

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

PASCO COUNTY SHERIFF'S OFFICE,

Plaintiff,

Case No.: 2023MH00472MHAXWS

vs.

WILLIAM ARSAND CLIFTON,

Respondent.

PROCEEDINGS: Risk Protection Order
DATE: April 5, 2023
BEFORE: The Honorable James Stearns
Circuit Court Judge
PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, Florida 34654
REPORTER: Joanne Ellis
Digital Court Reporter

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DOCUMENT

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PROCEEDINGS

1
2 THE COURT: All right. We're here this afternoon
3 in Case Number 2023MH00472. The Pasco Sheriff's Office
4 versus William Clifton.

5 If Counsel could please state their names for the
6 record, Petitioner, please.

7 MS. MANSFIELD: Catherine Mansfield representing
8 the Pasco Sheriff's Office.

9 MS. SCRUGGS: Natalie Scruggs, Pasco Sheriff's
10 Office.

11 THE COURT: All right. Thank you.
12 Counsel.

13 MR. FALLS: James Falls on behalf of the
14 Respondent, William Clifton.

15 THE COURT: All right. Any preliminary matters
16 that need to be addressed before we get started?

17 MS. MANSFIELD: Quickly, Judge. Mr. Falls and I
18 discussed stipulating to the entry of the surveillance
19 video.

20 THE COURT: Uh-huh.

21 MS. MANSFIELD: We provided him a copy earlier --
22 or late last week and again earlier this week. So he's
23 been able to review it. So we're going to stipulate
24 that it is accurate.

25 THE COURT: All right. And that's correct,

1 Counsel, Mr. Falls?

2 MR. FALLS: Yes, Your Honor. Defense will
3 stipulate to his authenticity for purposes of
4 efficiency.

5 THE COURT: All right. At this time the
6 surveillance video -- what is the -- that would be as
7 of February 9, 2023, correct?

8 MS. MANSFIELD: Yes, Judge.

9 THE COURT: And are you asking the Court to admit
10 it at this time?

11 MS. MANSFIELD: Yes, Judge.

12 THE COURT: All right. That will be Petitioner's
13 Exhibit Number 1 will be the surveillance video dated
14 February 9, 2023.

15 What about the business record? You filed a
16 notice of intent?

17 MS. MANSFIELD: I did, Judge.

18 THE COURT: Anything that is resolved as to that
19 issue or are we going to address that when you are
20 ready?

21 MS. MANSFIELD: Mr. Falls, I'll --

22 MR. FALLS: I'm not stipulating to the reports --

23 THE COURT: All right.

24 MR. FALLS: -- addressed in the --

25 THE COURT: These are the CAD calls, correct?

1 MR. FALLS: CAD calls, yes, Your Honor.

2 THE COURT: All right.

3 All right. Counsel, you may proceed.

4 MS. MANSFIELD: Thank you, Judge. We would call
5 Amanda Krnjaich.

6 MS. MANSFIELD: You can just say her first name.

7 And would you prefer them at the podium, Judge, or
8 in the witness seat?

9 THE COURT: Go ahead and have them have the
10 witness seat.

11 MS. MANSFIELD: Okay.

12 THE COURT: Is this Michael or Amanda?

13 MS. MANSFIELD: Amanda.

14 THE COURT: Amanda. All right. It's K-r-n-a-j-a-
15 i-c-h?

16 MS. MANSFIELD: K-r-n-j-a-i-c-h. Yes.

17 And I'll have her spell it for the record as well.

18 THE COURT: All right. That's fine.

19 MS. MANSFIELD: And, Judge, when we play the video
20 for you, I'll just bring my laptop up --

21 THE COURT: Okay.

22 MS. MANSFIELD: -- because I have a little thing.

23 THE COURT: All right. Ma'am, if you could face
24 the clerk. The clerk will swear you in, please.

25

1 THEREUPON,

2

AMANDA KRNJAICH,

3

the witness herein, after having been first duly sworn, was

4

examined and testified as follows:

5

THE CLERK: I'm so sorry, Your Honor.

6

THE COURT: That's all right. I think this has

7

been a while.

8

MS. MANSFIELD: We haven't been here in a minute.

9

THE COURT: I can do the next one if you'd like.

10

All right.

11

THE CLERK: Okay.

12

THE COURT: All right. Good afternoon, ma'am.

13

I'm going to ask you a big favor and I'm going to ask

14

you to get comfortable but move close to the microphone

15

and speak loudly and clearly into that microphone.

16

All right. Counsel, you may proceed.

17

MS. MANSFIELD: Thank you, Judge.

18

DIRECT EXAMINATION

19

BY MS. MANSFIELD:

20

Q Good afternoon.

21

A Hello.

22

Q Can you state your name and spell your last name

23

for the record?

24

A Sure. I'm Amanda Krnjaich, that's K-r-n-j-a-i-c-

25

h.

1 Q And where do you live?

2 A 3290 Barbour Trail.

3 Q Is that in Trinity subdivision?

4 A Yeah. In Starkey Ranch.

5 Q Starkey Ranch.

6 A Yes.

7 Q Thank you. And how long have you lived there?

8 A Since October of 2017.

9 Q And you were living there on February 9th, 2023?

10 A Yes.

11 Q Okay. And on that day were you outside with your
12 children?

13 A Yes.

14 Q And did anything occur that came to your -- like,
15 out of the norm?

16 A Yes.

17 Q Okay. Can you explain to the Court what that was?

18 A We were outside playing with our children, some of
19 the neighbors, and someone stopped in their car and we had
20 little signs out that said, "Slow. Children playing."

21 Q So did you own those signs?

22 A Yes. We own them.

23 Q You bought them?

24 A We bought them.

25 Q When you say "we", you and your husband?

1 A Yeah. My husband and I. Our street has extensive
2 speeding, very scary actually and the speed limit's only 25.
3 So it's not very often but once in a while after school
4 we'll put speed bumps out to get people to slow down a
5 little bit because they're not paying attention, they're on
6 their cell phones and not that our kids are playing in the
7 road by any means, but just so people are aware.

8 MR. FALLS: Objection, Your Honor. Relevance.

9 THE COURT: All right. Counsel, response? Why is
10 this relevant?

11 MS. MANSFIELD: It's relevant because it is what
12 happened that day. We're leading up to the events of
13 what occurred that day.

14 THE COURT: All right. I'll overrule the
15 objection but let's move on. Thank you.

16 MS. MANSFIELD: Thank you.

17 Q (By Ms. Mansfield) And so someone came speeding
18 down your road and then what happened?

19 A They stopped, I don't know, 20 feet or so in front
20 of the speed bumps --

21 Q Could you tell who was in the car at that time?

22 A No. I didn't recognize the car or the person.

23 Q And do you know what the car looks like now?

24 A Grey Volvo, I believe it was.

25 Q Okay. All right. So it was a four-door vehicle?

1 A (Unintelligible) it was a sedan.

2 Q All right. So he comes -- or the vehicle comes
3 speeding down the road and what happened?

4 A Then the person stopped in front of the speed
5 bumps and started to use foul language.

6 Q Were they out of their car at that time?

7 A They were out of the car at that time, used foul
8 language, spewing out random things about why he did not
9 like our speed bumps. And that's when my husband told him
10 not to touch them because they were our property.

