.

22 Q Does that mean you just point your firearm at  
23 them?

24 A No.

25 Q No. Right. That's not the standard. Right?

1 A Correct.

2 Q And I think you testified on direct, when you  
3 pulled your firearm out, you didn't see any other options.  
4 Right?

5 A Correct.

6 Q So -- but you'd agree with me, you could have  
7 gotten your balance and just showed him you had a firearm.  
8 Right? That's another option?

9 A The concealed weapons training I -- I --  
10 documents and the other research I did, you cannot display  
11 your firearm. That's what I would call brandishing a fire  
12 arm.

13 Q Right. But that's your own personal online  
14 research. Right?

15 A No.

16 Q You asked Google?

17 A No. That was in the -- in the statutes and also  
18 in the concealed forms that you have to fill out.

19 Q Well, you're not a lawyer, are you?

20 A No.

21 Q And was -- the fact of the law is that you can  
22 show a firearm briefly?

23 A I'm not --

24 Q You weren't aware of that?

25 A No.

1 Q Okay. Because your personal research isn't  
2 helping you a whole lot here, is it?

3 A It is.

4 Q Okay. So I guess it's your testimony that when  
5 you said you didn't have any other options, and you're  
6 going back away from the big guy, showing the firearm was  
7 not an option because it's illegal, but taking out the  
8 firearm and pointing it at him, that is legal?

9 A I did not want to end up dead or in the  
10 hospital.

11 Q That wasn't my question. This option that you  
12 claim you didn't have, you're saying was illegal, that's  
13 why you didn't do it? Right?

14 A Yes.

15 Q But this option, that was perfectly okay.

16 A I wanted to stop the attack, yes.

17 MR. SARABIA: I don't have any more questions,  
18 Judge.

19 THE COURT: Okay.

20 Redirect?

21 REDIRECT EXAMINATION

22 BY MS. STEVENS:

23 Q Mr. Clifton, when you went out that night, were  
24 you looking for trouble?

25 A No.

1 Q Were you hoping that you could use your gun?

2 A No.

3 Q Did you -- you -- you explained that you had  
4 done research on obstructions. Is that -- is that  
5 correct?

6 A Yes.

7 Q Did you research specifically speed bump  
8 obstruction, or is this something that you researched a  
9 general situation -- is it general or just speed bumps?

10 A Just general placing anything in the street.

11 Q Anything.

12 A Any obstacle.

13 Q So when you are driving down Barbour Trail, you  
14 have that knowledge in your mind.

15 A Yes.

16 Q And then that knowledge just comes to use when  
17 you see the -- see the speed bumps that are in the road.

18 A Yes.

19 Q You didn't go looking for those speed bumps.

20 A No.

21 Q Okay. We -- when you got out of your car, we  
22 hear this -- this phrase you parked in the middle of the  
23 road. I -- I think that there needs to be some  
24 clarification. That -- that's not true, is it?

25 A No. Actually, I parked in the -- on the side of

1 the street where you would drive down.

2 Q So could people have gotten around your car?

3 A Yes.

4 Q And could they have gotten around your car and  
5 gone through the lane that doesn't have a speed bump in it  
6 anymore?

7 A Yes.

8 Q While you were standing on the side of the road,  
9 after the guns went away, after you were on the phone, at  
10 any point in time did traffic pass by your car?

11 A Yes.

12 Q Freely?

13 A Yes.

14 Q Did they have to stop for the speed bumps?

15 A No.

16 Q Is it -- you -- you've lived in Starkey Ranch  
17 for a little while. Correct?

18 A Yes.

19 Q Is it common in Starkey Ranch for cars to park  
20 on side of the road?

21 A Yes.

22 Q What about where you were parked? Is that kind  
23 of parking common?

24 A Yes.

25 Q And is this -- people do this -- I think you

1 said people -- they park frequently and they drop people  
2 off? Is that the phrase you --

3 A Yes.

4 Q They -- did you have any intent to be there for  
5 a long period of time?

6 A No.

7 Q You were going to get out and move the speed  
8 bumps and go. Right?

9 A Yes.

10 Q When we -- I also -- we also heard that there's  
11 a lot of conversation about going to the second speed  
12 bump. You said your intent was to go to the second speed  
13 bump. Correct?

14 A Yes.

15 Q We know you never got there. Correct?

16 A Yes.

17 Q You changed your mind when you saw Michael.  
18 Right?

19 A Yes.

20 Q You said on -- on cross that you didn't want to  
21 have an altercation with Michael.

22 A Yes.

23 Q So you turned around to go to your car.

24 A Yes.

25 Q So in summary, you got out, you moved the first

1 speed bump. Yes, you were -- you were going to the second  
2 speed bump, but you changed your mind, started to turn  
3 around and go to your car, when you saw Michael --

4 A Yes.

5 Q -- coming closer.

6 A Yes.

7 Q We also heard some conversation about what  
8 you're doing on Barbour Trail. This is February 9th.  
9 Correct?

10 A Yes.

11 Q Is it one of the lovely Florida February nights  
12 where the weather is nice?

13 A Yes.

14 Q The -- Starkey Ranch is a community that  
15 encourages families to be outside. Correct?

16 A Yes.

17 Q And it's --

18 MR. SARABIA: Objection. Leading.

19 THE COURT: Sustained.

20 BY MS. STEVENS:

21 Q The residents --

22 THE COURT: Counsel, I'll remind you, this is  
23 your witness on direct/redirect. They let it go  
24 pretty far. This is your witness, you can't -- you  
25 can't lead your witness.

1 BY MS. STEVENS:

2 Q Are there things to see out in that area of the  
3 community?

4 A Yes. Just, you know, the houses that are out  
5 there, people can walk down the trails, you can drive  
6 around, look at the community.

7 Q So what is all -- do you know what all this is  
8 here? This green?

9 A Starkey Ranch Preserve.

10 Q A preserve. Nature?

11 A Yes.

12 Q This -- we heard testimony that this triangle  
13 right here is the -- what -- what area is that?

14 A Barbour Trail, and then that's Berrypick.

15 Q And in your house, it's over here?

16 A Yes.

17 Q What's the name of your road?

18 A Tibbetts Street.

19 Q What's all this?

20 A Green, parks.

21 Q Parks, lakes, water?

22 A Yes.

23 Q Is it prettier up here than it is down here?

24 A Yes.

25 Q Would you consider this scenic or --

1 A Yes.

2 Q Does it matter why you were up there?

3 A No. I was just driving in the neighborhood.

4 Q Do you like your car?

5 A It's my wife's car.

6 Q Does she like it?

7 A Yes.

8 Q You were out going to the gas station?

9 A Yes.

10 Q Is it -- you had talked about potential damage  
11 to your car.

12 A Yes.

13 Q Explain to us why you thought there might be  
14 damage to your car.

15 A If you drive over it and it comes up, I don't  
16 know if -- I'll just use my terms -- it'll hit the belly  
17 pan of the vehicle. That could come -- become dislodged,  
18 hit the engine belts, the engine belts break, and then  
19 your engine's locked up and you're dead in the water.

20 Q And when you say dead in the water, is that a --

21 A It's just a humorous term meaning that you can't  
22 drive your vehicle. It's a junk car. Might as well just  
23 junk it.

24 Q And that is pretty extreme for speed bumps.  
25 Right?

1 A It could happen, yes.

2 Q It could happen. Is -- is that how you -- you  
3 think about these things? It could happen?

4 A Yes.

5 Q You think about a worst-case scenario?

6 A Yes.

7 Q Are there -- is there anything else -- do you  
8 apply that logic to anything else in your mind?

9 A Almost everything, yes.

10 Q Almost everything worst-case scenario?

11 A Yes.

12 Q So looking at the speed bumps, to you  
13 personally, it's not about kids playing in the road --  
14 speed bumps.

15 MR. SARABIA: Objection, Judge. Leading.

16 THE COURT: Sustained.

17 BY MS. STEVENS:

18 Q Did you apply to speed bumps that day the  
19 worst-case scenario?

20 A I'm sorry. I don't understand the question.

21 Q We just talked about that, in the worst-case  
22 scenario, about what would happen to your car. Correct?

23 A Yes.

24 Q Is there any other concerns you had about the  
25 speed bumps?

1 A No.

2 Q This didn't happen during the military -- did  
3 this happen during your military service?

4 A For --

5 Q This event. Were you actively military at that  
6 time, or Navy? I'm sorry.

7 A No. I retired in 2016.

8 Q In 2016? And this event, this wasn't combat.  
9 Correct?

10 A No.

11 Q Were you -- what was your -- just to remind us,  
12 what was your intent when you -- when you displayed that  
13 weapon?

14 A To stop the big guy from attacking me.

15 Q Did it work?

16 A Yes.

17 MS. STEVENS: Thank you.

18 THE COURT: All right, sir. You may step down,  
19 join your counsel.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Defense, call your next witness.

22 MS. STEVENS: Your Honor, at this time Defense  
23 rests.

24 THE COURT: All right. Can I have the lawyers  
25 at the bench briefly?

1 (Begin sidebar.)

2 THE COURT: Are you going to present any  
3 rebuttal?

4 MR. SARABIA: No.

5 THE COURT: Okay. Are we ready for closings?

6 MR. SARABIA: I think so. We just need to check  
7 and make sure we're working there.

8 THE COURT: Okay.

9 MR. SARABIA: We have something (Indiscernible).

10 THE COURT: I'm going to put the jury in the  
11 jury room. Would anybody object to me releasing the  
12 alternate at this time?

13 MS. STEVENS: I do not. I would be fine with  
14 that.

15 MR. SARABIA: Yeah. I'm good.

16 THE COURT: Okay. I'll release the alternate,  
17 and I'll tell them that we're just going to set up  
18 for closings. Okay? And let them use the restroom.

19 MS. STEVENS: Thank you.

20 THE COURT: All right.

21 (End sidebar.)

22 THE COURT: Juror number seven.

23 JUROR NUMBER SEVEN: Yes.

24 THE COURT: Ma'am, you are my alternate juror,  
25 and we've all agreed -- oh, one second.

1 State, any rebuttal?

2 MR. SARABIA: No, Judge.

3 THE COURT: Okay. We're done. We're about to  
4 go into closing arguments, and I believe -- everyone  
5 feeling okay? All right.

6 So you're not going to be needed for  
7 deliberations. So I figured -- I checked with the  
8 lawyers, they have no objection to releasing you at  
9 this time.

10 If you can hand the certificate of appreciation,  
11 Deputy, for her and get her electronic devices, i.e.,  
12 phone.

13 We will release you at this time so you don't  
14 have to stay any longer because I know we're already  
15 late and we're going to be going into closings and  
16 then I'm going to kick you out anyway. So I'm saving  
17 you probably a half an hour to 45 minutes.

18 So the lawyers are trying to get the board ready  
19 to go because they're going to use it in closings, so  
20 what I'm going to do is I'm going to go ahead and,  
21 for the remaining six, I'm going to put you in the  
22 jury room. Do not talk about the case. Okay? We're  
23 this close. I had a jury do that one time.

24 Feel free to eat the -- the sandwiches. We got  
25 some snacks, and we'll get all the -- all ready. I

1 got the jury instructions, and we're going to go into  
2 closing arguments.

3 But for right now, she's all done.

4 You're excused. Thank you, ma'am. I know it's  
5 been a long day for all of us, and they're all mad at  
6 you because you get to go.

7 JUROR NUMBER SEVEN: (Indiscernible) said that a  
8 long time ago.

9 THE COURT: I know, but we had to make sure we  
10 all made it through. So thank you so much. You have  
11 a nice evening.

12 For the rest of the jurors, we can go ahead, let  
13 you go in the jury room, have a quick snack while we  
14 get the screen to work, because we need to have it  
15 working during closings. Okay? Because you guys  
16 need to watch the video about five more times.

17 It will be with you in the jury room just in  
18 case.

19 (The jury exited the courtroom.)

20 THE COURT: All right. The jury is out. State  
21 and Defense now rested.

22 What says Defense?

23 MS. STEVENS: Defense renews all motions and  
24 objections throughout the trial and prior to trial.

25 THE COURT: Okay. I'll stand on my previous

1           rulings and deny the second judgment of acquittal.  
2           It'll be up to the jury. The defendant said he did  
3           not point the firearm at all on victims one, two, and  
4           three, so that's a jury question. And that he felt  
5           that he had no other choice as to Count 4. And so  
6           we'll let the jury decide whether it was self-defense  
7           as to Count 4. And then Counts 1, 2, and 3, he  
8           denied even pointing the gun. I know we have the  
9           transferred intent instruction. I'll leave it in  
10          there.

11           MR. SARABIA: Judge, because he denied, we --  
12          the State's position is it should now come out. If  
13          he had said the scanned over them while the other guy  
14          ran behind them and had pointed in their direction, I  
15          think it would come in, but he specifically denied  
16          doing that, so there's no evidence for transferred  
17          intent.

18           THE COURT: Well, I hate to tell you, your own  
19          witnesses testified to it. So the evidence comes  
20          from any part of the jury -- any part of the trial,  
21          and you had a lot of testimony, like, did he swing  
22          over, did he point it right at you, blah, blah, blah.  
23          And so they have heard testimony that it was a direct  
24          point at them, and so I'll allow the transferred  
25          intent to stay in. But the defendant did deny any of

1 it.

2 So did we get the extra jury instructions done?

3 MR. MOELLER: Your Honor, I'm going -- if it's  
4 fine with the Court --

5 MR. SARABIA: (Indiscernible) printed out.

6 MR. MOELLER: -- I'm going to leave after my  
7 closing and get everything brought back up. So after  
8 Mr. Sarabia is done with his rebuttal, we'll have  
9 everything ready to give to the jury.

10 THE COURT: No. I need them now. Sorry. You  
11 Go ahead. We'll -- we'll wait.

12 MR. MOELLER: I'm sorry. I'll go --

13 THE COURT: We'll wait. I like the jury to have  
14 them during closings, not after closings.

15 MR. MOELLER: Exactly. Yes, ma'am. I will  
16 be --

17 THE COURT: Okay.

18 MR. MOELLER: -- be right back up. Okay.

19 THE COURT: Just go get it.

20 All right. We'll be in --

21 (Recess from 7:26 p.m. to 7:42 p.m.)

22 THE COURT: Back on the record on the Clifton  
23 case, 23-CF-562. Both sides have rested. All the  
24 witnesses are now released. I don't know if they're  
25 still here, but I want to make sure. If they are,

1 they can go home or they can watch, if they want.

2 It's up to them.

3 State, is anybody still here or did you release  
4 them?

5 MR. SARABIA: They are. I think they're  
6 probably going to watch at this point because they've  
7 been --

8 THE COURT: Okay. If they want to come in and  
9 watch, they're more than welcome. Just remind them  
10 not to make any noise or statements. But, you know,  
11 Defense might point out there they're here, but  
12 that's fine.