11 Q Okay. And then what happened after that?

12 A And then the man still picked them up despite my
13 husband saying that and threw it to the side of the road.

14 Q Okay. And then after he threw it then --

15 A After he threw it my husband pushed him, told him
16 not to do that and then the man immediately pulled his gun
17 out.

18 Q Okay. So when your husband pushed him, did your
19 husband -- how many times did he push him?

20 A Just once.

21 Q Okay. And did he push him and go after him again?

22 A No. He pushed him once. The man didn't even fall
23 down.

24 Q Okay.

25 A He wasn't very forceful.

1 Q Okay.

2 A And that's when the man immediately drew his gun.

3 Q Okay. And when you say "drew his gun", he had a
4 firearm?

5 A Yes. He had a firearm.

6 Q Okay.

7 A Immediately. Like, he didn't go back in his car
8 for it. He already had it on him when he got out of his
9 car.

10 Q Okay. And he pointed it at who?

11 A He first pointed it at my husband.

12 Q Okay.

13 A Which was also in the direction of my two year old
14 son.

15 Q Okay. And then did he point it at anyone else
16 that you saw?

17 A I immediately was terrified because my kids were
18 outside and I saw a gun so I screamed and ran towards my
19 four-year-old son and grabbed him and threw him in the house
20 before then picking up my two year old.

21 Q Okay. So you had a four year old and two year old
22 outside?

23 A Yes.

24 Q Did you or does your home have surveillance video?

25 A Yes.

1 Q And did the surveillance video record what
2 occurred on February 9th of '23?

3 A Yes.

4 MS. MANSFIELD: Okay. And, Judge, at this time we
5 would like to publish Exhibit 1 that's previously been
6 entered.

7 THE COURT: All right. Thank you.

8 And, Counsel, for the record you have reviewed
9 this video, correct?

10 MR. FALLS: Defense has reviewed the video and
11 stipulates to its authenticity.

12 THE COURT: All right. Thank you.

13 MS. MANSFIELD: I just want to make sure that my
14 volume's on. So if I can have that back really quick.
15 Make sure that my volume's on.

16 THE COURT: Okay. Loudly.

17 (Thereupon, the video was played. The recorded portion is
18 unintelligible and cannot be transcribed.)

19 THE COURT: All right. Thank you. The Court has
20 reviewed the surveillance video dated February 9, 2023.

21 Q (By Ms. Mansfield) You all right?

22 A Uh-huh.

23 Q I know it's hard for you.

24 A Uh-huh.

25 Q So you said earlier that you were out with your

1 neighbors. Do you know which neighbors were out there?

2 A Yes. [REDACTED], [REDACTED], xxxxxx and, of course,
3 my husband.

4 Q Okay. And you said you had your two children out
5 there. Were any other children out there?

6 A Right before Dan's little girl Zaley (phonetic)
7 was outside but she had just walked up to their house a few
8 houses up and was getting her bike out of the garage.

9 Q Okay. So just your two children --

10 A Uh-huh.

11 Q -- were there? Okay.

12 MS. MANSFIELD: Nothing further, Judge.

13 THE COURT: All right. Counsel, cross.

14 MR. FALLS: Yes, please, Your Honor.

15 THE COURT: And, Counsel, you're limiting your
16 cross-examination to the issues before this Court in
17 Florida Statute 790.401 and the Risk Protection Order.
18 This is not going to be used as an extra deposition.
19 You understand that, Counsel?

20 MR. FALLS: Yes, I do understand that. Thank you,
21 Your Honor.

22 THE COURT: All right. You may proceed.

23 CROSS-EXAMINATION

24 BY MR. FALLS:

25 Q Good afternoon. So on your testimony just

1 previously you indicated that your husband Michael did not
2 push Mr. Clifton very forcefully, correct?

3 A Correct.

4 Q Okay. Have you had a chance to review the video
5 since all of this happened?

6 A Yes.

7 Q Okay. And in reviewing that video, did you notice
8 that Mr. Clifton traveled a few feet after being pushed?

9 MS. MANSFIELD: Objection. Relevance.

10 THE COURT: It's for impeachment. I'll overrule
11 the objection.

12 MS. MANSFIELD: Thank you.

13 THE WITNESS: So am I supposed to answer or not?

14 Yes?

15 So say that again?

16 Q (By Mr. Falls) After having reviewed the video
17 footage, did you not notice that Mr. Clifton travelled a few
18 feet after being pushed?

19 A Maybe a foot or two, not very far.

20 Q Okay. And your husband, Michael, that he used
21 both hands in pushing him?

22 A I don't recall.

23 Q Okay. He's larger than Mr. Clifton?

24 A I don't think that takes very much. I think I am
25 also.

1 Q Okay. Do you have an idea of about how large your
2 husband Michael is?

3 A About 180 pounds.

4 Q About how tall?

5 A Six foot.

6 MS. MANSFIELD: I'm going to object to relevance,
7 again, Judge.

8 THE COURT: All right. Counsel, relevance?

9 MR. FALLS: As it relates to the relevance, Your
10 Honor, I think this goes explicitly towards whether or
11 not Mr. Clifton used a firearm or brandished a firearm
12 in a reckless manner. Along with that reckless manner
13 is tied hand in hand with whether or not he had the
14 lawful use of his firearm after being pushed by a
15 larger individual. And therefore, put him in the fear
16 of imminent harm or great bodily harm.

17 THE COURT: All right. Again, we're not going
18 into a self defense argument at this point.

19 MR. FALLS: Right.

20 THE COURT: But I'll overrule the objection, but
21 let's move on.

22 Q (By Mr. Falls) And I think previously you
23 testified that Michael, your husband, he didn't take any
24 further steps towards Mr. Clifton after the initial push?

25 A No.

1 Q Okay. And just to clarify, when asked whether or
2 not you saw the firearm being pointed at anybody else, your
3 response was that you immediately ran?

4 A Correct.

5 Q Did you see the firearm pointed at anybody else?

6 A No, because I ran for my children.

7 MR. FALLS: Nothing further then.

8 THE COURT: All right.

9 MS. MANSFIELD: Nothing further from me.

10 THE COURT: May this witness be excused?

11 MS. MANSFIELD: Yes, Judge.

12 THE COURT: All right. Thank you, ma'am.

13 You may call your next witness.

14 MS. MANSFIELD: William Adams.

15 THEREUPON,

16 WILLIAM ADAMS,

17 the witness herein, after having been first duly sworn, was
18 examined and testified as follows:

19 THE COURT: All right. Thank you, sir. If you
20 could have a seat in the witness stand.

21 Why don't you move up a little bit closer to the
22 microphone, if you would, please. And speak loudly and
23 clearly into that microphone. Thank you.

24 Go ahead, Counsel.

25 MS. MANSFIELD: Thank you, Judge.

DIRECT EXAMINATION

1
2 BY MS. MANSFIELD:

3 Q Please state your name for the record, please.

4 A William Adams.

5 Q And it's common spelling for both, correct?

6 A Yes, ma'am.

7 Q All right. And where do you live, Mr. Adams?

8 A On Barbour Trail.

9 Q Okay. And is that in the Starkey Ranch
10 neighborhood?

11 A Yeah. Starkey Ranch. Three, four houses down
12 from where the incident took place.

13 Q Okay. And how long have you lived there?

14 A Six years, seven years.

15 Q So you were living there on February 9th of 2023?

16 A Yes, ma'am.

17 Q And on February 9th, 2023, were you outside with
18 some of your neighbors?

19 A I was.

20 Q And do you know who those neighbors were or are?

21 A Yes.

22 Q And how many of them were there?

23 A Mike, Amanda, their two kids, [REDACTED], [REDACTED]

24 [REDACTED]. So it was six.

25 Q Okay. And during that time when you were out

1 there with your neighbors, did anything occur that has stuck
2 in your mind?

3 A Yeah.

4 Q Okay. And can you explain to the Court what that
5 is?

6 A There was an incident where there were some speed
7 bumps that were out in the road, temporary speed bumps out
8 in the road. Mr. Clifton there approached in his car,
9 stopped, got out, started moving the speed bumps. Had an
10 altercation with Mike -- Mike K. And then he pulled his gun
11 out and, you know, pointed it --

12 Q So did you see him actually pull his firearm out?

13 A Yeah. But my angle, you know, it was, you know,
14 there was a tree in the way --

15 Q Sure.

16 A -- and that kind of stuff. But definitely saw
17 that the gun came out.

18 Q Okay. And what drew your attention to him pulling
19 a gun out?

20 A It was just -- it just was like a movie. It
21 played out in front of me.

22 Q Okay.

23 A I mean, you couldn't -- you couldn't help but see
24 what was going on and as soon as that happened, you know,
25 there was a lot of yelling and screaming, people running.

1 Q Okay. And at any point was the firearm pointed at
2 you?

3 A Yes.

4 Q And can you tell the Court about that?

5 A Yeah. So after Mike ran, you know, into his
6 garage -- you know, I just was standing there kind of a
7 little bit in shock and then Mr. Clifton pointed the gun at
8 me and the two people that were standing behind me. You
9 know, long enough for me to make a comment that -- I can't
10 remember the exact words but it was something to the effect
11 of I'm just standing here eating an apple. I had an apple
12 core in my hand.

13 Q Okay. But the firearm was directly pointed at
14 you?

15 A Absolutely.

16 Q Okay. At any point did you touch Mr. Clifton at
17 all?

18 A No.

19 Q Were you involved in a physical altercation with
20 Mr. Clifton?

21 A No.

22 Q So you were just on the sidewalk doing -- eating
23 an apple?

24 A Correct.

25 Q Okay.

1 MS. MANSFIELD: I don't think I have anything
2 further, Judge.

3 THE COURT: All right. Thank you.

4 Mr. Falls, cross.

5 MR. FALLS: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. FALLS:

8 Q Good afternoon. I want to draw your attention to
9 a piece of testimony provided that there was an altercation
10 that occurred between Mr. Clifton and Michael. Is that a
11 correct assessment of what occurred on that day?

12 A Yes.

13 Q So were you able to see everything that happened
14 while you were standing there leading up to you seeing the
15 firearm?

16 A Yes.

17 Q Okay. So correct assessment of the situation
18 would be that Michael approached Mr. Clifton and pushed him?

19 A I'd have to look at the videotape exactly how that
20 occurred.

21 Q Would it refresh your recollection if you were
22 able to look at the video?

23 A Yeah, sure. I -- do you want like a play by play
24 of, you know, as we're looking at it or?

25 Q No. What I would just ask is that we briefly play

1 the video for you. Don't make any comments while you're
2 reviewing it. We'll take the video away and we can restart
3 with the questions if that is going to refresh your
4 recollection.

5 A Sounds good.

6 THE COURT: All right. Counsel, any objection?

7 MS. MANSFIELD: I would object to relevance,
8 again.

9 THE COURT: I'll overrule that objection. Allow
10 him to refresh his recollection.

11 MS. MANSFIELD: Okay.

12 (Courtroom conversations.)

13 THE COURT: All right. And for the record you are
14 reviewing what's again what's marked as Petitioner's
15 Exhibit Number 1.

16 MR. FALLS: May I approach the witness?

17 THE COURT: Yes, sir.

18 MS. MANSFIELD: May I approach Counsel so I can
19 make sure it's the right video?

20 THE COURT: Yes.

21 Q (By Mr. Falls) I will play the video from the
22 beginning. Please let me know (unintelligible).

23 A Sure.

24 Q Can you see it?

25 A Yes.

1 (Thereupon, Petitioner's Exhibit Number 1, the
2 surveillance video, was published in court.)

3 Q (By Mr. Falls) After having a chance to review
4 what has been admitted as Exhibit 1, has your memory been
5 sufficiently refreshed?

6 A I think so, yeah.

7 Q Okay. After reviewing that you'd agree that
8 Michael was the individual that approached Mr. Clifton and
9 pushed him?

10 A That's one way to characterize it, I guess.

11 Q Well, it's the way to characterize it based upon
12 what happened that day; isn't that true?

13 A I think that's an oversimplification, but yes.

14 Q So yes he did push Mr. Clifton?

15 MS. MANSFIELD: Objection. He's not testifying to
16 that so...

17 THE COURT: I'll sustain the objection. And the
18 record is complete.

19 Q (By Mr. Falls) So when you said it's an
20 oversimplification of the incident that occurred that day, I
21 want to be clear I'm not asking of the entirety of the day,
22 but my question specifically is whether or not Michael
23 approached Mr. Clifton and pushed him?

24 A Yeah, he did.

25 Q Okay. And as a result of that is when you hear

1 the commotion which you would categorize as the firearm
2 being drawn?

3 A The reaction to a firearm being drawn, but yeah.

4 Q Okay. And at no point in time during this did
5 Mr. Clifton ever push, punch or touch Michael after being
6 pushed?

7 A No, he didn't.

8 Q Okay. Now, I want to draw your attention to the
9 angle at which you were viewing this incident. This was
10 behind a tree?

11 A Yes.

12 Q Two branches on the left and right side of the
13 tree at about eye level?

14 A Sure.

15 Q And the comment -- one of the comments that you
16 made on that day is, don't pull that thing back out?

17 A Okay. I don't recall that. But...

18 Q Okay. You did not comment, don't point that thing
19 at me?

20 A I -- I -- no, I didn't. I don't think I said
21 that. I think my words were -- I don't remember exactly
22 what I said.

23 Q Okay.

24 A But as I was staring him in the eyes through his
25 gun sights I said, I'm just standing here eating an apple.

1 Q Okay. And you were staring at him in his eyes
2 while you were situated behind the tree with tree branches
3 in front of your face?