13 MR. MOELLER: Yes, ma'am. I will advise  
14 (Indiscernible).

15 THE COURT: Okay.  
16 Are both sides ready for closings?

17 MR. SARABIA: Yes.

18 THE COURT: Defense?

19 MS. STEVENS: Yes.

20 THE COURT: Okay. I'll just have this -- if you  
21 can put together six packets real quick, we'll put  
22 those on their chairs, and then we'll begin with  
23 closings. So --

24 MS. STEVENS: Your Honor, just to -- do you read  
25 any portion of it --

1 THE COURT: Nope.

2 MS. STEVENS: Okay.

3 THE COURT: Don't -- don't read any of it until  
4 the end. I just tell them that --

5 MS. STEVENS: Because, you know,  
6 (Indiscernible).

7 THE COURT: Correct. When you ask them to look  
8 at this or notice that or I'm going to tell you what,  
9 you know, reasonable doubt is or any of that kind of  
10 stuff. Okay?

11 And you have the copy that they have, so you'll  
12 know page 17. I tell them they can write on it.  
13 It's their individual copy, so they can make notes.

14 MR. MOELLER: Do you mind if I put this up now,  
15 Your Honor, so I --

16 THE COURT: That's fine.

17 MR. MOELLER: -- don't have to mess with it  
18 during closings?

19 THE COURT: If the -- I -- also, while you're  
20 doing that, if one of you all want to walk over and  
21 look at the verdict forms. I don't know if the State  
22 has approved the verdict form, so --

23 And the clerk will have all the evidence just  
24 sitting on the counter over here. So we have four --  
25 four pieces for the State and two for the Defense?

1 Is that what you -- the clerk has? Okay. Great.

2 THE COURT CLERK: That's right. I don't have  
3 the list that they --

4 THE COURT: They have -- yeah. They have one --  
5 they have them all. But that's how many pieces of  
6 evidence we have.

7 THE COURT CLERK: Correct.

8 THE COURT: Okay. Great.

9 (Court at ease.)

10 THE COURT: Yeah. Just put them right on -- no,  
11 no, no. Put them on their things. Just put them --  
12 one, two, three, four -- seven's gone.

13 THE BAILIFF: (Indiscernible).

14 THE COURT: All right. Well, you can just make  
15 copies -- the rest of them put together while --  
16 while we're -- I think Mr. Moeller says he's going  
17 first anyway, so -- okay?

18 And, Defense, there's your copy. Okay?

19 MS. STEVENS: Thank you.

20 THE COURT: And we'll just make -- just make me  
21 a copy when you get to it. I don't -- I don't need  
22 one till the end. Okay?

23 So I'm going to bring the jury in. We good?

24 MR. SARABIA: Yes.

25 THE COURT: All right. Bring the jury in.

1 THE BAILIFF: Jurors entering the courtroom.

2 THE COURT: Thank you.

3 (The jury entered the courtroom.)

4 THE BAILIFF: All jurors are present and seated,  
5 Your Honor.

6 THE COURT: Welcome back. Both the State and  
7 the Defense have now rested their case and all the  
8 witnesses have been excused, so they're allowed to  
9 come in the courtroom and watch if they want because  
10 all testimony is done.

11 The attorneys now will present their final  
12 arguments. Please remember what the attorneys say is  
13 not the evidence or your instruction on the law.  
14 However, do listen closely to their arguments. They  
15 are intended to aid you in understanding the case.  
16 I -- I remind you, what the lawyers say is not the  
17 evidence you heard. You're to rely on the actual  
18 evidence.

19 Each side will have equal time, but the State is  
20 entitled to divide that time between an opening  
21 argument and a rebuttal argument after the Defense  
22 has spoken. I did put a time limit on them, which I  
23 don't normally do, but I figured we could have one  
24 for today.

25 Additionally, each of you have a copy of the

1 complete jury instructions that I will read to you at  
2 the end of the case. Those are your personal copies.  
3 So as the lawyers do their closing argument, if  
4 there's anything about them, anything they say about  
5 something I'm going to read to you, you can make  
6 notes on it, highlight, underline, do whatever you  
7 want, but that's your copy to take back with you.  
8 I'm going to read the exact copy to you at the end.  
9 We've agreed to it. The State was nice enough to --  
10 since we don't have any people here right now because  
11 it's Friday -- to go print it. That's what took us a  
12 few minutes, because I wanted you to have a copy  
13 before we began.

14 State, are you ready to close?

15 MR. MOELLER: We are, Your Honor.

16 THE COURT: All right. You may begin.

17 CLOSING ARGUMENT

18 MR. MOELLER: Good evening, members of the jury.  
19 So before I explain to you how the State has proven  
20 that the defendant is guilty of four counts of  
21 aggregated assault, I just want to reiterate the  
22 background of -- of what -- how the defendant got us  
23 to this position. Because one thing that is  
24 important, I submit, is the intent of the parties.  
25 And how does one determine intent? Unless someone's

1 a mind-reader, the best way to show intent is through  
2 someone's actions. Right? How somebody acts. You  
3 know, there's the verbiage words speak, actions  
4 scream.

5 So let's just start off with Mr. and  
6 Mrs. Krnjaich. What were they doing? What were they  
7 doing back on February 9th, 2023? Evening at Starkey  
8 Ranch. Had their children, their two- and  
9 four-year-old, out in the yard. Also had  
10 Mr. Zweifel, Ms. Connolly, Mr. Adams over as well.  
11 Talking. Talking about their trip to Disney and  
12 watching their children play.

13 And what were -- what were they concerned about?  
14 What were the Krnjaichs' concerned about? Well, the  
15 safety of their children. And how -- how has that  
16 been proven? What did they do? Well, they put out  
17 the speed bumps in the road. They put out the cones.  
18 And the focus of them that evening was just to have a  
19 safe, fun family night.

20 And I also would submit that the legality or the  
21 illegality of the speed bumps is really not an issue.  
22 That's not why we are here. You know, there was  
23 testimony from the deputy that they don't -- they  
24 don't impede the flow of traffic at all. You know,  
25 you're not going to receive anything in that packet

1 is going to say that -- that they're illegal or that  
2 they're legal. So that being said, the Krnjaichs,  
3 they just wanted to have a good time out in the front  
4 yard -- a good, safe time.

5 So what about -- what about the defendant? All  
6 right? What -- what was he doing? I know he stated  
7 that he was going to get gas. Or at least, that's  
8 what he wants everybody to believe, that he was going  
9 to get gas. The defendant lives on Tibbetts, which  
10 is one of these streets by Starkey Ranch K through 8  
11 right here. Going to get gas, I believe the  
12 testimony was, at the Mobil down 54 down this way,  
13 which is simply taking Rangeland to Lake Blanche out  
14 to Starkey. Or I guess -- I suppose one could still  
15 take Rangeland to Starkey, a little more going south  
16 down to the gas station.

17 I know he did say he's driving around the  
18 community. But why? Why is he driving around  
19 community? Well, because of his research. Right?  
20 Mr. Clifton is the -- the self-anointed HOA enforcer,  
21 law enforcement official of Starkey Ranch. He is  
22 driving around the community looking for what he  
23 considers to be violations. That is the only reason  
24 he was up here on Barbour Trail. Because the  
25 direction he is going -- I mean, he could cut down

1 Berrypick. That's still going out of his way. Could  
2 go all the way down Barbour to Night Star  
3 (Indiscernible) gated up here. Could take Night Star  
4 back down to Rangeland. But no, he's just driving  
5 around basically looking for problems. That's what  
6 he's doing. Looking for problems.

7 Now, I'll admit -- the State will admit it -- he  
8 can drive anywhere he wants to in Starkey Ranch. All  
9 right? Open community. And he can carry whatever  
10 type of firearm that he wants to on him. He can  
11 carry a firearm. He can have it loaded, something  
12 chambered. Nothing wrong with that either. But it  
13 does beg the question why was the defendant driving  
14 around Starkey Ranch 6 p.m. -- about 5:45,  
15 actually -- up here on Barbour with a Taurus, loaded,  
16 chambered, in a holster in his waistband?

17 And keep in mind also, the -- the Taurus, there  
18 is not a -- there is not a safety switch that one can  
19 actually toggle. The safety -- there's been some  
20 talk -- is the portion, the testimony was, right  
21 here. Right in front of the trigger. Right here.  
22 It's called a trigger safety. If you pull the  
23 trigger, the gun is going off. This is not a type of  
24 firearm where if you go to pull the trigger and the  
25 safety is here, you can't pull the trigger until you

1           turn the safety, whatever side of the gun it might be  
2           on. It is this little thin piece right up there that  
3           (Indiscernible) point it up toward the ceiling, in  
4           front of the trigger. That's the trigger safety.  
5           All right?

6           Someone's going to -- if someone's going to pull  
7           the trigger, like the defendant, the gun's going off  
8           with the trigger safety. Right? This is not going  
9           to prevent the trigger from being pulled if the --  
10          the individual wants to pull the trigger, unlike a  
11          safety that would be on the side of this -- of this  
12          firearm.

13          The self-appointed enforcer of -- of Starkey  
14          Ranch is driving around the community looking for  
15          problems that he is going to confront, that he --  
16          that in his mind he is going to solve, and absolutely  
17          nobody, especially -- especially Michael Krnjaich, is  
18          going to tell him otherwise. Drive around Starkey.

19          Because what does he do when he comes up to the  
20          speed bump? What action does he take? Doesn't keep  
21          going. Doesn't drive over it. Ignores -- ignores  
22          Mr. Krnjaich trying to talk to him. Hey bud, what  
23          are you doing? Come on, what are you doing? Which  
24          he know -- he knows very well whose speed bumps those  
25          are. Right? But he's already made his mind up.

1 He's not going to tolerate them. He went out looking  
2 for them, found them, doesn't want to talk to anybody  
3 because he is going to do his self-appointed mission  
4 at Starkey Ranch. Takes the one off the opposite  
5 side of the road, and he tosses it aside. He's not  
6 concerned about traveling through Barbour. He is  
7 concerned about making a statement. Making his  
8 own -- his own personal stand.

9 And whether they're legal -- for the sake of  
10 argument, let's just say they would be illegal.  
11 Let's just say there is an unregistered golf cart,  
12 which is a motor vehicle, on the side of the Barbour.  
13 Does that give him the right, then, to -- to push it  
14 off the road? But what about a child leaving a  
15 bicycle in the middle of the road? Does that give  
16 him the right to -- to take it, throw it off the  
17 road, take the law into his own hands?

18 Number one, he doesn't have the right to decide  
19 what's legal and what isn't. And even if something  
20 shouldn't be there -- which there's no evidence the  
21 speed bumps shouldn't be there. I mean there's no  
22 credible evidence at all that those -- that those  
23 were illegal to put in the road. But even if they  
24 were, it doesn't give them the right to touch  
25 somebody else's property like he did.

1           But I really submit to you that that's -- that's  
2 not the issue here. That is, really, for -- for lack  
3 of any better term, a really big distraction.

4 Because what is the issue? The issue is whether the  
5 defendant assaulted the four victims in this case  
6 with a firearm.

7           So for aggravated assault -- and this will be  
8 true for all four individuals -- four things that the  
9 State must prove beyond a reasonable doubt. That the  
10 defendant intentionally and unlawfully threatened, by  
11 word or act, to do violence to a person.

12 Intentionally and unlawfully. I'll get to unlawfully  
13 in a -- in a little bit. Unlawfully really, in a  
14 nutshell, says he had no legal justification. That  
15 he didn't have justifiable use of deadly force or  
16 non-deadly force. Layman's terms: He didn't act  
17 in -- in appropriate self-defense. That's the first  
18 element. Second is, at the time, the defendant  
19 appeared to have the ability to carry out the threat.  
20 Three, the act of William Clifton created the mind of  
21 the victim a well-founded fear that violence was  
22 about to take place. And, four, that the assault was  
23 done with a deadly weapon.

24           And what does well-founded fear mean? That is  
25 also defined for -- for the jury in the jury

1 instructions. Well-founded fear in the mind of a  
2 reasonable person. Not -- not necessarily was the  
3 victim actually afraid themselves, but a reasonable  
4 person -- would a reasonable person be afraid.

5 Deadly weapon: An object that will likely cause  
6 death or a great bodily harm if used or threatened to  
7 be used -- again, used or threatened to be used -- in  
8 the ordinary and usual manner contemplated by its  
9 design and construction. All right?

10 A firearm, a Taurus like this, has one purpose.  
11 It is designed for one purpose, and that is to tear  
12 through flesh, destroy vital organs, and kill  
13 somebody. That is what a firearm is designed to do,  
14 and I -- I submit to you a firearm is a deadly  
15 weapon. And again, it says used or threaten to be  
16 used.

17 Great bodily harm means great harm as  
18 distinguished from slight, trivial, minor, or  
19 moderate harm. And also it's important to note that  
20 the jury instructions say it's not necessary for the  
21 State to prove that the defendant had an intent to  
22 kill. This is an aggravated assault. It doesn't  
23 matter if the defendant intended to actually use this  
24 firearm or not. Whether he was bluffing, whether or  
25 not he really would have pulled the trigger. That

1 doesn't matter. It is not necessary for the State to  
2 prove that the defendant had an intent to kill.

3 So what I'd like to do now is -- I know you've  
4 seen this video probably -- what are we up to -- 20  
5 times at this point, but I do want to -- to play it.

6 THE COURT: Can we hit the lights real quick?

7 THE BAILIFF: Yes, Judge.

8 THE COURT: Thank you.

9 MR. MOELLER: And I have my mouse. I'll see if  
10 this works at the podium.

11 (The following is the transcription of the  
12 recording as it was played in the courtroom and re-  
13 recorded onto the system.)

14 (Indiscernible background conversation.)

15 MR. ZWEIFEL: All right. It should be opening.

16 (Indiscernible background conversation.)

17 MS. KRNJAICH: Michael, Michael.

18 MR. KRNJAICH: Hey. Careful. Careful now.  
19 What are you doing?

20 MR. CLIFTON: That's illegal property.

21 MR. KRNJAICH: No, it's not.

22 MS. KRNJAICH: Mike. Mike.

23 (Recording stopped.)

24 MR. MOELLER: And watch right here. He  
25 stayed -- Krnjaich stays still right here.

1 (Indiscernible).

2 (Recording started.)

3 (Indiscernible background conversation.)

4 (Recording stopped.)

5 MR. MOELLER: What's important to note on this  
6 video, after he pushed (Indiscernible) property,  
7 watch his feet. Watch -- watch Mr. Krnjaich's feet  
8 after the push. Where does he go?

9 THE COURT: I think you're right back to the  
10 beginning.

11 (Recording started.)

12 MR. CLIFTON: That's illegal property.

13 MR. KRNJAICH: No, it's not.

14 (Recording stopped.)