4 A Yes.

5 Q Okay.

6 MR. FALLS: I have nothing further, Your Honor.

7 THE COURT: All right. Any redirect?

8 MS. MANSFIELD: Briefly.

9 THE COURT: All right. Thank you. You may.

10 MS. MANSFIELD: Thank you.

11 REDIRECT EXAMINATION

12 BY MS. MANSFIELD:

13 Q So you -- you testified that there were tree
14 branches. Did those tree branches obstruct your view
15 completely?

16 A No.

17 Q Did you feel as though they obstructed your view
18 at all?

19 A I did look down like that to see him. He's, you
20 know --

21 Q Okay.

22 A -- so partially.

23 Q So you were able to manipulate yourself to see
24 everything clearly?

25 A Absolutely.

1 Q And so you have no doubt in your mind that a
2 firearm was pointed at you directly?

3 A Absolutely. That's why I'm here.

4 Q Okay. Thank you.

5 MS. MANSFIELD: Nothing further.

6 THE COURT: All right. Anything else of this
7 witness? May he be released, excused?

8 MS. MANSFIELD: Yes, Judge.

9 THE COURT: All right. Thank you, sir. Have a
10 good day.

11 THE WITNESS: Thank you.

12 THE COURT: You may call your next witness.

13 MS. MANSFIELD: Corporal Griffin.

14 THEREUPON,

15 JOSHUA GRIFFIN,

16 the witness herein, after having been first duly sworn, was
17 examined and testified as follows:

18 THE COURT: All right. Good afternoon, sir.

19 THE WITNESS: Good afternoon.

20 THE COURT: All right. Counsel, you may proceed.

21 MS. MANSFIELD: Thank you, Judge.

22 DIRECT EXAMINATION

23 BY MS. MANSFIELD:

24 Q Can you state your name, spell your name for the
25 record, please?

1 A Yes. It's Joshua Griffin. J-o-s-h-u-a G-r-i-f-f-
2 i-n.

3 Q And are you employed by the Pasco Sheriff's
4 Office?

5 A I am.

6 Q How long have you been with the Pasco Sheriff's
7 Office?

8 A Since September 2017.

9 Q And what is your position with the Pasco Sheriff's
10 Office?

11 A Corporal, on the road.

12 Q Okay. Were you working on February 9th, 2023?

13 A Yes, ma'am.

14 Q Did you respond to 3290 Barbour Trail in New Port
15 Richey?

16 A Yes, ma'am.

17 Q Is that in Pasco County?

18 A Yes.

19 Q And what was the reason for the response to that
20 address?

21 A For an aggravated assault.

22 Q Okay. Upon arrival who did you speak with?

23 A I initially made contact with William Clifton.

24 Q Do you see him in the courtroom today?

25 A I do.

1 Q Can you point to him and identify an article of
2 clothing he is wearing?

3 A He is wearing a blue shirt with a blue tie.

4 MS. MANSFIELD: May the record reflect he has
5 identified the Respondent as William Clifton?

6 THE COURT: All right. Any objection?

7 MR. FALLS: No objection.

8 THE COURT: All right. The record will reflect
9 that this witness has identified the Respondent William
10 Clifton.

11 Q (By Ms. Mansfield) And you met with William
12 Clifton. Was that the first person you spoke with?

13 A It was.

14 Q Okay. And can you advise the Court what he told
15 you?

16 A He told me he was pushed and he pointed a gun at a
17 male.

18 Q And that -- that was it? Okay. So did he tell
19 you that he traveled to this location in his vehicle or
20 anything like that?

21 A He travelled in his vehicle.

22 Q Okay. And then when he got there --

23 A He confronted a man about the speed bumps in the
24 road.

25 Q Okay.

1 A And then he was pushed and then after he was
2 pushed he pointed a gun at the individual.

3 Q Okay. So he admitted to you that he had a firearm
4 on him?

5 A Yes.

6 Q And he admitted to you that he pulled out his
7 firearm and pointed it at a male?

8 A Yes.

9 Q Okay. At that time did you conduct any more
10 interviews?

11 A Yes.

12 Q Okay. And then based on your investigation, did
13 you arrest Mr. Clifton for four counts of aggravated
14 assault?

15 A Correct.

16 Q Okay. Did you have any other involvement in this
17 case?

18 A No.

19 Q No. Okay.

20 MS. MANSFIELD: Nothing further for this witness.

21 THE COURT: All right. Mr. Falls, cross.

22 MR. FALLS: No questions, Your Honor.

23 THE COURT: All right. May this witness be
24 excused?

25 MS. MANSFIELD: Yes, Judge.

1 THE COURT: All right. Thank you, Corporal. Have
2 a good day.

3 THE WITNESS: Thank you.

4 MS. MANSFIELD: I call Detective Richard Kane.

5 THEREUPON,

6 RICHARD KANE,

7 the witness herein, after having been first duly sworn, was
8 examined and testified as follows:

9 THE COURT: All right. Sir, if you could have a
10 seat in the witness stand, please. Right here.

11 THE WITNESS: Oh.

12 THE COURT: Thank you.

13 All right. Counsel, you may proceed.

14 MS. MANSFIELD: Thank you, Judge.

15 DIRECT EXAMINATION

16 BY MS. MANSFIELD:

17 Q Can you state your name and spell your last name
18 for the record, please?

19 A It's Richard Kane. K-a-n-e.

20 Q And are you employed with the Pasco Sheriff's
21 Office?

22 A Yes.

23 Q And how long have you been with the Pasco
24 Sheriff's Office?

25 A Almost nine years.

1 Q And what is your position with the Pasco Sheriff's
2 Office?

3 A I'm with the behavioral health intervention team.

4 Q Are part of your duties to investigate risk
5 protection orders?

6 A Yes.

7 Q Did you conduct a risk protection order
8 investigation on February 16th, 2023?

9 A Yes.

10 Q Okay. And during that investigation did you
11 respond to 3285 Barbour Trail in New Port Richey?

12 A Yes.

13 Q Okay. Did you do that first upon arrival when you
14 got -- when you started your investigation or did you do
15 something else?

16 A Prior to actual start of the investigation I was
17 requested to go to the Respondent's residence and offer
18 mental health services.

19 Q Okay. And was that on the 16th as well?

20 A That was prior to that, I believe. Maybe a day or
21 two.

22 Q Okay. So you --

23 THE COURT: I'm sorry. What was the date?

24 MS. MANSFIELD: He said maybe a day or two prior.

25 THE COURT: Prior to February 16th?

1 MS. MANSFIELD: Correct.

2 THE COURT: Okay.

3 Q (By Ms. Mansfield) So were you able to make
4 contact with Mr. Clifton at that point?

5 A Yes.

6 Q Okay. And at that point were you investigating a
7 risk protection order?

8 A No.

9 Q Okay. So on February 16th, you initiated a risk
10 protection order investigation, correct?

11 A Yes.

12 Q Okay. And you went to 3290 Barbour Trail; is that
13 where the incident occurred?

14 A Yes.

15 Q Okay. And then at some point you went to the
16 Respondent's home; is that correct?

17 A During the risk protection order investigation, I
18 did not.

19 Q You did not or you did?

20 A I did not.

21 Q Did not. Okay. So at some point, though, did you
22 go from the victim's home to the Respondent's home?

23 A Yes.

24 Q Okay. And how far is that distance between the
25 homes?

1 A It's approximately a mile.

2 Q A mile. So they live a mile from each other?

3 A Yes.

4 Q Okay. Were you able to see what's around the
5 Respondent's home? Like, are there schools; are there
6 daycares; anything like that?