15 MR. MOELLER: Here comes the push. Plants his  
16 feet, doesn't move. Doesn't advance at all on the  
17 defendant, who at this point is a drive length's  
18 distance away. Is there any imminent risk of harm at  
19 this point? There simply is not. Look at the  
20 distance.

21 And what does -- what does Mr. Krnjaich do as  
22 soon as that gun is pulled? He retreats, and the gun  
23 is still pointed at him. He has retreated. He's  
24 left.

25 And the actions of the other three? When the

1 defendant stated that he did not point the firearm at  
2 them, then why are they all lining up behind a tree  
3 in back of each other? For an incident like this  
4 that happens at a moment's notice, within seconds, if  
5 he didn't point the firearm at these other three  
6 individuals, he did not point the firearm at  
7 Ms. Connolly, Mr. Adams, and Mr. Zweifel, well, they  
8 need an Academy Award and they -- they are great at  
9 spontaneity because they -- they sure acted like he  
10 did. So what's the option here? Either this was a  
11 big act? All three thought right in the spur of the  
12 moment, let's act like he's pointing it at us and  
13 then all (Indiscernible) behind the tree with about  
14 half a second lead time?

15 Or what's the only other alternative? And the  
16 only alternative that makes sense is they did that  
17 because the firearm was pointed directly at them.  
18 They took cover behind that tree because, as they  
19 testified, the gun was pointed at them. And in fact,  
20 Mr. Zweifel testified that the -- that the defendant  
21 actually took the firearm and pointed it at each one  
22 of the three. These three had absolutely nothing --  
23 nothing at all to do with the situation except being  
24 there.

25 And who's the aggressor in the situation? The

1 defendant's the one who comes up to the speed bumps,  
2 stops, get out of his car, yelling, cursing, throws  
3 property that not his. Defendant testified, well, I  
4 don't know who they -- who they belonged to. First  
5 of all, it's obvious from the video that they  
6 belonged to the people standing in the yard that has  
7 the kids playing when there are safety signs for kids  
8 on both sides.

9 Even if, for the sake of argument, the defendant  
10 didn't know who those belonged to, well, he certainly  
11 knew they didn't belong to him. He certainly knew  
12 that that was not his property. He didn't want to  
13 talk about it. He goes up there, rips it off the  
14 road.

15 So what did Mr. Krnjaich do with the push? I've  
16 already told you the definition of deadly force. A  
17 push. What is a push according to the law? It's  
18 non-deadly force. Non-deadly force means force not  
19 likely to cause death or great bodily harm. A push.  
20 Right? Someone -- can somebody get hurt from a push?  
21 Sure. They -- they fall. I suppose if there's  
22 sensitive skin they could get a bruise. But a push  
23 means force not likely to cause death or great bodily  
24 harm.

25 Great bodily harm -- this is the legal

1 definition. Great bodily harm means great as -- as  
2 distinguished from slight, trivial, minor, or  
3 moderate harm.

4 So the firearm displayed. Mr. Sarabia got into  
5 this on cross with the defendant. If the firearm is  
6 displayed, just displayed, not pointed, it could be  
7 non-deadly force. Right? Because what's going to  
8 happen if somebody displays a gun and decides to pull  
9 the trigger while it's pointed at the ground? All  
10 right? Unless somebody is laying directly under  
11 them, that's not going to cause death or great bodily  
12 harm.

13 And what happens if somebody -- and this does  
14 have a safety on it -- takes a gun and actually  
15 points it -- points it at somebody else. That is  
16 deadly force. That is deadly force. It is at that  
17 point the very threat of deadly force, I should say.  
18 He threatened deadly force. At that point, it's a  
19 threat to cause death or great bodily harm.

20 So Mr. Krnjaich, through the push, was he  
21 justified legally? The defendant's coming up on his  
22 property. Was he justified to use non-deadly force?  
23 You also have an instruction regarding justifiable  
24 use of force as far as that's concerned. Three  
25 elements: That William Clifton was about to trespass

1 or was trespassing or was about to wrongfully  
2 interfere or was wrongfully interfering with personal  
3 property. Who cares if they're legal or not. Right?  
4 Who cares? Doesn't matter. Mr. Clifton was  
5 wrongfully interfering with personal property.  
6 Didn't say damaging. Didn't say running off with it  
7 and permanently depriving him of it. Interfering.  
8 Interfering with personal property. Moving it.

9 Second, the personal property was lawfully in  
10 Michael Krnjaich's possession or the possessive of a  
11 member of his immediate family or household. Well,  
12 just because he has it in the street doesn't mean  
13 it's not in his possession. Right? If somebody  
14 parks their car on the street, does that suddenly  
15 mean they're not in possession of the motor vehicle?  
16 Of course not. Of course not. So check on two, yes,  
17 the personal property was lawfully in Michael  
18 Krnjaich's possession.

19 And three, Michael Krnjaich reasonably believed  
20 that the use of force was necessary to prevent or  
21 terminate William Clifton's wrongful behavior. Not a  
22 complete theft of his property. You know, not the  
23 property from being destroyed. His -- his wrongful  
24 behavior, which, I submit to you, is wrongfully  
25 interfering with his property. This allows

1 Mr. Krnjaich to use non-deadly force to protect his  
2 personal property. He pushed. Justified legally.

3 Now, if he had been authorized to use deadly  
4 force and find a gun of his own and pull it out to  
5 protect his personal property, no. The standard is  
6 non-deadly force.

7 So regarding Mr. Clifton, was he justified to  
8 use deadly force? Remember, deadly force is likely  
9 to cause death or great bodily harm, or the threat of  
10 deadly force. Was he justified to use the threat of  
11 deadly force? Pointing a loaded gun at somebody with  
12 a round in the chamber. Right? (Indiscernible)  
13 threat of deadly force.

14 William Clifton is justified in using or  
15 threatening -- threatening to use deadly force if he  
16 reasonably believed that such force or threat of  
17 force was necessary to prevent imminent death or  
18 great bodily harm to himself. And keep in mind,  
19 first of all, if he -- not if he believed, if he  
20 reasonably believed that such force or threat of  
21 force was necessary to prevent imminent death or  
22 great bodily harm to himself.

23 Tying into the facts of this case, was the  
24 defendant reasonable to pull out a loaded gun, point  
25 it at Mr. Krnjaich because he felt that a push, that

1           resulted in a space of ten to 15 feet between them,  
2           where Mr. Krnjaich, after the push, just stood there.  
3           Didn't go after him. Didn't verbally threaten him.  
4           Didn't display any weapons. Just stood there. Is it  
5           reasonable, then, that the defendant thought that he  
6           had to threaten deadly force to prevent imminent  
7           death -- imminent -- immediate death. Not -- not  
8           possibly, maybe a little bit later. Imminent death  
9           or imminent great bodily harm.

10           There is no imminence because of the big  
11           distance between the two. There's no imminence. It  
12           was -- and it was a push. There's no imminent death  
13           or great bodily harm that justified him pulling out a  
14           firearm and threatening to use deadly force.

15           Regarding the other three individuals, there was  
16           no reason to do it, period. There was not even a  
17           need to get into a justifiable use of deadly force  
18           analysis regarding the other three.

19           Now, you're also going to receive jury  
20           instructions on what are called lesser included  
21           offenses. Now, the State are asking you to return a  
22           verdict of guilty as to aggravated assault for all  
23           three of the individuals: Mr. Krnjaich, Mr. Adams,  
24           Ms. Connolly, and Mr. Zweifel. We're asking that you  
25           return a verdict of guilty as to those.

1           However, if you feel that the State has not  
2 proven an aggravated assault beyond a reasonable  
3 doubt to one or more of the victims here, you then  
4 also have to go through lesser included crimes.  
5 Right? You ever see those kind of dolls -- one fits  
6 in the other. You open that one up, there's another  
7 one, you open it up, there's a smaller one.  
8 That's -- that's kind of what this is like. There  
9 are lesser included crimes also to consider if you  
10 find the defendant not guilty of one or more -- one  
11 or more aggravated assaults.

12           One is improper exhibition of a firearm. That  
13 the defendant had carried a firearm, that, two, he  
14 exhibited the firearm in a rude, careless, angry, or  
15 threatening manner, and, three, he did so in the  
16 presence of one or more persons. It -- it -- and I'm  
17 summarizing a bit, but it really takes off the  
18 assault aspect of -- of the offense where he just had  
19 a gun and displayed it. You know, displayed it in an  
20 angry manner. Displayed it in angry manner. Walking  
21 around with a gun. Angry manner, angry manner.  
22 Displaying it like this.

23           Did he do that? Absolutely. But there was  
24 more. He actually committed an aggravated assault.  
25 Not just simply improper exhibition.

1           And lastly there's also an assault. It just  
2 takes away the deadly weapon portion -- or it just  
3 takes away the -- well, there's just a plain assault,  
4 and that does take away just the deadly weapon  
5 portion of it. William Clifton intentionally and  
6 unlawfully threatened, either by word or act, to do  
7 violence to the victim; at the time he appeared to  
8 have the ability to carry out the threat; and the act  
9 created a well-founded fear that violence was about  
10 to take place. A classic example might be if  
11 somebody goes up to another person to their face and  
12 does this and then backs down. That's an assault.  
13 Right? But we have more here where the assault was  
14 an aggravated assault because it was done with a  
15 deadly weapon.

16           So did he commit those lesser included offenses  
17 of improper exhibition and assault? Yes. However,  
18 the State is asking that, based on all of the  
19 evidence, that you return a verdict of guilty to the  
20 highest offense that we have proven beyond a  
21 reasonable doubt, and that is aggravated assault as  
22 to all four victims.

23           Thank you for your time.

24           THE COURT: Thank you, State.

25           (Pause.)

1 THE COURT: You may proceed.

2 MS. STEVENS: Thank you.

3 CLOSING ARGUMENT

4 MS. STEVENS: Good evening.

5 William Clifter -- William Clifton is not  
6 guilty. He is not guilty because he is justified.  
7 He was justified in using force against Michael  
8 because Michael pushed him. Michael didn't just push  
9 him. Michael forced him away to the point where  
10 Mr. Clifton was turned around. His body was  
11 completely turned around as he is forced away. His  
12 back is to Michael. His back is to Michael after  
13 being physically attacked over speed bumps in the  
14 road, putting the idea that Mr. Clifton felt that  
15 whatever was happening behind him, something was  
16 coming because he had already experienced it.

17 There's -- there's no maybe, could have possibly  
18 done. He had been physically attacked by a man who  
19 was larger than him. You can see on the video. You  
20 are fortunate that you will have the videos with you.  
21 We presented you a video that was close up. We're  
22 going to play that video, and you get to see it in  
23 the jury room. When you look at it, look at Michael.  
24 Michael is all muscle. Michael is big, Michael is  
25 muscular, and Michael uses that force, that muscle,

1 to force Mr. Clifton away from him. Get away from  
2 me. Get away from my speed bumps. That's the  
3 movement that he makes.

4 And when he does that, because Mr. Clifton  
5 has -- saw him coming and decided that whatever was  
6 going on there, he wanted nothing to do with it, he  
7 wants to move away, he's turning his body. He's  
8 turning his body. The hands are at his side, and you  
9 can tell that he's moving his body because Michael's  
10 hands hit his shoulder. Why did they hit his  
11 shoulder? Because he's turning. He's turning to go  
12 back to his car. He doesn't want anything to do with  
13 this. So Michael decides to push him with such force  
14 that his entire body turns around and he's flung into  
15 the neighbor's driveway.

16 A few steps. A little bit. It's a push. It  
17 wasn't a -- it wasn't forceful. It -- it doesn't  
18 make sense because, when you look at the video, it is  
19 a push with such force, his body is turned in the  
20 opposite direction and he end up across the street  
21 into someone else's driveway. So much so that the  
22 dash camera loses sight of him.

23 The dash camera is, by design, beyond the hood  
24 of the car. He has been pushed to the point where  
25 the -- he's beyond the hood of the car because the --

1 can't see him in the video anymore. So he goes in  
2 the middle of the road to the far side of this  
3 driveway. He is propelled with his back to his  
4 attacker.

5 He was scared. In his mind, he is a small man,  
6 he did not want to be involved with this. He did not  
7 want to be -- confront Michael. He said that. He  
8 didn't want to confront Michael. He went to turn  
9 around. He told you guys I was going for the second  
10 speed bump. I saw him and decided not to do it and  
11 decided to go -- he testified that he was going back  
12 to the car. But that didn't work for Michael.  
13 Michael was going to get him away from his speed  
14 bumps on his street.

15 Michael asked for help with these speeders going  
16 up and down the street. He had asked. There was a  
17 request on that street for traffic calming devices.  
18 And when they couldn't get official help, the --  
19 there was a decision to put out plastic speed bumps  
20 in the middle of the road so that everybody on that  
21 road was forced to comply with Michael's decision.  
22 Michael didn't want people driving what he believed  
23 to be faster than they should have been. He's not a  
24 police officer either. He's not out there enforcing  
25 the rules of the road. He's not out there to enforce

1 the -- the traffic calming in the Starkey Ranch  
2 community. Who is he to decide who gets to drive in  
3 front of his house, at what speed, and when they have  
4 to run over his speed bumps. Speed bumps that aren't  
5 connected to the ground.

6 So you heard Mr. Clifton talk about the  
7 possibility of driving over those speed bumps and  
8 them becoming dislodged. In his mind, he thinks  
9 worst-case scenario. You heard him say that. His  
10 worst-case scenario is they come up under the car,  
11 cause damage to the car, and the car could  
12 ultimately, in the worst-case scenario, maybe not  
13 work.

14 But if you think about the idea of them not  
15 being affixed to the ground, you've heard everybody  
16 say they roll them up, roll them out, put them up,  
17 put them back whenever they feel like they want the  
18 speed bumps out. When Mike wants them out. When  
19 Michael wants to control the flow of traffic. When  
20 Michael wants to be in control, he puts out the speed  
21 bumps.

22 They're not fixed to anything. They also -- we  
23 also hear testimony that we put them out so that  
24 people can be alerted to the fact that they have  
25 children. It's a neighborhood with kids in it. The

1 alert to having children in the neighborhood is  
2 pretty self-explanatory. That's fine. We all want  
3 to protect our children. That's not the problem.  
4 The problem comes when you're forcing people to  
5 comply with your desired effect. I don't want --  
6 Michael doesn't want people driving down the street.  
7 He's going to put out speed bumps. That's just all  
8 it is. Good luck getting past my house. You got to  
9 go over the speed bumps.

10 And the idea that people are driving by,  
11 speeding, on their phone, and now the -- Michael and  
12 Amanda are putting out obstacles in the road. You  
13 have people on their phone driving what they believe  
14 to be too fast, so let's put stuff in the road.  
15 Let's not weigh it down with anything. We're just  
16 going to put these temporary items in the road.  
17 They're plastic. Good luck. Hope they don't pop off  
18 the road.

19 Hope you don't -- think about somebody  
20 driving -- you get to use your common sense today.  
21 That's the best part. Is, as somebody is driving  
22 down a residential road, there are definitely people  
23 are going to be going too fast, there are definitely  
24 people that are going to be on their phone. If you  
25 are distracted driving, God forbid you hit something

1 in the middle of the road you don't expect to be  
2 there, what's going to happen? Is that a safe  
3 situation or is that maybe adding to the unsafe  
4 situation? Either way, it was not Michael's  
5 obligation to put speed bumps in the road, chose to  
6 do it.

7 Mr. Clifton didn't think they were legal. That  
8 was the reason he got out of the car. He didn't want  
9 to drive over to the speed bumps, he thought they  
10 were illegal, he wanted to get them out of the road,  
11 that was it. He wasn't there to damage, to break, to  
12 harm, to confront. He just wanted them out of the  
13 road.

14 Gets out of the car, goes straight for them.  
15 Everybody wants you to believe that he was cussing  
16 and saying vulgarities and was saying this and he was  
17 saying that. Watch the video. Because you can hear  
18 a lot. You hear a phrase from Mr. Clifton. After  
19 Michael asks him what he's doing, he answers him. He  
20 doesn't ignore him; he answers him. These things are  
21 illegal. You have a circumstance where you can  
22 listen to that in the jury room and you can say, I  
23 don't hear Mr. Clifton say anything. I hear him  
24 answer when Michael asks a question. I hear Amanda  
25 yelling for her husband. I see Amanda with her head

1 in her hand. I see Mr. Adams standing by. I can  
2 hear Mr. Adams talk. Look at those things. Because  
3 when you look at the video, when you think back to  
4 witnesses today, it's not going to add up.

5 But there is one witness that is going to add  
6 up: Mr. Clifton. He got up and he told you the  
7 facts as they were, that he recalled, that he  
8 remembered. If he didn't remember, he told you. He  
9 told you the answers to questions -- any question  
10 that was asked of him. Mr. Sarabia asked him a lot  
11 of questions. Mr. Sarabia really kind of pushed at  
12 him, and there were things that obviously Mr. Clifton  
13 either didn't know how to answer or perhaps he didn't  
14 want to answer them, but he did. He did.

15 And that's a lot more than I can say about the  
16 other witnesses. Because every time I got up to ask  
17 them a question, as soon as there's a question they  
18 didn't want to answer, all of a sudden they had no  
19 idea what I was talking about. All of a sudden --  
20 you ask a question: Was the push forceful? I don't  
21 understand what you're talking about. Just remember  
22 back for yourself at how easily it was. When the  
23 State Attorney asked questions, they were very  
24 forthcoming with their answers, they had all these  
25 horrible things to say about the day. And when I get

1 up and ask questions, all of a sudden they don't  
2 remember.

3 So you get to use that, your knowledge and your  
4 memory of today's trial, and you get to weigh the  
5 credibility of those witnesses. When you think about  
6 their testimony, think about the cross-examination  
7 when I tried to clarify information to get a better  
8 picture of what happened, to get from their point of  
9 view how things were, how hard it was to get them to  
10 relay that information. How -- the video does talk  
11 for itself, but it would be really nice to know some  
12 of the clarities that would have come from those  
13 witnesses. So use your memory. Rely on the  
14 information that was presented today.

15 Weigh the credibility of those witnesses when  
16 you think about their testimony and you compare it to  
17 the video. Because their testimony, amongst each  
18 other, kind of consistent. But when you take that  
19 collective story that they've got and you compare it  
20 to the video, it doesn't add up.

21 How can a group of people tell the same  
22 inconsistent story? A group of people who had an  
23 opportunity to talk amongst themselves before law  
24 enforcement got here, to talk amongst themselves  
25 after Mr. Clifton had left, to talk amongst

1 themselves as they waited for law enforcement, to  
2 discuss the circumstance. They have a very similar  
3 story to each other, one that doesn't match the  
4 video.

5 So you get to bring in your common sense today  
6 and think how does that happen? Perhaps there was a  
7 conversation that was had. Perhaps there was a  
8 collective retelling of the story. That -- you get  
9 to be in charge of what credibility you give to those  
10 witnesses. And I would submit that those witnesses  
11 may have come together and retold the story in the  
12 best light for Michael, their friend, their neighbor,  
13 the attacker.

14 It doesn't matter how you look at it, Michael  
15 was the first physical contact. He pushed a man for  
16 moving speed bumps out of the road. Speed bumps that  
17 Michael didn't have permission to have there. And  
18 Michael didn't have an exemption from the HOA or CDD.  
19 He didn't have anything that gave him any authority  
20 to put speed bumps, except for his own spouse. His  
21 desire to control his road. You heard him. His  
22 road, his kids, his family. Doesn't matter what  
23 anybody else on that street wanted to do. It was  
24 about Michael's control over his road.

25 This comes to play because Mr. Clifton didn't go

1 out there looking for a fight. Mr. Clifton didn't go  
2 out there looking to use his gun. He has a concealed  
3 weapons permit. He carries a weapon on him. He  
4 carries it daily. He carries his weapon chambered.  
5 And that is just Mr. Clifton. That is what he told  
6 you. He's not -- he didn't put his gun on a hip, get  
7 in his car, and say let's go attack some speed bumps.  
8 It just didn't happen. He told you that.

9 He testified that he had gone out that day and  
10 he was driving. He talked about getting gas.  
11 There's a lot of information about what he was doing  
12 on Barbour Trail. It doesn't matter. He's on  
13 Barbour Trail because he was driving in a community,  
14 a public community, a public community that allows  
15 the entire public to come and travel in and out of  
16 it. So much so that we have 54 here. We have a  
17 large amount of retail here. We have Starkey  
18 Boulevard -- Starkey Boulevard is up here. We have  
19 an entire -- several -- look at this map. Several  
20 roads that go from 54 up and through the community  
21 and out to the major road over here. We've got --  
22 Gunn Highway was mentioned, I believe. And there are  
23 several roads that go throughout the community.

24 Mr. Clifton lives in this tight community --  
25 portion of community down here. He was driving out

1 on Barbour Trail. Look at this. This is beautiful.  
2 Not a lot of that going on back here.

3 But in the end, it doesn't matter because he was  
4 in the community driving. Eventually he was going to  
5 get gas. There are several different ways to get  
6 there. And again -- common sense -- I don't know  
7 many people that have one way to get home, one way to  
8 get Publix, one way to get to the gas station. We  
9 drive different ways for different reasons all the  
10 time. It doesn't matter where he was. He was there.

11 So he's driving on Barbour Trail. It's the  
12 first time he had seen these bumps on Barbour Trail.  
13 He doesn't want to drive over them. He wants to get  
14 out of his car. He wants to move them. And he gets  
15 out. He sees the first obstacle on the road, and he  
16 moves it. On the driver's side. He goes to the  
17 driver's side to move it. He intends to go get the  
18 other one, immediately sees Michael, doesn't want  
19 anything to do with that, tries to leave. Michael  
20 decides that he's not going to do that.

21 So yes, he pulled down his fire to stop  
22 Michael's attack. He had already attacked him.  
23 Back. Has no idea what's going on, so he pulls out  
24 his gun to stop him. He shows him the weapon. Stop.  
25 He didn't have time to stop and say, hey, what you

1           doing? No. This big guy is coming after him. So he  
2           does -- he has his concealed firearm on him. As he's  
3           turning, he presents the weapon to the threat. To  
4           the threat. He has no idea what's going on behind  
5           him. He is reacting to a threat, and he did it in a  
6           way that he felt the most reasonable thing to do at  
7           the time in his situation under those circumstances.  
8           And his answer was to present a firearm to get rid of  
9           the attacker who he felt was bigger, who had already  
10          physically attacked him over speed bumps. Over speed  
11          bumps.

12                 You get to consider the size of each person.  
13           You get to consider the size of Mr. Clifton, his  
14           small stature. You get to consider the muscles and  
15           strength that are obvious on the video from Michael.  
16           He's not little, and he obviously doesn't have a  
17           problem pushing people around. Pushing people around  
18           over challenging the control of his street. That's a  
19           lot. That's escalation.

20                 Michael escalated the situation. Clifton  
21           stopped it. And as soon as the threat was stopped,  
22           Michael was no longer a threat, he immediately  
23           holstered that weapon. He immediately holstered the  
24           weapon and called law enforcement to report his  
25           attack. He holstered the weapon, called law

1 enforcement, and then he waited. He waited on the  
2 phone with law -- with 911. And 911 says, eh, you  
3 might want to maybe go wait somewhere else.

4 So he does. He does the lawful thing. He  
5 thinks the -- the speed bumps are illegal so he gets  
6 out to move them. He doesn't want to drive over  
7 them. He is attacked and wants to stop the attack.  
8 He pulls his lawful firearm, puts it away as soon as  
9 the threat is done, and then calls law enforcement to  
10 report the attack. Those are lawful steps.

11 Michael decided that he was going to put the  
12 speed bumps in the road and force everybody to comply  
13 with it. He was going to control what he could not  
14 get others to control for him. And then, when he  
15 didn't get what he wanted, he pushed him. And  
16 Michael wants you to think that's okay. It's okay  
17 because he touched my speed bumps. Didn't hurt them.  
18 Didn't damage them. They are designed to have cars  
19 drive over them every day, all day. That's what  
20 they're designed for. But a 130-pound man who comes  
21 over and gets them out of the road, watch out, let's  
22 get physical because you might damage those. Is --  
23 come on. Is that reasonable? It's not.

24 And so think about it. That is so unreasonable  
25 that it adds to the fear that goes to Mr. Clifton.

1 This man is already shown that he's willing to  
2 escalate from something so minor, speed bumps in the  
3 road, something so minor, he's willing to escalate to  
4 physical violence. And so you -- you get to consider  
5 that in the mind of Mr. Clifton. What's going on in  
6 his mind when some man comes and attacks him over  
7 speed bumps? That's escalation.

8 So now you have escalation coming into  
9 Mr. Clifton's mind that he's already been attacked.  
10 It's already escalated from something from -- started  
11 with speed bumps to physical violence. So you get to  
12 consider what's going on in his mind at that time.  
13 In his mind, while his back is to his attacker that  
14 pushed him so hard that his body -- entire body moved  
15 to where he was facing this man, and now his entire  
16 back is to him. That is very scary to think that  
17 there is something behind you that's already attacked  
18 you with such force that you now can't see them.

19 He carries a firearm for self-protection, and he  
20 used it a reasonable way. He didn't take it out to  
21 shoot and kill this man. He took it out to get him  
22 to back off, not to attack again. Whatever that man  
23 was going to do next, Mr. Clifton wasn't waiting to  
24 find out if it was going to be a hug.

25 Because reasonably, what did Michael think was

1 going to happen when he physically attacked a man?  
2 That he was going to shake his hand and say never  
3 mind, thanks, sorry, bye, see you later? No.  
4 Michael doesn't like to lose control of the situation  
5 because once he asserted that control, he was  
6 challenged, and he didn't like it. Didn't like that  
7 somebody tried to move the speed bumps. Didn't like  
8 that somebody tried to challenge him. That is a  
9 bully. And the number one thing bullies hate is when  
10 the people they're picking on push back.

11 And what bullies love is a crowd. They love to  
12 show off to everybody around. And on this day,  
13 Michael had the perfect audience. He had all of his  
14 friends and all of his family -- or excuse me, his  
15 friends and neighbors are sitting off to the side.  
16 His wife calls him over to take care of this because  
17 those speed bumps need to be handled. Michael,  
18 Michael. He comes over. He's going to take care of  
19 this.

20 So now he's got the entire group of people  
21 standing over there who are just watching. He gets  
22 to impress them. So how's he going to impress them?  
23 He's not going to let this little guy touch his speed  
24 bumps, so he pushes him. Then everybody's shocked  
25 when he stands up for himself. Says, nope, not

1 again. And it worked. It worked. But bullies don't  
2 like it when they don't look good in front of their  
3 friends, do they?

4 So you get to consider these things when you  
5 look at these jury instructions, and you get to  
6 decide, and you get to remember that you have that  
7 top-down view of what's going on in this courtroom.  
8 You have that top-down view. As Mr. Clifton is on  
9 the other side of that mountain that we talked about,  
10 that mountain of reasonable doubt. The State has to  
11 get to the top and back down before we can -- before  
12 there's enough -- before you can find that there is  
13 guilt by Mr. Clifton. He is on the other side. He  
14 is protected by the presumption of innocence. And  
15 only the evidence that's presented here today can go  
16 towards breaking that presumption.

17 And the evidence hasn't -- there hasn't been  
18 enough evidence to overcome that presumption of  
19 innocence. And the reason for that is because it's  
20 not just about did Mr. Clifton pull out a gun and  
21 scare the people on the side of the road. That --  
22 that's not the end of this. That's not even the meat  
23 of this situation. Here, you have to decide if  
24 the -- Mr. Clifton only has to says -- say I did it  
25 in self-defense. It's up to the State Attorney's

1 Office and the government that sits in that chair to  
2 prove beyond a reasonable doubt that what he did was  
3 not justified. So he said it. It's there.

4 Presumption of innocence. Justified. They don't  
5 have the evidence to prove beyond a reasonable doubt  
6 that what Mr. Clifton did was unlawful.

7 And you're going to hear -- you're going to be  
8 able to read for yourself, it'll be on page 15 of the  
9 jury instructions that you have there in front of  
10 you, and it's called justifiable or threatened use of  
11 non-deadly force. And I would encourage you to  
12 consider that. I'm -- I'm telling you that the  
13 evidence here points towards non-deadly force. It's  
14 the force that was used, not the potential outcome.  
15 I would argue that as -- the force that was used was  
16 non-deadly. He presented a firearm to stop a second  
17 attack. He did not have his finger on the trigger.  
18 He did not discharge the weapon. And he put it away  
19 as soon as Michael was no longer a threat.

20 Not only that, but you heard his testimony. He  
21 did not point that weapon at anybody else. Once  
22 Michael was done, he holstered his weapon. Any view  
23 from the side -- eyewitnesses are very self-focused.  
24 How did it affect them? How did it happen to them?  
25 All of a sudden their stories all say the same thing.

1 Does the evidence -- does the video support that? I  
2 would encourage you, when you watch the video,  
3 especially the one that's dialed in, you can really  
4 see where everybody's at.

5 Can you play it?

6 UNIDENTIFIED SPEAKER: This one?

7 MS. STEVENS: Yes.

8 (Video played with no audio.)

9 MS. STEVENS: This is State v. Clifton 1 on the  
10 flash drive. And you can see --

11 Pause.

12 He comes up, Michael is not here. Michael's not  
13 in this picture at all. We know he's there, but I'm  
14 telling you on here he is not there. The speed bump  
15 is being touched. That's what he wanted to do.