7 A Yes. There's a nearby school.

8 Q And do you know how many houses away he is from
9 that school?

10 A Five homes and it's approximately 1,045 feet.

11 Q Okay. Okay. So when traveling from the
12 Respondent's home to the victim's home, is that the
13 direction of 54?

14 A No.

15 Q Is that the direction of like a Publix?

16 A No.

17 Q What is back near the victim's home?

18 A Further residential homes.

19 Q Okay. So based on your investigation, did you
20 initiate a risk protection order?

21 A Yes.

22 Q Okay. Did you feel as though Mr. Clifton is a
23 significant danger to himself or others by being able to
24 own, purchase or possess a firearm?

25 A Yes.

1 Q Okay. At some point was the Sheriff's Office able
2 to collect some firearms?

3 A I believe that they were left secured in the
4 Respondent's protection.

5 Q In the Respondent's wife's possession?

6 A Yes. Yes.

7 Q Okay. But they were documented --

8 A Yes.

9 Q -- and then transferred to the wife?

10 A Yes.

11 Q Okay. So is it best to your knowledge he's no
12 longer in possession of any firearms or ammunition?

13 A Yes.

14 Q Okay.

15 MS. MANSFIELD: Nothing further, Judge.

16 THE COURT: All right. Mr. Falls.

17 CROSS-EXAMINATION

18 BY MR. FALLS:

19 Q Detective, traveling from Mr. Clifton's home to --
20 as you described the victim's home, is not in the direction
21 of 54 or Publix; is that your testimony?

22 A Yes.

23 Q It's not a dead end, though? You can exit the
24 neighborhood by making a series of turns by traveling down
25 that road?

1 A Yes.

2 Q Okay.

3 MR. FALLS: Nothing further.

4 THE COURT: All right. Anything else from this
5 witness?

6 MS. MANSFIELD: Yes, Judge, briefly.

7 May I approach the witness?

8 THE COURT: Yes, ma'am.

9 REDIRECT EXAMINATION

10 BY MS. MANSFIELD:

11 Q I'm handing you what is Petitioner's 2. Do you
12 recognize those?

13 A While reviewing my investigation I came across
14 them in the evidence.

15 Q And what are they?

16 A They are handwritten notes by the defendant.

17 Q By Mr. Clifton?

18 A Yes.

19 Q Okay. And do they -- were they created at or
20 around the time of the incident?

21 A I mean, they are dated --

22 MR. FALLS: Objection, Your Honor. If I may? I'm
23 going to object to the form and substance of the
24 evidence attempting to be testified to. Whether or not
25 they are a piece of property of Mr. Clifton, I think

1 the detective would testify to the fact that he never
2 had any consent to review those documents nor did he
3 retrieve those documents with a warrant.

4 THE COURT: I have no idea what this is. I don't
5 even know what you're showing him.

6 MS. MANSFIELD: So, it's just -- I can show you,
7 Judge. These are just notes Mr. Clifton wrote. It's
8 dated 2/9/23 and it's just about the incident that
9 occurred.

10 And I mean, if he wants to do a motion to
11 suppress, that's a whole other motion. So...

12 THE COURT: All right. And how do we know that
13 these are his documents or his handwriting?

14 MS. MANSFIELD: (Unintelligible).

15 THE COURT: And what relevance does that have at
16 all to any of the issues before this Court to --

17 MS. MANSFIELD: It will come out, Judge.
18 Basically, Mr. Clifton has multiple issues with people
19 in the neighborhood where he documents violations and
20 complains to the HOA, which causes, I guess, more
21 incidents within the neighborhood.

22 So it just shows how everything's escalated to the
23 point of him pulling a firearm.

24 THE COURT: All right. Counsel, anything -- any
25 other objection?

1 MR. FALLS: Yes, Your Honor. As it relates to the
2 substance, I don't think there's going to be an ability
3 to establish the appropriate foundation for entering
4 the evidence. And, again, I would re-raise the issue
5 that none of the evidence that's attempting to be
6 introduced to the Court was seized lawfully. And I
7 think that's a very important thing for the Court to
8 consider when considering evidence as being presented
9 by the Sheriff's Office.

10 THE COURT: Why is this being introduced in
11 redirect too? I don't understand.

12 MS. MANSFIELD: I -- because I forgot. I'm sorry.

13 MR. FALLS: And I'll add on outside of the scope
14 of cross.

15 THE COURT: All right.

16 MS. MANSFIELD: And I recognize that, Judge.

17 But I can ask Mr. Clifton about it when I call
18 him.

19 THE COURT: All right. I'll sustain the
20 objection.

21 MS. MANSFIELD: Okay.

22 THE COURT: Thank you.

23 MS. MANSFIELD: So nothing further, Judge.

24 THE COURT: All right.

25 And he may be excused?

1 MS. MANSFIELD: Yes, Judge.

2 THE COURT: Thank you, sir.

3 THE WITNESS: Thank you.

4 THE COURT: All right. You may call your next
5 witness.

6 MS. MANSFIELD: Caitlin Morrison.

7 THEREUPON,

8 CAITLIN MORRISON,

9 the witness herein, after having been first duly sworn, was
10 examined and testified as follows:

11 THE COURT: All right. If you could have a seat,
12 ma'am. Thank you.

13 All right. Counsel, you may proceed.

14 MS. MANSFIELD: Thank you, Judge.

15 DIRECT EXAMINATION

16 BY MS. MANSFIELD:

17 Q Good afternoon.

18 A Hi.

19 Q Can you state your name and spell your name for
20 the record, please?

21 A Caitlin Morrison. C-a-i-t-l-i-n, last name is
22 Morrison, M-o-r-r-i-s-o-n.

23 Q Okay. And how are you employed?

24 A I'm employed with the Pasco Sheriff's Office as a
25 records director.

1 Q Okay. And what are your duties as a records
2 director?

3 A I oversee the records department, report
4 management, handle public records requests, pull records and
5 reports and CADs for the agency or agency members.

6 Q Okay. And what is CAD?

7 A A CAD report is a Computer Aided Dispatch. Is the
8 system that it's put in and it is a report that shows what
9 call notes were put in when a call came into 911, the
10 dispatcher that took it, any information that was relayed
11 back and forth from dispatch from the call taker to the
12 deputies that responded on the scene.

13 Q Okay. I am handing you Petitioner's Composite 3.

14 THE COURT: Well, 2 is not introduced into
15 evidence. So this would --

16 MS. MANSFIELD: Do you want me to go back to 2
17 then?

18 THE COURT: Yeah. That's fine.

19 Q (By Ms. Mansfield) Composite 2.

20 A Okay.

21 MS. MANSFIELD: And I've already shown opposing
22 Counsel these documents, Judge.

23 Q (By Ms. Mansfield) Do you recognize what I've
24 handed you?

25 A Yes.

1 Q And what are they?

2 A It is a list of all the CADs that went to this
3 address on Tibbetts Street. This is the CAD list that shows
4 just a brief description and then the actual CADs that were
5 pulled in relation to those.