16 William Adams, Daniel Zweifel, Amanda, Sara Connolly.  
17 Michael's not in the picture yet.

18 Forward. Move forward. Pause.

19 MS. STEVENS: Why the foot? Not only is he  
20 pushing Mr. Clifton as he's trying to walk away --  
21 it's happening very quickly here. So as Clifton's  
22 trying to leave, Michael again is controlling this  
23 situation. He is not letting this man get away from  
24 him. He's going to put out his foot and make sure he  
25 gets maximum force.

1 Move forward. Stop.

2 The balls of his feet. He's on the balls of his  
3 feet. He's preparing to move again.

4 Forward.

5 Mr. Clifton falling.

6 Keep going. Stop.

7 This is when Michael realized he made a mistake.  
8 He didn't realize Mr. Clifton had a gun. As a matter  
9 of fact, you heard him. If he's known Clifton had a  
10 gun, you would not have pushed him.

11 Today you're responsible for evaluating evidence  
12 and determining whether or not the State of Florida  
13 has proven beyond a reasonable doubt that one of its  
14 citizens has committed a crime. They have to prove  
15 beyond a reasonable doubt not only did he commit that  
16 crime, but he was not justified in doing so.

17 Four people on the side of the road. Not one of  
18 them stepped up to stop. Not one of them tried to  
19 stop Michael from escalating the situation. Clifton  
20 was alone in that street. Nobody was coming to his  
21 rescue. Michael had a crowd. He had an audience.  
22 He was amping up. And now we sit here today.  
23 Michael's not in that chair. Michael's in that  
24 chair. He's got a new crowd. A new way to assert  
25 dominance and control. This started with speed

1 bumps, but it ends in justification.

2 There are many things that you get to take back  
3 to the jury room with you. So many that they've put  
4 it into a packet. Pages and pages. The most  
5 important thing you're going to take with you today  
6 is the common sense you walked in the door. And the  
7 common sense as it applies to these facts is there's  
8 only one outcome. When a man is threatened, he is  
9 allowed to use force to protect himself. The force  
10 that was used was non-deadly force against a larger  
11 individual who had already harmed him. There was no  
12 injury. He may not have hit the floor, but if he'd  
13 already escalated that far, what was next? Clifton  
14 made sure he didn't have to experience what was next.  
15 He stopped it.

16 So when you look at the jury instructions and  
17 you're asked to decide whether or not this is deadly  
18 or non-deadly force, look at what was actually done.  
19 What were the steps that Clifton took? What was the  
20 purpose? What was the force that was used? It was  
21 non-deadly force. He used a firearm. Has a  
22 potential for harm -- for deadly force, but that's  
23 not what it was used for here. And that's what's  
24 important.

25 So I would ask you, when you get back in the

1 jury room, think about the evidence. Think about the  
2 weight of the evidence and credibility of the  
3 witnesses. Think about what's been provided, what's  
4 missing. Those are things you're going to look for  
5 for reasonable doubt. Because the State Attorney and  
6 the government of Florida might have gotten to the  
7 top of that mountain because we know that gun came  
8 out, but they never got back down. They never got to  
9 the presumption of innocence because they got stalled  
10 out at the lake of justice, the lake of  
11 justification. Because that's what happened here.

12 So please go back there, consider the evidence,  
13 watch the videos. You have time. Watch them at  
14 length, slow them down, pause them. Look and see  
15 what's going on. Make sure that the evidence and the  
16 testimony match what you see. And when you do that,  
17 you'll come back with a verdict of not -- of not  
18 guilty.

19 Thank you.

20 THE COURT: Mr. Sarabia, you ready to finish up?

21 MR. SARABIA: Yes, Judge. Thank you.

22 THE COURT: All right.

23 CLOSING ARGUMENT (REBUTTAL)

24 MR. SARABIA: Ladies and gentlemen, thank you  
25 for all your time. I know none of us expected or

1 wanted to be here this late on a Friday. I'm going  
2 to try and go quick, but I got a bit to say.

3 First, some housekeeping matters. I hope you  
4 all have your papers and pencils. We are -- by  
5 agreement, we're going to send you back with a laptop  
6 similar to ours. It's going to have -- in case the  
7 screen goes blank, there is a username. It is  
8 Train01, T-R-A-I-N-0 --

9 THE COURT: Capital or no capital?

10 MR. SARABIA: I don't think it matters, but  
11 capital T, in case it does. The password is  
12 SAOTrain, T-R-A-I-N, 2012. Or SAOTrain2012. That's  
13 State Attorney, training, 2012. That's how long it's  
14 been since we changed the password.

15 So I'm telling you that now so that when you get  
16 back there, you'll be able to open it up. I  
17 recommend you open up the videos through VLC.  
18 That's -- I think there's one that doesn't play  
19 easily with any other player, but that's the one  
20 we've been using. So housekeeping matters.

21 Next, a lot of things to talk about. So I found  
22 it ironic that the Defense attorney just got up here  
23 and kept using the word control over and over and  
24 over again, and applying it to Michael. I'm going to  
25 call him Michael because -- Michael K. We all see

1 his last name; none of us can pronounce it.

2 But sure, this is a lot about control. It's a  
3 lot about (Indiscernible). This guy -- this guy, he  
4 wants to control the way everything's going. He  
5 wants to drive around the neighborhood and, oh, speed  
6 bumps. Can't have those. Don't like those. You're  
7 going to do what I say. It's all about control for  
8 him. And as soon as anybody resists him, the gun's  
9 coming out.

10 So a couple things to say about that. So one,  
11 firearms. State of Florida -- the right to firearm  
12 is fairly sacred. It's pretty broad, too. There's a  
13 lot of things you can do in the state of Florida you  
14 can't do anywhere else. And the defendant, there's a  
15 lot of things that he did here that are perfectly  
16 legal. He can carry a firearm. He can have a  
17 firearm. He's allowed to have it loaded. Nobody's  
18 saying that that's not the case.

19 However, we have broad laws, but they have  
20 limits. And the limits are very important because,  
21 when you cross those lines, now, because our laws are  
22 so broad, now we have problems. And if you're going  
23 to decide to exercise all those rights and do all  
24 those things, you still have to do them legally and  
25 responsibly. Which is not where this defendant found

1           himself, which is not what he did.

2           Because for him, it was all about control. It  
3           was all about being a bully. It was all about -- and  
4           I liked this. The Defense attorney began to say  
5           this, and then perhaps she realized how badly this  
6           applies, but she said, the problem is when you want  
7           people to comply with your desired effect. Who does  
8           that sound like? Who does that sound like? Who  
9           wants who to comply with the desired effect here?  
10          This guy.

11          Now, there is a conflict in the evidence here,  
12          and that doesn't mean you can't work through it. The  
13          conflict is the defendant says a lot of things, but  
14          he says -- he agrees he points the firearm at  
15          Michael. He denies that he pointed at anybody else.  
16          Everybody else that you heard from who was present --  
17          you know, the detective wasn't present, but everyone  
18          else who was present and was paying attention to that  
19          point said he pointed at each one of us.

20          So let's talk about credibility. And the  
21          defendant said a lot of things that don't make any  
22          sense. One, he says he parked on -- well, there's a  
23          couple things we're going to talk about here.  
24          Remember these things, because I'm going to show them  
25          to you on video. He says he parked on the side of

1 the road. He didn't park on the side of the road.  
2 He's -- he's in the middle of his lane. He says  
3 that -- that Michael tripped him. Well, we're going  
4 to watch the video in slow motion in a second. The  
5 leg never makes contact with the defendant. That  
6 didn't happen. And he kind of admitted it when I  
7 backed him in (Indiscernible) you know, really, you  
8 lost balance because you were -- because of the  
9 shove.

10 And he also says he wasn't going to the second  
11 speed bump at that point. Now, the irony there is,  
12 like, he agrees, like, when we're about here, he's  
13 headed towards second speed bump. That's his intent.  
14 He's going to do that. He agrees on that. But, oh,  
15 no, sees the big guy coming -- the big guy -- and  
16 then he goes the other direction. No. He just  
17 starts to go around Mike when he gets shoved.  
18 There's no real change in direction. Those things  
19 are just not accurate.

20 So he also says he was just driving around. Oh,  
21 wait, no, he's going to a gas station. It defies all  
22 reason. If you are going -- and I -- I urge you to  
23 look at the way he acted on the stand. When I asked  
24 him about what gas station were you going to, I mean,  
25 he got a -- it took him a while. It took him a

1 while. He probably was trying to think what would  
2 sound good here. But he comes up with this one.  
3 There is no universe where you would be traveling up  
4 Barbour Court if -- when you live here, taking your  
5 wife's vehicle to get gas at Starkey and 54. Just  
6 what happened.

7 It's also interesting. This is another -- I  
8 think the Defense attorney actually brought this up,  
9 but said, oh, why don't I take the scenic route?  
10 This is all houses. There's not a lot to see here.  
11 This -- Rangeland is fairly scenic. You can see  
12 there's retention ponds, there's nice preservation.  
13 If you want to see stuff, you go down Rangeland.

14 And I know he denied it, but I submit to you --  
15 all the circumstances -- he was out looking for speed  
16 bumps. That's what he was doing. And he found one.  
17 And he was determined to impose his will on everybody  
18 else and get rid of them.

19 So -- so with that said, now I'm going to show  
20 you the video. We'll start out with this angle. And  
21 there's a function on VLC that allows you to play it  
22 frame by frame.

23 (Video played with no audio.)

24 MR. SARABIA: And so watch -- watch Michael's  
25 leg. And you see -- like, they're calling it a kick.

1           When he pushes, he's in mid-step because Clifton is  
2           still coming to where he is, and he -- he's shifting  
3           his balance. That's all it is. It makes sense. If  
4           you're -- if you're pushing the guy to keep him away  
5           from something, if you don't shift your weight,  
6           you're going to go back. So all that makes sense.

7           So watch. We're going to go frame by frame.  
8           Clifton's moving to the second speed bump. Michael's  
9           getting in the way. He starts to go around him. Now  
10          watch the legs. You see Michael's leg comes up.  
11          Clifton's leg goes -- Michael's leg is already down.  
12          Clifton's leg has not made contact with it.  
13          Clifton's leg is now off the ground, and he just goes  
14          off in a direction.

15          When he says he got tripped, that did not  
16          happen. Did not -- you watch. So watch. Michael  
17          doesn't move. Once he pushes Clifton, he plants his  
18          feet, he does not move. And right about here you can  
19          see Clifton is pulling out the firearm. He is  
20          actively pulling out the firearm because that's right  
21          where he goes. As soon as he has the opportunity, he  
22          thinks now I can do it. Michael's not pursuing him.  
23          There's no footsteps behind him. Firearm is coming  
24          out. As soon as Michael sees the firearm, then he  
25          takes off in the other direction. And that's the

1 reality of what happened.

2 Now, another interesting thing. Michael really  
3 helped us out here. I'm going to play this -- this  
4 speed. You watch. Michael will run. He knows the  
5 firearm is pointed at him. He's going in the  
6 opposite direction. He can tell that he sees his  
7 kid, and then he cuts over. When he -- then he looks  
8 back and walks back to his kid. What did he tell us?  
9 Because he looked back and he could see Clifton had  
10 the firearm on the other people. So watch. The  
11 whole thing bears itself out.

12 (Video played with no audio.)

13 MR. SARABIA: So now he's looking, and now he  
14 walks back. And the other people are more nervous.  
15 And we're going to listen to it with sound in a  
16 minute from the other -- the other direction.

17 So a couple things in terms of the law.  
18 Aggravated assault. It's your job as the jury to  
19 come back with the highest offense that the State has  
20 proven beyond a reasonable doubt. And if you look  
21 through aggravated assault, we're there. Unless you  
22 believe the defendant denying that he pointed it at  
23 anybody else. But either way, we're there with  
24 Michael, and, based on the testimony of all the other  
25 witnesses, we're there with the other three people.

1           The only -- at that point, it's either justified  
2           or he's guilty. So the aggravated assault, it's  
3           almost the easy part. The defendant intentionally  
4           and unlawfully threatened, either by word or act --  
5           and this is the key -- threatened by act. Nobody's  
6           saying he said anything. He did not. But pointing  
7           the firearm -- and I had to fight with him on this  
8           little bit, but he did at one point admit, like, oh,  
9           yeah, it's a threat. I display the firearm. No, no,  
10          no. We all know what displaying a firearm looks  
11          like. This is threatening. This is threatening I am  
12          going to shoot you. That's act. He threatens him by  
13          act.

14          Second element, he appeared to have the ability  
15          to carry out the threat. He did. Not only did here,  
16          but he actually did. If the firearm was unloaded, it  
17          would still look like he had the ability. So it  
18          would still be an aggravated assault. But he was  
19          fully loaded, ready to go, one in the chamber.

20          Third element, created in the mind of the  
21          victim, any one of the victims, a well-founded fear  
22          that violence was about to take place. Clearly we  
23          have that. They all testified they were scared. The  
24          actions of the defendant created that well-founded  
25          fear. It was designed to do that. That's why he was

1 doing it, was to make all of them afraid, because,  
2 God help them, you don't want to cross Mr. Clifton  
3 when he's getting rid of the speed bumps in the road.

4 And then lastly, made with a deadly weapon. We  
5 all know a firearm is a deadly weapon.

6 So we're there. The question becomes is he  
7 justified in doing it?

8 Now, Defense brought up justifiable use or  
9 threatened use of non-deadly force. That's not the  
10 universe we're in with a firearm. Justifiable use --  
11 and this is the key -- or threatened use of deadly  
12 force. This is a threat of deadly force. Did he  
13 actually shoot Michael? No. So it's not deadly  
14 force. The force hadn't happened yet. It is a  
15 threat of deadly force.

16 And then we're in the world -- and this is  
17 page 13 and 14 of the instructions, if you've got  
18 them. We're in the universe of justifiable use or  
19 threatened use of deadly force. So now, if he  
20 doesn't qualify for it being justified, that means  
21 he's guilty.

22 So what do you have to do? The defendant was  
23 justified -- and I'm about halfway down. We know  
24 it's deadly force, great bodily harm. I'm skipping  
25 over some of those. The State has to prove to you

1 that it's not. It's -- the evidence is largely  
2 uncontested. Basically, the only thing that's really  
3 of significance that is contested in regards to this  
4 is did he point it at the other people, but otherwise  
5 largely uncontested. There's a video; you can watch  
6 it.

7 Halfway down the page. The defendant was  
8 justified in using or threatening to use deadly force  
9 if he reasonably believed that such force or threat  
10 of force was necessary to prevent imminent death or  
11 great bodily harm to himself.

12 Now, one, it's not enough for him just to  
13 believe. He has to reasonably believe. And it can't  
14 just be I thought he was going to push me again. It  
15 has to be necessary -- necessary to prevent imminent  
16 death or great bodily harm. And that's just not the  
17 universe that Mr. Clifton found himself on this nice  
18 family-friendly residential neighborhood with all  
19 these kids playing, all these neighbors.

20 Nobody was going to let Mr. Clifton get beat to  
21 death out there. Nobody was going to try and beat  
22 Mr. Clifton to death out there. Mr. Clifton doesn't  
23 even have any good reason to believe that. As he  
24 said himself, I had no idea what was going on behind  
25 me. Well, guess what, Mr. Clifton? That's not the

1           circumstances where you get to use deadly force. You  
2           have to reasonably believe that it's imminently going  
3           to -- imminently means about to happen. At any  
4           moment it's about to happen. Reasonably believe that  
5           such force was necessary to prevent imminent death or  
6           great bodily harm. But there's more.

7           The next big paragraph there, that's what people  
8           refer to as stand your ground. When does he have a  
9           duty to retreat? When doesn't he? I'm not going to  
10          belabor that, but basically, if he was doing  
11          something wrong or, like, something illegal here,  
12          committing a crime, then he has to retreat. He can't  
13          stand his ground. And if moving the speed bumps is a  
14          theft or an attempt at criminal mischief, an attempt  
15          to either deprive Mike of the ability to use them the  
16          way he's using them or to destroy them in some way,  
17          he would have a duty to retreat. But we -- you  
18          almost don't even need to get there to find  
19          (Indiscernible) criminal mischief for you.

20          But the next part, and this is the part I talked  
21          to you a little bit about yesterday. In deciding if  
22          he was justified in using the threatened use the  
23          deadly force, you must consider the circumstances --  
24          kids playing, birds chirping -- at the time the force  
25          or threat of force was used. The danger need not

1 have been actual; however, to justify the use or  
2 threatened use of deadly force, the appearance of  
3 imminent danger must have been so real that the  
4 defendant actually believed the use or threatened use  
5 of deadly force was necessary.

6 So that's one. He has to actually believe that.  
7 It's not enough -- like, I had no idea what was going  
8 to happen. Well, that could describe every single  
9 moment of this event for him. Has to actually  
10 believe it was going to happen. And I don't recall  
11 him ever saying that, because remember, we're in the  
12 world of I had no idea what was happening behind me.

13 But also the second thing: Moreover, to justify  
14 the use or threatened use of deadly force, a  
15 reasonably cautious and prudent person under the same  
16 circumstances would have believed the use or  
17 threatened use of deadly force was necessary.

18 Necessary. Had to happen. Couldn't get around it.  
19 He has to qualify for all those things in order for  
20 what he did to be okay.

21 So a couple things to go over with you, then I'm  
22 going to show you some videos and point out some  
23 things.

24 One, the defendant -- Internet research. He's  
25 decided -- he's determined that these are illegal

1 because, in his opinion, they obstruct the road.  
2 Well, he heard from the deputy. He heard from a  
3 couple of witnesses. I think we asked them, did it  
4 obstruct anybody's ability to travel on the road?  
5 No, it doesn't. No, it doesn't.

6 So it doesn't matter if Mr. Clifton thinks  
7 they're illegal. If he really thinks they're  
8 illegal, the remedy for that is to call law  
9 enforcement or code enforcement or take pictures of  
10 them and send them to the HOA. We all know people  
11 who do that if you've ever lived in an HOA community.  
12 That stuff could be annoying, but it's legal. Those  
13 are remedies he could take. Because then he's  
14 referring it to people who will know whether it's  
15 illegal or not. Who will know whether they can or  
16 can't do this. Because Michael's taken the steps  
17 that he -- he tried to make sure that they were legal  
18 and was under the impression that they were. You can  
19 even hear that exchange before Michael pushes him.

20 So he's decided vigilante to go out there and  
21 help himself. He's doing it. He's going to ignore  
22 these people because he's trying to make a point. He  
23 doesn't care what they say. He's not going out there  
24 to educate him like, hey, buddy -- we all know that  
25 none of these people have ever met each other before.

1 Hey, buddy, you know that there's a statue here that  
2 doesn't allow you to do this. No. He's not  
3 interested in that. He's going to do this himself.  
4 And when Michael decides I'm going to stop you from  
5 doing it yourself, well, now, that kind of self-help  
6 is not okay. It's also okay for Mr. Clifton to block  
7 the road. It's not okay for Michael to lay something  
8 down flat against the road.

9 So he says no other options. I asked him what  
10 do you mean no other -- you could have -- could have  
11 shown him you had the firearm. Same effect. Oh, no,  
12 no, that's illegal. Well, you see -- you see the  
13 catch there? See the catch there? If this is  
14 illegal, which, by the way, is not. You can -- you  
15 can display a firearm in self-defense briefly.  
16 There's nothing illegal about that. In fact, now you  
17 can open carry. Couldn't back then, but now you can.  
18 But if that's illegal, pointing the firearm is even  
19 more illegal.

20 So listen closely. So you're going to hear --  
21 and Michael tries to diffuse and say, hey, buddy,  
22 hey, buddy, what you doing? What you doing? You can  
23 hear Clifton respond, these are illegal, these are  
24 illegal. You can kind of hear him. And Michael  
25 responds, no, they're not. And Clifton keeps

1           advancing. So we're going to watch the other angle,  
2           and I urge you try and listen to the audio. The  
3           audio is not fantastic, but it gives us a little bit  
4           here.

5                   (The following is the transcription of the  
6 recording as it was played in the courtroom and re-  
7 recorded onto the system.)

8                   (Indiscernible background conversation.)

9           MR. ZWEIFEL: All right. It should be opening.

10                   (Indiscernible background conversation.)

11                   (Recording stopped.)

12           MR. SARABIA: By the way, that's very clearly  
13 faster than 25 miles per hour.

14                   (Recording started.)

15                   (Indiscernible background conversation.)

16           MS. KRNJAICH: Michael, Michael.

17           MR. KRNJAICH: Hey. Careful. Careful now.  
18 What are you doing?

19           MR. CLIFTON: That's illegal property.

20           MR. KRNJAICH: No, it's not.

21           MS. KRNJAICH: Mike. Mike. Mike.

22                   (Indiscernible background conversation.)

23           MR. KRNJAICH: Hey, what's the matter with  
24 (Indiscernible).

25           MR. ADAMS: Hey, don't point that at me.

1 (Indiscernible background conversation.)

2 MS. KRNJAICH: (Indiscernible). Get in the  
3 house.

4 MR. ADAMS: (Indiscernible).

5 MS. KRNJAICH: Get down. Get down.

6 (Recording stopped.)

7 MR. SARABIA: You hear Will Adams don't point  
8 that thing at me.

9 By the way, watch the car that comes up behind  
10 him. Before the push ever happens, the only one  
11 blocking the road is Mr. Clifton. See the car behind  
12 him? Can't get by. Ms. Clifton's in the middle of  
13 the road.

14 (The following is the transcription of the  
15 recording as it was played in the courtroom and re-  
16 recorded onto the system.)

17 MS. KRNJAICH: Mike. Mike.

18 (Indiscernible background conversation.)

19 MR. KRNJAICH: Hey, what's the matter with  
20 (Indiscernible).

21 (Recording stopped.)

22 MR. SARABIA: Now, once the gun -- once the  
23 driver behind him probably realizes what's going on,  
24 they -- they throw it in reverse. But you can also  
25 see, like -- I'm going to play it again. Watch

1 Clifton parks in the middle of his lane, he doesn't  
2 pull off to the side. Doesn't really matter, but it  
3 just shows he's -- he's not being straight with you.  
4 That is in the middle of the road. That's in the  
5 middle of the lane.

6 (Recording started.)

7 MS. KRNJAICH: Michael, Michael.

8 MR. KRNJAICH: Hey. Careful. Careful now.  
9 What are you doing?

10 (Recording stopped.)

11 MR. SARABIA: If -- if Mike K. is obstructing  
12 the roadway, the defendant is even more obstructing  
13 the roadway.

14 And I'll give you a couple other things. When  
15 the -- when the defendant pulls out that firearm, if  
16 Will Adams had a firearm and pulled it out and shot  
17 him dead, it would have been completely justified.  
18 You know why? Because the defendant shouldn't have  
19 been doing what he was doing. When the defendant  
20 pulls out the firearm, if Will Adams had starting to  
21 pull out a firearm -- he doesn't have one. I'm  
22 just -- again, hypotheticals -- started to pull out a  
23 firearm but Mr. Clifton goes over to him and shoots  
24 him dead, Ms. Clifton would not have been justified.  
25 All of that just highlights how unreasonable the

1 escalation and the use of -- the threatened use of  
2 deadly force that this defendant used under these  
3 circumstances was. And that's really what it comes  
4 down to. Like, there's nothing reasonable -- well,  
5 there's not a lot reasonable about anything that he  
6 said, but there is nothing reasonable about the way  
7 he acted. But then it became illegal when he decided  
8 to introduce the deadly weapon and point it at  
9 people. At that point, not only is it unreasonable,  
10 but now it's illegal. And now we're here.

11 And so, again, I'm going to leave you with this.  
12 We take our firearm rights very seriously, we make  
13 sure our laws are appropriately broad, but we have a  
14 responsibility to -- to use those properly, legally,  
15 correctly. And this is not that. This is absolutely  
16 not that.

17 So Mr. Moeller and I are asking you go back  
18 there, and you'll get a verdict form for each one of  
19 the counts, one for each victim. I forget which  
20 one's which, but I know Mike is 4. I think Will  
21 Adams is number 1, Daniel Zweifel is number 2, Sara  
22 Connolly is number 3. Each one's its own analysis.  
23 So I urge you, find the defendant guilty of all four  
24 counts of aggravated assault.

25 And there's no reason to go to any lessers.

1 It's not -- it's more than -- it's an assault, but  
2 it's more than an assault because there's a deadly  
3 weapon. Yes, it's an improper exhibition, but it's  
4 more than improper exhibition because it qualifies  
5 for all the other things.

6 So I appreciate your time. Sorry we're here so  
7 late. Thank you very much.

8 THE COURT: May I have a copy of the jury  
9 instructions?

10 MR. SARABIA: Yes, Judge.

11 THE COURT: Ladies and gentlemen, I am going to  
12 read the jury instructions to you. Does anyone need  
13 to use the restroom? I don't see anybody hands.

14 For those in the -- out in the -- watching, the  
15 jury instruction I'm reading, once -- I'm going to  
16 lock the door and you won't be able to get out. So  
17 I'm giving you an opportunity for a minute. If you  
18 want to leave now, leave now. If not, you'll listen  
19 to the boring jury instructions.

20 See, the detective is smart. He's going. All  
21 right.

22 All right. Ladies and gentlemen, we are on to  
23 the last and final loop here, the Introduction to  
24 Final Instructions. If you want to go ahead and take  
25 your copy and follow along, I know you can read them

1 to yourself and it's late, but the law requires I  
2 read them to you, each and every word. I have agreed  
3 though, however -- or got the Defense and the State  
4 to agree that because all four counts are the same,  
5 I'm just going to read it once. So there are -- but  
6 they're all -- each count for each defendant is in  
7 here, but they're exactly the same. So I'm just  
8 going to read it once, including -- including the  
9 lessers are the same for each count. So -- but you  
10 have all the counts in here. So you have a page that  
11 says the same thing, except the victim's name is  
12 different.

13 I will tell you on the jury -- jury verdict  
14 forms, when you find those, at the very top it says  
15 aggravated assault -- and we'll go over this -- it  
16 will have each individual victim's name up there, so  
17 you'll be able to -- to know which page of the  
18 verdict form goes with each individual victim. All  
19 right?

20 So the first page: Members of the jury, I thank  
21 you for your attention during this trial. Please pay  
22 attention to the instructions I'm about to give you.

23 William Clifton, the defendant in this case, has  
24 been accused of the crime of aggravated assault for  
25 each count, and there are four of them.

1           Aggravated Assault. To prove the crime of  
2           aggravated assault as to Count 1, 2, 3, and 4 of the  
3           Information, the State must prove the following four  
4           elements beyond a reasonable doubt. The first three  
5           elements also define assault, which is a lesser  
6           later. William Clifton intentionally and unlawfully  
7           threatened, either by word or act, to do violence to,  
8           in Count 1, William Adams; in Count 2, Daniel  
9           Zweifel, that's Z-E-I-F-E-L; on Count 3 it's going to  
10          be Sara Connolly; and on Count 4 it's Mike Krnjaich.  
11          Again, we are all pronouncing it differently so I  
12          apologize. Number two, at the time, William Clifton  
13          appeared to have the ability to carry out that  
14          threat. Number three, the act of William Clifton  
15          created in the mind of William Adams, or each of the  
16          individual named victims, a well-founded fear that  
17          the violence was about to take place. And number  
18          four, the assault was made with a deadly weapon.

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

24                 A deadly weapon is an object that will likely  
25                 cause death or great bodily harm if used or

1 threatened to be used in the ordinary and usual  
2 manner contemplated by its design and construction.

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

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

8 That's Count 1. Count 2 is the same with the --  
9 with Mr. Zweifel. Count 3 is the exact same with  
10 Ms. Connolly. And Count 4 is the same with Ms. --  
11 Mr. Krnjaich.

12 Lesser Included Crimes. If the evidence does  
13 not convince you that the defendant committed the  
14 main crime of which he is accused, there may be  
15 sufficient evidence that he committed a lesser  
16 included crime or crimes. In other words, if you  
17 decide the main accusation has not been proved beyond  
18 a reasonable doubt, you will need to decide if the  
19 State has proved beyond a reasonable doubt that the  
20 defendant is guilty of a lesser included crime. The  
21 lesser included crimes of aggravated assault for all  
22 four counts are improper exhibition of a firearm and  
23 assault.

24 To prove the crime of improper exhibition of a  
25 firearm as a lesser included crime to Counts 1, 2, 3,

1 and 4, the State must prove the following three  
2 elements beyond a reasonable doubt: Number one,  
3 William Clifton had or carried a firearm. Number  
4 two, William Clifton exhibited the firearm in a rude,  
5 careless, angry, or threatening manner. And number  
6 three, he did so in the presence of one or more  
7 persons.

8 A firearm means any weapon, including a starter  
9 gun, which will, is designed to, or may be readily be  
10 converted to expel a projectile by the actions of an  
11 explosive; the frame of a receiver of any weapon; and  
12 any firearm muffler or firearm silencer.

13 Assault, as a lesser included count. To prove  
14 the crime of assault as a lesser included offense of  
15 Count 1 of the Information, the State must prove the  
16 following three elements beyond a reasonable doubt:  
17 Number one, William Clifton intentionally and  
18 unlawfully -- either by word or act, to do violence  
19 to William Adams in Count 1. As to the -- at the  
20 time, William Clifton appeared to have the ability to  
21 carry out the threat. And number three, the act of  
22 William Clifton created in the mind of William Adams  
23 a well-founded fear that the violence was about to  
24 take place.

25 And you'll turn the page. Count 2 has

1 Mr. Zweifel, Count 2 has Ms. Connolly, and Count 4  
2 has Mr. Krnjaich. All the same instructions, just a  
3 different victim put in there.