6 Q And there are two descriptions in there, correct?

7 A Yes. The other one was anything related to the
8 petition?

9 Q The Respondent?

10 A The Respondent. Sorry.

11 Q And what do you mean by anything related to the
12 Respondent?

13 A I did a report based on any calls that had the
14 Respondent's name in it.

15 Q Okay. All right. And was this -- I mean -- is it
16 the Pasco Sheriff's Office business practice to prepare
17 these types of records?

18 A Yes.

19 Q Okay. Were these records prepared in the ordinary
20 scope of business of the Pasco Sheriff's Office?

21 A Yes.

22 Q Were these records prepared by someone with
23 knowledge of these records?

24 A Yes. I prepared them.

25 Q You prepared them. Okay. Were these records

1 prepared at or about the time the matters reflected in the
2 records occurred?

3 A Yes.

4 Q Were these documents -- where were these documents
5 retrieved from?

6 A The CAD system, which is the Computer Aided
7 Dispatch system that we use.

8 Q Okay. Is it a regular part of the Sheriff's
9 Office business to keep and maintain records of this type?

10 A Yes.

11 Q And are these documents the type of documents
12 which would be kept under the Pasco Sheriff's Office custody
13 and control?

14 A Yes.

15 MS. MANSFIELD: At this time, Judge, we would ask
16 for Petitioner's 1 -- or 2 to be entered into evidence.

17 THE COURT: All right. Mr. Falls?

18 MR. FALLS: Yes, Your Honor. The Respondent would
19 object to these being entered into evidence as it
20 relates to the objection is based upon a relevance
21 objection. Although there may be authenticity in which
22 the records have been kept, Petitioner has filed a
23 petition for risk protection order based upon the
24 Respondent being involved in:

25 A recent act or threat of violence against himself

1 or others;

2 Engaged in an act or threat of violence including
3 but not limited to acts or threats of violence against
4 him or herself within the past 12 months;

5 Has used or threatened to use against himself,
6 herself or others any weapon;

7 And has unlawfully or recklessly used, displayed
8 or brandished a firearm.

9 As it relates to the records that Petitioner
10 intends on introducing into evidence, there's been no
11 foundation laid as to whether or not anything in those
12 CAD notes can reflect upon the petition that's been
13 brought by the Petitioner.

14 THE COURT: All right. And these are records from
15 September 30th, 2018 to January 6th, 2023; is that
16 correct?

17 MS. MANSFIELD: Yes, Judge. There's 46 incidents
18 involving the Respondent. And according to Statute
19 790.401(3)(c), the Court may consider any relevant
20 evidence and it will be relevant as soon as I enter
21 them through Mr. Clifton.

22 And I can show you, Judge, they basically show how
23 things are escalating. And one, if you want to say
24 within the last 12 months we do have one from November
25 of '22. So that is within the last 12 months. And in

1 that case Mr. Clifton stated that there's going to be a
2 verbal, possible physical altercation.

3 MR. FALLS: Objection, Your Honor.

4 MS. MANSFIELD: So it is relevant.

5 THE COURT: All right. Counsel, was there an
6 objection?

7 MR. FALLS: Yes, Your Honor.

8 THE COURT: I want to hear a basis -- what's your
9 legal basis?

10 MR. FALLS: As it relates to the objection that's
11 previously been stated, it's based upon a relevance
12 argument. The idea that these records go back to, you
13 know, predating something past the 12 months. Not only
14 that, there's been no testimony or anybody that's been
15 able to lay the appropriate foundation as to the
16 relevance contained within those documents that
17 establish whether or not they're actually even relevant
18 for the Court to consider.

19 I'd argue if Petitioner intended on introducing
20 facts for the Court's consideration, the individuals
21 that were responsible for conducting the investigation
22 or other individuals that were involved in the
23 investigation that could testify to the actual
24 circumstances would be required to present that
25 information to Your Honor.

1 MS. MANSFIELD: And that's what my plan in once I
2 call Mr. Clifton. So I can call him and do this all
3 over again. But I'm calling him.

4 THE COURT: All right. I don't feel that that's
5 necessary. I feel the Court can review these and see
6 what relevance there are. I don't know and I'm
7 assuming you have no expert that's going to be
8 testifying as to the escalation thereof, but I'll
9 overrule the objection and allow and admit into
10 evidence Petitioner's Exhibit Number 2, composite CAD
11 dispatch records.

12 MS. MANSFIELD: And nothing further for this
13 witness, Judge.

14 THE COURT: All right. Cross of the records
15 custodian?

16 MR. FALLS: Briefly, Your Honor.

17 THE COURT: You may proceed.

18 CROSS-EXAMINATION

19 BY MR. FALLS:

20 Q As it relates to the records that have been placed
21 in front of you, do you have any personal knowledge as to
22 the incidents that are captured within those CAD notes?

23 A Personal knowledge, no.

24 Q You didn't respond to the scene of any of those
25 calls?

1 A I did not.

2 MR. FALLS: Nothing further.

3 THE COURT: All right. Thank you.

4 May this witness be excused?

5 MS. MANSFIELD: Yes, Judge.

6 THE COURT: All right. Thank you, ma'am.

7 When you're done, I'll take a look at those.

8 All right. You may call your next witness.

9 MS. MANSFIELD: We would call William Clifton.

10 THE COURT: All right.

11 THEREUPON,

12 WILLIAM CLIFTON,

13 the Respondent herein, after having been first duly sworn,
14 was examined and testified as follows:

15 MS. MANSFIELD: And, Judge, briefly on February
16 20th, I spoke with Mr. Metcalf regarding this witness
17 who stated to me at that time that he was planning to
18 have his client plead the Fifth to everything I asked.
19 So I would ask at this time if that's the plan I can
20 treat him as a hostile witness.

21 MR. FALLS: No objection.

22 THE COURT: All right.

23 MS. MANSFIELD: Thank you.

24 THE COURT: With that stipulation. And

25 Mr. Metcalf is your co-counsel?

1 MR. FALLS: Partner.

2 THE COURT: Partner. All right.

3 MR. FALLS: And he is a filed co-counsel on the
4 case.

5 THE COURT: I see Brett Metcalf. All right.

6 MS. MANSFIELD: Yes, he is. Yeah.

7 And if I may approach? I've already provided this
8 to opposing Counsel, but this is just the case law
9 about pleading the Fifth in a civil.

10 THE COURT: All right.

11 MS. MANSFIELD: (Unintelligible) make an argument
12 later as long as you have it.

13 DIRECT EXAMINATION

14 BY MS. MANSFIELD:

15 Q All right. Can you state your name and spell your
16 last name for the record, please?

17 A Yes. William Arsand Clifton. C-l-i-f-t-o-n.

18 Q Thank you.

19 THE COURT: And, Mr. Clifton, I'm going to tell
20 you just as I did everyone else, why don't you move up
21 a little bit closer and you can move the microphone
22 closer to you too. You have a little bit of a soft
23 voice so if you could speak loudly and clearly. Thank
24 you, sir.

25 THE RESPONDENT: Okay.

1 THE COURT: Great.

2 Q (By Ms. Mansfield) And Mr. Clifton, where do you
3 live?

4 A Based upon the advice of my attorney I plead the
5 Fifth.

6 Q Okay. So, Mr. Clifton, is it fair to say that you
7 live at 3290 -- oh, sorry. That's not correct. 12357
8 Tibbetts Street, Odessa, Florida 33556; is that correct?

9 A Based upon the advice of my attorney I plead the
10 Fifth.

11 Q Okay. So I'm going to turn your attention to
12 February 9th of 2023. On that day you were involved in an
13 altercation with a few people that live in Starkey Ranch,
14 correct?

15 A Based upon the advice of my attorney I plead the
16 Fifth.

17 Q Okay. And at that point when you got into that
18 altercation, you pulled out a firearm that was on you and
19 pointed it at not one but four people, correct?

20 A Based upon the advice of my attorney I plead the
21 Fifth.

22 Q Okay. And Mr. Clifton, you like to follow rules,
23 correct?

24 A Based upon the advice of my attorney I plead the
25 Fifth.

1 Q And you document everything that occurs in your
2 neighborhood --

3 MR. FALLS: Objection. Relevance.

4 MS. MANSFIELD: It's relevant, Judge. We have --
5 I'm getting to the point that -- of use of non-deadly
6 force, how it's not his property, how he's escalating
7 everything to then come to the point of pointing
8 firearm at his neighbors.

9 THE COURT: All right. I'll overrule the
10 objection. I'll take a look at what we're talking
11 about.

12 MS. MANSFIELD: Okay.

13 THE COURT: And determine that later.

14 Q (By Ms. Mansfield) So you document HOA violations,
15 correct?

16 A Based upon the advice of my attorney I plead the
17 Fifth.

18 Q And you like to follow rules, correct?

19 A Based upon the advice of my attorney I plead the
20 Fifth.

21 Q And when you don't follow the rules or when other
22 people don't follow the rules, you get mad, correct?

23 A Based upon the advice of my attorney I plead the
24 Fifth.

25 Q And then your anger takes over, correct?

1 A Based upon the advice of my attorney I plead the
2 Fifth.

3 Q And you live near a school, correct?

4 A Based upon the advice of my attorney I plead the
5 Fifth.

6 Q I'm going to hand you Exhibit 2. Thank you.
7 Mr. Clifton, isn't it true that you called the Sheriff's
8 Office or have been involved in an incident with the
9 Sheriff's Office 46 times since 2018?

10 A Based upon the advice of my attorney I plead the
11 Fifth.

12 Q And those calls you basically are complaining
13 about a trespasser and people turning around in your
14 driveway?

15 MR. FALLS: Objection. Relevance.

16 MS. MANSFIELD: We're getting to the point where
17 he's threatening other neighbors.

18 THE COURT: All right. I'll overrule the
19 objection. I'm not sure how we're going --

20 MS. MANSFIELD: So on --

21 THE COURT: -- what benefit we're going to be
22 having if he's going to be reading from his card the
23 rest of this afternoon.

24 MS. MANSFIELD: I understand, but I need to lay a
25 record. So...

1 THE COURT: All right. That's fine.

2 MS. MANSFIELD: Okay. Thank you, Judge. I'll be
3 quick though.

4 Q (By Ms. Mansfield) November 8th, 2022, you called
5 in because a neighbor retrieved your trash can from the
6 middle of the road and you wanted the Sheriff's Office to
7 retrieve it on your behalf, correct?

8 A Based upon the advice of my attorney I plead the
9 Fifth.

10 Q And then you then stated that you'd not had any
11 issues with the neighbor including any verbal issues and
12 advised dispatch that if you made contact with the neighbor
13 there's going to be a verbal, possible physical altercation,
14 correct?

15 A Based upon the advice of my attorney I plead the
16 Fifth.

17 Q Okay. And then again on September -- or I'm sorry
18 July 4th of 2020, you called in again about a roadway
19 obstruction where a chair was in the middle of the road and
20 you were angry and you said since deputies were not heading
21 out if you went to leave down the street you wouldn't stop
22 for the individuals or the chairs, correct?

23 A Based upon the advice of my attorney I plead the
24 Fifth.

25 Q Let me turn your attention to December 4th of

1 2020. That is when you -- dispatch was called and there was
2 an allegation that you attempted to run over two of your
3 neighbors, correct?

4 A Based upon the advice of my attorney I plead the
5 Fifth.

6 Q So it's fair to say that everything's been
7 escalating since people don't follow the rules and you get
8 mad?

9 A Based upon the advice of my attorney I plead the
10 Fifth.

11 Q And it's fair to say that you are considered a
12 significant danger by being able to own, purchase or possess
13 a firearm because of that escalation?

14 A Based upon the advice of my attorney I plead the
15 Fifth.

16 Q Okay.

17 MS. MANSFIELD: May I have one second, Judge?

18 Nothing further, Judge.

19 THE COURT: All right. Mr. Falls, I assume you
20 have no questions.

21 MR. FALLS: No questions, Your Honor.

22 THE COURT: All right. Sir, you may step down.

23 Thank you.

24 THE RESPONDENT: Thank you.

25 MS. MANSFIELD: Nothing further, Judge.

1 THE COURT: All right. Anything else for the
2 Court's consideration at this stage of the proceedings?

3 MS. MANSFIELD: No, Judge.

4 THE COURT: Mr. Falls?

5 MR. FALLS: Nothing from Respondent, Your Honor,
6 just argument.

7 THE COURT: All right. Respondent is resting for
8 the record, correct?

9 MR. FALLS: Respondent rests.

10 THE COURT: All right. Ms. Mansfield you may
11 proceed.

12 ARGUMENT

13 MS. MANSFIELD: Thank you, Judge.

14 Judge, as we all are aware the purpose of a risk
15 protection order is simply to do what it did in this
16 case, intercept an avoidable tragedy. That's what
17 happened when 911 was called and we were able to obtain
18 a temporary risk protection order to then collect
19 Mr. Clifton's firearm.

20 You heard testimony today that there was a recent
21 act or threat of violence against others. You also
22 heard testimony that a firearm was used against others
23 and also that he recklessly used, displayed or
24 brandished a firearm. We have proven that by clear and
25 convincing evidence.

1 As you are aware, Judge, by the testimony even if
2 you believe Mr. Clifton was pushed and can pull his
3 firearm on the initial victim, we did have testimony
4 that there were three other victims. We had testimony
5 from Mr. Williams [sic] who stated that he was just
6 standing there by a tree. He locked eyes with him and
7 had a firearm pointed directly at him.

8 We're not here for a stand your ground hearing.
9 We're not here to prove aggravated assault so we didn't
10 have to hear whether or not they were in fear.

11 The Sheriff's Office did a full investigation for
12 an aggravated assault and made an arrest for aggravated
13 assault, four counts. And did a full investigation for
14 a risk protection order and decided that he met the
15 requirements for a risk protection order.

16 Florida Statute 790.401(3)(b) states that when an
17 individual poses a significant danger of causing
18 personal injury to himself, herself or others by having
19 in his or her custody or control or by purchasing,
20 possessing or receiving a firearm or ammunition, the
21 Court will issue an RPO or a risk protection order.

22 So in this case, Judge, we would argue that Mr.
23 Clifton is a significant danger of causing personal
24 injuries to others by having in his custody or control
25 or by purchasing, possessing or receiving any firearm

1 or ammunition.