4 So we are on page 13. It reads: Justifiable  
5 Use or Threatened Use of Deadly Force. It is a  
6 defense to the crime of aggravated assault if the  
7 actions of William Clifton constituted the  
8 justifiable use or threatened use of deadly force.

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

13 William Clifton does not have the burden of  
14 proving that he was just justified in using or  
15 threatening to use deadly force. Instead, for you to  
16 find the defendant guilty, the State must prove  
17 beyond a reasonable doubt the defendant was not  
18 justified in using or threatening to use deadly  
19 force.

20 The law on the justifiable use or threatened use  
21 of deadly force is as follows: William Clifton was  
22 justified in using or threatening to use deadly force  
23 if he reasonably believed that such force or threat  
24 of force was necessary to prevent imminent death or  
25 great bodily harm to himself.

1           If William Clifton was not committing any crime  
2 other than the alleged aggravated assault for which  
3 the defendant claims self-defense, and if he was at a  
4 place where he had a right to be, then the defendant  
5 had no duty to retreat before using or threatening to  
6 use the deadly force. On the other hand, if, at the  
7 time William Clifton used or threatened to use deadly  
8 force, he was committing a theft or a criminal  
9 mischief, the duty to retreat means the defendant had  
10 the legal obligation to use every reasonable means  
11 to -- means to avoid any danger before using or  
12 threatening -- threatening to use deadly force. The  
13 law does not require the defendant to retreat if he  
14 was placed in imminent danger or -- of death or great  
15 bodily harm against himself. But if the defendant  
16 had a duty to retreat and if he could have safely  
17 retreated but did not do so, then his use or  
18 threatened use of deadly force was not justifiable.

19           A person commits a theft if he knowingly obtains  
20 or use or endeavors to obtain or use the property of  
21 another with the intent to either temporarily or  
22 permanently deprive the other person of a right to  
23 property or benefit from the property.

24           A person commits the offense of criminal  
25 mischief if he willfully and maliciously injures or

1 damages by any means any personal property belonging  
2 to another.

3 In deciding whether William Clifton was  
4 justified in the use or threatened use of deadly  
5 force, you must consider the circumstances at the  
6 time the force or threat of force was used. The  
7 danger need not have been actual; however, to justify  
8 the use or threatened use of deadly force, the  
9 appearance of imminent danger must have been so real  
10 that the defendant actually believed the use or  
11 threatened use of deadly force was necessary.  
12 Moreover, to justify the use or threatened use of  
13 deadly force, a reasonably cautious and prudent  
14 person, under the circumstances, would have believed  
15 the use or threatened use of deadly force was  
16 necessary.

17 However, the use or threatened use of deadly  
18 force is not justified if you find that William  
19 Clifton used force, or the threat of force, to  
20 initially provoke the use or threatened use of force  
21 against himself. Unless the force or threat of force  
22 asserted towards the defendant was so great that he  
23 reasonably believed that he was in imminent danger of  
24 death or great bodily harm and had exhausted every  
25 reasonable means to escape the danger, other than

1 using or threatening to use bodily harm on Michael  
2 Krnjaich.

3 In considering the issue of self-defense, you  
4 must take into account the relative physical  
5 abilities and capacities of Mr. Clifton and  
6 Mr. Krnjaich.

7 It is a defense to the crime of aggravated  
8 assault if the actions of William Clifton constitutes  
9 the justifiable use or threatened of non-deadly  
10 force.

11 Non-deadly force means force not likely to cause  
12 death or great bodily harm. Again, great bodily harm  
13 means great as distinguished from slight, trivial,  
14 minor, or moderate harm.

15 William Clifton does not have the burden of  
16 proving that he was justified in using or threatening  
17 to use non-deadly force. Instead, for you to find  
18 the defendant guilty, the State must prove beyond a  
19 reasonable doubt the defendant was not justified in  
20 using or threatening to use non-deadly force.

21 The law on the justifiable use or threatened use  
22 of non-deadly force is as follows: William Clifton  
23 was justified in using or threatening to use  
24 non-deadly force against Michael Krnjaich and had no  
25 duty to retreat if he reasonably believed that such

1           conduct was necessary to defend himself against  
2           Michael Krnjaich's imminent use of unlawful force.

3           In deciding whether William Clifton was  
4           justified in the use or threatened use of non-deadly  
5           force, you must consider the circumstances at the  
6           time the force or threatened -- threat of force was  
7           used. The danger need not have been actual; however,  
8           to justify the use or threatened use of non-deadly  
9           force, the appearance of imminent danger must have  
10          been so real that the defendant actually believed the  
11          use or threatened use of non-deadly force was  
12          necessary. Moreover, a reasonable cautious and  
13          prudent person under the same circumstances would  
14          have believed the use or threatened use of non-deadly  
15          force was necessary.

16          However, the use or threatened use of non-deadly  
17          force is not justified if you find that William  
18          Clifton used force or the threat of force to  
19          initially provoke the use or threatened use of force  
20          against himself, unless the force or threatened force  
21          asserted towards William Clifton was so great that he  
22          reasonably believed that he was in imminent danger of  
23          death or great bodily harm and had exhausted every  
24          reasonable means to escape the danger other than  
25          using non-deadly force on Michael Krnjaich.

1           In considering the issue of self-defense, you  
2           may take into account the relative physical abilities  
3           and capacities of William Clifton and Michael  
4           Krnjaich.

5           This instruction, which is next, applies only to  
6           Count 4. So if you'll highlight that.

7           Michael Krnjaich was justified in using  
8           non-deadly force against William Clifton and had no  
9           duty to retreat if: William Clifton was about to  
10          trespass or was trespassing or was about to  
11          wrongfully interfere or was wrongfully interfering  
12          with personal property; and the personal property was  
13          lawfully in Michael Krnjaich's possession or in the  
14          possession of a member of his immediate family or  
15          household; and Michael Krnjaich reasonably believed  
16          that his use of force was necessary to prevent or  
17          terminate William Clifton's wrongful behavior.

18          If you find an aggravated assault against  
19          Michael Krnjaich would, under all circumstances, have  
20          been justifiable upon the theory of self-defense,  
21          then the unintended aggravated assault against a  
22          bystander by the pointing of a firearm in the proper  
23          and prudent exercise of self-defense is also  
24          justifiable.

25          The defendant has entered a plea of not guilty.

1 This means you must presume or believe the defendant  
2 is innocent. The presumption stays with the  
3 defendant as to each material allegation in the  
4 Information through each stage of the trial unless it  
5 has been overcome by the evidence to the exclusion of  
6 and beyond a reasonable doubt.

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

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

14 Whenever the words reasonable doubt are used,  
15 you must consider the following: Proof beyond a  
16 reasonable doubt does not mean proof beyond all  
17 doubt. A reasonable doubt is not a mere possible  
18 doubt, a speculative, imaginary, or forced doubt.  
19 Such a doubt must not influence you to return a  
20 verdict of not guilty if you have an abiding  
21 conviction of guilt. On the other hand, if, after  
22 carefully considering, comparing, and weighing all  
23 the evidence, there is not an abiding conviction of  
24 guilt, or, if having a conviction, it is one which is  
25 not stable but one which wavers and vacillates, then

1 then the charge is not proved beyond every reasonable  
2 doubt and you must find the defendant not guilty  
3 because the doubt is reasonable.

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

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

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

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

18 You should consider how the witnesses acted as  
19 well as what they said. Some things you should  
20 consider are: Number one, did the witness seem to  
21 have an opportunity to see and know the things about  
22 which the witness testified? Two, did the witness  
23 seem to have an accurate memory? Number three, was  
24 the witness -- witness honest and straightforward in  
25 answering the attorneys' questions? Number four, did

1 the witness have some interest in how the case should  
2 be decided? Number five, does the witness's  
3 testimony agree with other testimony and other  
4 evidence in the case? Number six, has the witness  
5 been offered or received any money, preferred  
6 treatment, or other benefits in order to get the  
7 witness to testify? Number seven, has any pressure  
8 or threats been used against the witness that  
9 affected the truthfulness of the witness's testimony?  
10 Eight, did the witness at some other time make a  
11 statement that is inconsistent with the testimony he  
12 or she gave here in court? Nine, has the witness  
13 been convicted of a felony or misdemeanor involving  
14 dishonesty or false statement? Number ten, does the  
15 witness have a general reputation for dishonesty or  
16 truthfulness?

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

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

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

5           It is entirely proper for the lawyers to talk to  
6           a witness about what testimony that witness would  
7           give if called to the courtroom. The witnesses  
8           should not be discredited by talking to a lawyer  
9           about his or her testimony.

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

14          These are some general rules that will apply to  
15          your discussions. You must follow these rules in  
16          order to return a lawful verdict:

17          You must follow the law as it is set out in  
18          these instructions. If you fail to follow the law,  
19          your verdict will be a miscarriage of justice. There  
20          is no reason for failing to follow the law in this  
21          case. All of us are depending upon you to make a  
22          wise and legal decision in this matter.

23          This case must be decided only upon the evidence  
24          that you have heard from the testimony of the  
25          witnesses and have seen in the forms of the exhibits

1 in evidence and these instructions.

2 This case must not be decided for or against  
3 anyone because you feel sorry for anyone or are angry  
4 at anyone.

5 Remember, the lawyers are not on trial. Your  
6 feelings about them should not influence your  
7 decision in this case.

8 Your duty is to determine if the defendant has  
9 been proven guilty or not in accordance with the law.  
10 It is my job to determine a proper sentence if the  
11 defendant is found guilty.

12 Whatever verdict you render must be unanimous,  
13 that is, each juror must agree to the same verdict.

14 The jury is not to discuss any questions that  
15 jurors wrote that were not asked by the Court and  
16 must not hold that against either party. I believe  
17 we asked all of them. But just in case, I just  
18 wanted to read that.

19 Your verdict should not be influenced by  
20 feelings of prejudice, bias, or sympathy. Your  
21 verdict must be based on the evidence and on the law  
22 contained in these instructions.

23 Deciding a verdict is exclusively your job. I  
24 cannot participate in that decision in any way.  
25 Please disregard anything I may have said or done

1 that made you think I prefer one verdict over  
2 another.

3 You may find the defendant guilty as charged --  
4 excuse me. You may find the defendant guilty as  
5 charged or guilty of such lesser included crimes as  
6 the evidence may justify or not guilty.

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

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

19 Can I see the verdict forms?

20 There's four of them because there's four  
21 counts. As I indicated earlier, it says verdict. It  
22 says Mr. Clifton's name. Up here in the right-hand  
23 corner it says Information for Count 1, and then in  
24 parentheses we put the victim's name. So you'll see  
25 William Adams, Daniel Zweifel, Sara Connolly,

1 Count 3, and then Michael Krnjaich. So there's four  
2 of them, they're exactly the same, and so you would  
3 know which one attaches to which victim.

4 They all say the same thing: We, the jury, find  
5 as follows. Check one and only one and -- by making  
6 a single check mark in the line next to the verdict  
7 you have found. Number one, the defendant is guilty  
8 of aggravated assault as charged in the Information.  
9 Number two, the defendant is guilty of a lesser  
10 included offense of improper exhibition of a  
11 dangerous weapon or firearm. Number three, the  
12 defendant is guilty of a lesser included offense of  
13 assault. Or not guilty. So say we all, signature of  
14 the foreperson. This is a sign, print your name, and  
15 then your seat number. When we read the verdict form  
16 for each count, when we get to the part of the  
17 foreperson, we will not read your name. We will only  
18 read your seat number. All right? So you have four  
19 verdicts there.

20 If you turn the page, we'll talk about that real  
21 quick. It should say Single Defendant, Multiple  
22 Counts of -- or Informations. A separate crime is  
23 charged in each count of the Information, and,  
24 although they have been tried together, each crime  
25 and the evidence applicable to it must be considered

1 separately and a separate verdict form returned to  
2 each. A finding of guilty or not guilty as to one  
3 crime must not affect your verdict as to the other  
4 crimes charged.

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

15 You do not read the verdict form. You just  
16 bring it back. My clerk gets to read it for you.  
17 Okay? So if anybody's scared about reading the  
18 verdict form, you don't have to read it. All right?

19 During the deliberations, jurors must  
20 communicate about the case only with one another and  
21 only when all jurors are present in the jury room.  
22 If a juror goes to the restroom, the deliberations  
23 should stop until the jury -- juror returns. You are  
24 not to communicate with any person outside the jury  
25 about the case. Until you have reached a verdict,

1       you must not talk about this case in person or  
2       through telephone, writing, or electronic  
3       communication, such as email, or any other means. Do  
4       not contact anyone to assist you during your  
5       deliberations. These communication rules apply until  
6       I discharge you at the end of the case. If you  
7       become aware of any violations of these instructions,  
8       or any other instructions I have given you in this  
9       case, you must tell me by giving a note to the  
10      bailiff.

11             The next paragraph is about cell phones. I'm  
12      not going to read it. You don't have them. We've  
13      taken them away a long time ago, so you won't have  
14      them in the back.

15             If you need to communicate with me, send a note  
16      through the bailiff. If you have voted on any one of  
17      the counts, do not disclose your actual vote in the  
18      note. So just send the note. Don't put any votes on  
19      it. Okay?

20             If you have a question, I will talk with the  
21      attorneys before I answer, so it may take some time.  
22      You may continue your deliberations while you wait  
23      for my answer. It will -- I will answer any  
24      questions, if I can, in writing and orally here in  
25      open court.

1           During the trial, items were received into  
2 evidence as exhibits. You may examine whatever  
3 exhibit you think will help you in your  
4 deliberations. These exhibits will go back with you  
5 into the jury room when you begin to deliberate. The  
6 only ones I won't send back, as I indicated, is I'm  
7 going to keep the bullets. You get the gun. Okay?  
8 If you need the bullets, we'll switch. My bailiff  
9 will have the bullets out here.

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

18           Can I have the lawyers at the bench briefly?

19           (Begin sidebar.)

20           THE COURT: We should have six pieces of  
21 evidence.

22           All right. Any objections to the instructions  
23 that I've given?

24           MR. SARABIA: No, Judge.

25           THE COURT: All right. We're sending the -- all

1 the -- you have two, State has four. We're sending  
2 all six back. Well, actually, we're sending -- we're  
3 not sending all six because we're keeping the bullets  
4 out. So we're sending three and two, so they'll have  
5 five. And it -- if you can write down the -- the  
6 password and the code in case -- that -- and then  
7 once we back up, I just need phone numbers where you  
8 can be reached. Okay?

9 MS. STEVENS: Okay.

10 (End sidebar.)

11 THE COURT: All right. Ladies and gentlemen,  
12 grab your notes, grab your instructions, grab  
13 everything. You get to actually talk about it now.  
14 Yay.

15 We're sending everything back. You'll have two  
16 pieces from the Defense and three from the State  
17 because we're keeping that fourth one of the bullets  
18 out here, but my bailiff will have it. And if you  
19 don't remember the password and code, just knock.  
20 We'll have it written down. Okay?

21 Just knock when you have a -- any questions or  
22 if you have reached a verdict.

23 (The jury retired for deliberation.)

24 THE COURT: All right. The jury is out. If  
25 everyone can give us -- try again. Jury's out.

1           If you all can make sure we have phone numbers  
2           where you can be reached. As soon as they reach a  
3           verdict or there's a question, I will contact you.  
4           Okay?

5           MR. SARABIA: Yes, Your Honor.

6           THE COURT: All right. We'll be in recess.

7           (Recess from 9:35 p.m. to 10:50 p.m.)

8           THE COURT: All right. We are on the record on  
9           the State vs. William Clifton, case number 23-CF-562.  
10          Defense, defendant, and State is present.

11          The jury have knocked and told me that they have  
12          returned a verdict. Any reason that we should not  
13          return the verdict from the State?

14          MR. SARABIA: No, Judge.

15          THE COURT: Defense?

16          MS. STEVENS: No, Your Honor.

17          THE COURT: All right. Bring the jury back.

18          THE BAILIFF: Yes, Your Honor.

19          Jurors entering the courtroom, Your Honor.

20          (The jury entered the courtroom.)

21          THE BAILIFF: All jurors are present and seated,  
22          Your Honor.

23          THE COURT: Thank you.

24          Mr. -- juror number two, my understanding is you  
25          are the foreperson. It looks like you have my

1 verdict forms. Is that correct?

2 JUROR NUMBER TWO: Yes.

3 THE COURT: Have you reached a verdict as an  
4 entire jury?

5 JUROR NUMBER TWO: Yes.

6 THE COURT: Can you hand the verdict forms to my  
7 bailiff?

8 All right. Madam Clerk --

9 If the defendant -- Defense can rise.

10 Madam Clerk, if you can publish the verdicts  
11 from 1 to 4 by seat number only of the foreperson.

12 THE COURT CLERK: In the Circuit Court of the  
13 Sixth Judicial Circuit of the State of Florida in for  
14 Pasco County. State of Florida vs. William Clifford,  
15 case number 2023-CF-00562. Information for Count 1.

16 We, the jury, find as follows: The defendant is  
17 guilty of the lesser included offense of improper  
18 exhibition of a dangerous weapon of a firearm. So  
19 say we all, foreperson, juror number two.

20 As for the Information of Count 2, we the jury  
21 find as follows: The defendant is guilty of the  
22 lesser included offense of improper exhibition of a  
23 dangerous weapon or firearm. So say we all, the 17th  
24 day of October, juryperson number two.

25 As to Count 3, we, the jury, find as follows:

1 The defendant is guilty of the lesser included  
2 offense of improper exhibition of a dangerous weapon  
3 or firearm. So say we all, the 17th day of October,  
4 juryperson number two.

5 For Information of Count 4, we, the jury, find  
6 as follows: The defendant is guilty of aggravated  
7 assault, as charged in the Information. So say we  
8 all, this 17th day of October, foreperson juror  
9 number two.

10 THE COURT: Defense, do you wish to have the  
11 jury polled?

12 MS. STEVENS: Yes, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, my  
14 clerk is going to ask you if the verdict she has just  
15 read is your personal individual verdict. The answer  
16 is yes or no.

17 By seat number, please.

18 THE COURT CLERK: Juror number one, is the  
19 verdict rendered your verdict?

20 JUROR NUMBER ONE: Yes.

21 THE COURT CLERK: Verdict -- juror number two,  
22 is the verdict rendered your verdict?

23 JUROR NUMBER TWO: Yes.

24 THE COURT CLERK: Juror number three, is the  
25 verdict rendered your verdict?

1 JUROR NUMBER THREE: Yes.

2 THE COURT CLERK: Juror number four, is the  
3 verdict rendered your verdict?

4 JUROR NUMBER FOUR: Yes.

5 THE COURT CLERK: Juror number five, is the  
6 verdict rendered your verdict?

7 JUROR NUMBER FIVE: Yes.

8 THE COURT CLERK: Juror number six, is the  
9 version verdict rendered your verdict?

10 JUROR NUMBER SIX: Yes.

11 THE COURT: The defendant and Defense may be  
12 seated.

13 Ladies and gentlemen, I want to take this  
14 opportunity and this time to thank you for your time  
15 and your consideration in this case. I also wish to  
16 advise you of some very special privileges enjoyed by  
17 you as jurors.

18 No juror can ever be required to talk about the  
19 discussions that have occurred in the jury room  
20 except by court order. For many centuries, our  
21 society has relied upon jurors for consideration in  
22 these types of difficult cases. We have recognized  
23 for hundreds of years that your jury deliberations,  
24 discussions, and your votes should remain your  
25 private affair as long as you wish it. Therefore,

1 the law gives you a unique privilege not to speak  
2 about your jury work.

3 Although you are now at liberty to speak to  
4 anyone about your deliberations, you are also at  
5 liberty to refuse to speak to anyone about it. A  
6 request to discuss either your verdict your -- or  
7 your deliberations may come from those who are simply  
8 curious, from those who might seek to find fault with  
9 it, from the attorneys, or elsewhere. It will now be  
10 up to you individually whether to preserve your  
11 privacy as jurors.

12 All the rules about tweeting, texting, blogging,  
13 they're all removed. You can talk to anybody about  
14 anything. You can also tell them no thanks.

15 I'm going -- I have a certificate of  
16 appreciation for all of you for your hard work. I  
17 know that you've spent two long days here, and as I  
18 told everyone that I excused yesterday, we can't do  
19 our job without you. So I want to personally thank  
20 each and every one of you for coming out, spending  
21 two days with us so that we could resolve these cases  
22 and move on with other cases.

23 For juror number two, I want to thank your wife  
24 for worrying about you and showing up. Tell her  
25 thank you very much. But you are now excused.

1           If you want to stay and see about sentencing,  
2           you're more than welcome to stay in the back of the  
3           courtroom after I release you. If you're not  
4           interested, you're free to go. You can call my  
5           office if you're interested in what sentencing ended  
6           up being on Monday. So I'm in on Monday.

7           But other than that, have a nice weekend. We  
8           have your electronic devices. You're free to go, or  
9           you're free to step back in the back.

10          Oh, your jury badge, if you can just put it  
11          right in front of you. Just drop it right there. We  
12          do recycle.

13          I know it's been a long two days for you all, so  
14          thank you.

15          Did you all eat the cookies? They looked good.

16          (The jury exited the courtroom.)

17          THE COURT: Ms. Stevens, if you and Mr. Clifton  
18          want to come to the podium in the middle of the  
19          courtroom, please.

20          MS. STEVENS: Yes, Your Honor.

21          THE COURT: Mr. Clifton, in case number  
22          23-CF-562, the jury has returned a verdict of guilty  
23          in Counts 1, 2, and 3 of lesser of improper  
24          exhibition of a firearm, and in Count 4, guilty as  
25          charged to aggravated assault, a third degree felony.

1 I now adjudicate you guilty.

2 State, do we have a sentencing guidelines done  
3 on the decisions of the jurors? I know the ag  
4 assault is a level six, the use of a firearm adds 18  
5 on the backside, and then you have three  
6 misdemeanors.

7 MR. SARABIA: Correct. Interesting issue,  
8 Judge. Based on the three verdicts, I'm not sure we  
9 can keep all three improper exhibition.

10 THE COURT: Yeah. That might be an issue.  
11 They're misdemeanors, so why don't you just put one  
12 on the scoresheet to kind of give me an idea.  
13 They're only .2, so --

14 MR. SARABIA: And I'm trying to determine, but I  
15 believe we get the firearm points.

16 THE COURT: Eighteen points for a firearm in the  
17 use of the offense.

18 MR. SARABIA: I'm trying -- I'm not sure if we  
19 get -- I don't think we get to 25.

20 THE COURT: No. 54.2 points minus 28 times .75.  
21 That's my quick -- quick calculation without the  
22 scoresheet in front of me, but --

23 MS. STEVENS: (Indiscernible).

24 THE COURT: Huh?

25 MS. STEVENS: That is some quick math. I -- I

1 had all the numbers coming together, but they  
2 didn't --

3 MR. SARABIA: Looks like 19.65 months.

4 THE COURT: 19.65 months. All right.

5 So we believe, as a quick calculation, that the  
6 defendant will score 19.65 months in the Department  
7 of Corrections. What is the Defense asking about  
8 sentencing today?

9 MS. STEVENS: Today, Your Honor, I believe that  
10 we -- if we could have an opportunity to present  
11 request for departure, I believe that we could  
12 provide some information to the Court that might  
13 allow an opportunity for an informed --

14 THE COURT: He has no prior record, so he is  
15 entitled to a PSI.

16 MS. STEVENS: Yes, Your Honor.

17 THE COURT: Would you like a PSI?

18 MS. STEVENS: We would like a PSI.

19 THE COURT: So we're going to do a presentence  
20 investigation on the defendant. So in case there was  
21 anything while he was in the military or out of  
22 state, that would be something that would be  
23 determined. If not, they'll talk to the victims and  
24 look at the evidence and give me a recommendation.

25 I am going to remand him at this time and --

1 pending the sentencing. The presentence  
2 investigations are taking some time. I do have --  
3 Mr. Sarabia, do you -- do you and co-counsel  
4 have your calendars there?

5 MR. SARABIA: We do, Judge.

6 THE COURT: I have --

7 MS. STEVENS: I'm sorry. I'm waiting for the  
8 calendar -- there it is.

9 THE COURT: That's fine.

10 I have December 11th or December 19th. I  
11 believe that would give me enough time for having the  
12 presentence investigation. And again, he's going to  
13 score mandatory state prison, so if you want me to  
14 give him anything less than 19.65 months, you're  
15 going to have to file a motion for a downward  
16 departure.

17 MS. STEVENS: Yes, Your Honor. I actually  
18 intend to do that. Thank you. I will give that to  
19 you as soon as possible. Do I need to do any of  
20 the -- any paperwork for the PSI or is that --

21 THE COURT: No. The clerk will do it as soon as  
22 I can give them a date.

23 MS. STEVENS: The -- just verifying, Veteran's  
24 Day is the 11th. Is there any potential the Court's  
25 closed that day?

1 THE COURT: No, I'm not closed that day. I  
2 don't -- if it is Veterans Day, it's not the day that  
3 we're -- that we're scheduled to -- to do any -- I'm  
4 open the 11th.

5 MS. STEVENS: I'm free that day.

6 THE COURT: I'm closed the 12th, so that might  
7 be that the 12th is closed for Veteran's Day.

8 MS. STEVENS: Okay. I'm -- I am free for the  
9 11th, Your Honor.

10 THE COURT: State? The 11th?

11 MR. SARABIA: I can make it work.

12 THE COURT: Okay. Are we -- it looks like the  
13 best time I have is probably ten o'clock.

14 MS. STEVENS: I'm --

15 THE COURT: Are you all involved in -- available  
16 in the morning?

17 MS. STEVENS: I have a -- I'm open availability,  
18 Your Honor.

19 MR. SARABIA: I can make myself available.

20 THE COURT: Okay.

21 So, Mr. Clifton, at this time I'm going to  
22 revoke your bond. I'm going to hold you on zero bond  
23 and remand you for sentencing on December 11th at  
24 10 a.m. I'm also going to ask that a PSI be done and  
25 ask that that report be back to me by December 5th.

1           And you'll be adjudicated and remanded on zero  
2           bond until sentencing. If your lawyer is going to  
3           ask me for a departure, she'll have to file a  
4           downward departure motion, and then we'll proceed to  
5           sentencing on the 11th.

6           I know that the victims left to go home, so they  
7           may want to be present also for sentencing. So if  
8           there's a problem with that date, I'm picking it now,  
9           just let me know if -- like, I know sometimes  
10          defendant's families want to appear and then it ends  
11          up that's not available. So we can move it, but I  
12          just wanted to pick a date now so that we can get it  
13          on the schedule and get him evaluated by the  
14          presentence investigation department.

15          MS. STEVENS: Can I clarify a date, Your Honor?  
16          I -- I know we said November 11th, but I heard the  
17          date of December --

18          THE COURT: December 11th is what I said.

19          MS. STEVENS: Okay. I'm still available. Thank  
20          you.

21          THE COURT: Okay.

22          State, did you hear December 11th?

23          MR. SARABIA: I did.

24          THE COURT: Yeah. December 11th.

25          MS. STEVENS: Sorry.

1 THE COURT: It's okay.

2 MS. STEVENS: I was like, man, that is going to  
3 be quick.

4 THE COURT: November 11th I could never get a  
5 PSI done in time. So --

6 MS. STEVENS: I thought maybe you were magic.  
7 But I appreciate it.

8 THE COURT: No. Not magic.

9 So on Clifton, 23-CF-562, they're going to go  
10 ahead and print you. I'm going to do an order  
11 remanding you, and we're set for sentencing right now  
12 for December 11th at ten, and a PSI I'll request with  
13 December 5th being the date of return so that you'll  
14 have a copy of that if you want to help -- use that  
15 in your downward departure motion. Okay?

16 MS. STEVENS: Thank you, Your Honor.

17 THE COURT: Anything else from the State at this  
18 time?

19 MR. SARABIA: No, Judge.

20 THE COURT: Defense?

21 MS. STEVENS: Not at this time.

22 THE COURT: All right. Have a nice evening.

23 MS. STEVENS: For -- for your preference, with  
24 the PSI being in on Friday the 5th, because we know  
25 they probably won't get to you too much earlier than

1 that --

2 THE COURT: That's okay.

3 MS. STEVENS: -- can I file my motion and do a  
4 supplemental argument to is?

5 THE COURT: Sure.

6 MS. STEVENS: Okay.

7 THE COURT: It's not a problem. I mean, you can  
8 file your original now and then just amend it. I  
9 just need an actual -- I don't know what the basis  
10 is, and the State's going to need that --

11 MS. STEVENS: That's fine.

12 THE COURT: -- in order to make sure if they  
13 need any witnesses. Okay?

14 MS. STEVENS: Absolutely. Yep. Just to trigger  
15 the --

16 THE COURT: He's clearly not a youthful  
17 offender, but other than that there's a whole bunch.  
18 Okay?

19 MS. STEVENS: All right.

20 THE COURT: All right. You all have a nice  
21 evening.

22 (The trial adjourned at 11:04 p.m.)

23

24

CERTIFICATE OF COURT TRANSCRIBER

STATE OF FLORIDA

COUNTY OF PINELLAS

I, Mary Ann Burke, a digital court transcriber for the Sixth Judicial Circuit, do hereby certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and correct record of said proceedings.

DATED this 10th day of February, 2026.

*Mary Ann Burke*

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Mary Ann Burke, CET-1292  
Digital Court Transcriber  
Sixth Judicial Circuit

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