2 Further, Judge, as you heard Mr. Clifton did plead
3 Fifth during his entire testimony. I provided case
4 law, *Baxter v. Palmigiano*, that's *Palmigiano*, 425 U.S.
5 308, Supreme Court 1976. In that case the Supreme
6 Court held that a court may draw an adverse inference
7 against a party in a civil action who invokes their
8 Fifth Amendment privilege against self-incrimination.
9 The court explained that a party may not trample upon
10 the rights of others and then escape the consequences
11 by invoking a constitutional privilege.

12 Further, in *Vasquez v. State of Florida*, 777 So.2d
13 1200, Florida Third DCA 2001. The court held that
14 while the claimant should suffer no penalty for
15 invoking his Fifth Amendment privilege the trial court
16 may draw an adverse inference against a party in a
17 civil action who invokes his privilege against self-
18 incrimination.

19 So based on the fact that he refused to answer any
20 questions, that is his right; however, you are able to
21 draw a negative inference from that.

22 THE COURT: All right. Thank you, Counsel.

23 Mr. Falls.

24 MR. FALLS: Yes, Your Honor.

25 As it relates to the evidence that's been

1 presented to the Court today, I do want to draw the
2 Court's attention to the video, Exhibit 1, that was
3 presented to the Court. The reason why I want to draw
4 Your Honor's attention to that is because as it has
5 been described as an altercation leading up to the
6 firearm being drawn the Court can clearly see that an
7 individual was pushed with both hands by another larger
8 individual.

9 That individual that was pushed with both hands by
10 another larger individual was Mr. Clifton. Obviously,
11 this is not a situation where we are arguing a stand
12 your ground hearing in front of this Court. But one
13 thing that I think is important to point out is the
14 Petitioner has brought this risk protection order and
15 is seeking that it be granted based upon a few reasons.

16 One of those is that there was an unlawful or
17 reckless use, display or brandishing of a firearm by
18 the Respondent. The idea behind this is if Petitioner
19 is claiming that there was an unlawful or reckless use,
20 it's important to keep in mind the facts and
21 circumstances leading up to the alleged brandishing of
22 the firearm, which is as everyone testified, Mr.
23 Michael Krnjaich approaching Mr. Clifton, pushing him,
24 Mr. Clifton traveling a couple of feet.

25 Now, one thing that I did also want to point out

1 to the Court, which Ms. Krnjaich denied was that her
2 husband didn't take another step towards Mr. Clifton.
3 If the Court pays close attention to the video that has
4 been entered into evidence, directly after Mr. Clifton
5 was pushed Michael Krnjaich took one additional step
6 towards Mr. Clifton as if to say the push was not
7 enough.

8 I think it's important to consider this because
9 there -- there is an ongoing physical interaction by a
10 man who is larger than Mr. Clifton, taller than him,
11 heavier than him, who has already displayed an act of
12 violence as it relates to the brandishing of this
13 firearm.

14 Additionally, I think it's important to point out
15 that the only witness that testified as it relates to
16 the firearm being pointed at any other individuals also
17 was extremely hesitant to testify to the evidence that
18 was put right in front of him. I think this goes
19 directly towards the bias of that witness. I think it
20 goes towards the ability for the Court to take all of
21 the testimony --

22 MS. MANSFIELD: I'm going to object. Facts not in
23 evidence and that's his opinion.

24 THE COURT: It's argument. I'll overrule the
25 objection. Thank you.

1 MR. FALLS: I think it goes directly toward
2 whether the Court should place a lot of stock in this
3 witness's testimony who had the evidence placed right
4 in front of him but had complications owing up to the
5 fact that Mr. Krnjaich was the individual that
6 approached Mr. Clifton and pushed him.

7 Additionally, as the video will show that
8 individual was standing directly behind a tree with
9 tree branches right in his line of view.

10 As it relates to the description of the incident,
11 things were happening very fast and it was very quick
12 and yelling and things of that nature, I believe it is
13 a stretch to say that this witness had a clear bird's
14 eye view of not only Mr. Clifton pointing a firearm
15 directly at him but others. Those others also not
16 testifying today in court.

17 As it relates to the case law that Counsel has
18 presented, I think the major word in that case law is
19 may, the Court may draw an adverse inference based upon
20 the Respondent pleading the Fifth. The idea is that
21 the Court does not have to draw an adverse inference.
22 Mr. Clifton is currently facing four felony charges in
23 this courthouse. As his attorney we would be doing a
24 terrible job not to advise him to plead the Fifth
25 considering the fact that anything he does and say

1 under oath can certainly be used against him, whether
2 it was meant to be or not simply having a statement be
3 misinterpreted, simply mistakenly saying something
4 incorrectly. Those are things that we cannot put at
5 risk with a pending criminal case.

6 With that in mind, we ask that the Court does not
7 draw an adverse inference based upon the advice that we
8 have provided and based upon the advice that Mr.
9 Clifton has followed.

10 Respondent would argue that the Petitioner has
11 failed to provide the Court with clear and convincing
12 evidence that Mr. Clifton is a significant danger.

13 THE COURT: All right.

14 MS. MANSFIELD: Just a brief redirect [sic],
15 Judge.

16 THE COURT: Yes, ma'am.

17 MS. MANSFIELD: Thank you.

18 Respondent wants you to believe that it all
19 stemmed from one push; however, you heard testimony
20 that no one else touched Mr. Clifton. No one else
21 attacked Mr. Clifton. No one else said anything to
22 Mr. Clifton; however, Mr. Clifton as you heard pointed
23 a firearm directly at other victims.

24 He's been charged with that. He admitted to
25 Deputy -- or Corporal Griffin that he took out his

1 firearm and pointed it to a male. He didn't say which
2 male. He just said a male.

3 Further, with the tree branches being in line of
4 sight of Mr. Williams, he testified that he ducked
5 down, was able to view without any issues, without any
6 obstructions this firearm being pointed directly at
7 him.

8 And, lastly, Judge, I know the Fifth Amendment --
9 or the case law I sent you or provided to you stated
10 that the Court may draw an adverse inference; however,
11 the court also explained that a party may not trample
12 upon the rights of others and then escape the
13 consequences. And that's pretty much what he's trying
14 to do, escape the consequences of his actions by
15 pleading the Fifth today.

16 Thank you.

17 THE COURT: All right. Well, thank you. I do
18 want to compliment Counsel on their presentation here
19 today and the issues before the Court as it relates to
20 the risk protection order pursuant to Florida Statute
21 790.401.

22 The Court has had an opportunity to review the
23 evidence and Exhibits 1 and 2, as well as review this
24 Court's notes as it relates to the testimony that was
25 provided.

1 I will state for the record that the witnesses
2 that the Petitioner have -- or has called here today:

3 Amanda Krnjaich, or however you say that last
4 name, the spouse of Michael, provided the Court with
5 credible testimony as it relates to the issues before
6 the Court; as well as William Adams.

7 The Court has reviewed the video.

8 The Court will find that Corporal Griffin has
9 provided this Court with credible testimony; also as
10 well as Detective Kane and Ms. Morrison the records
11 custodian in her limited testimony as it relates to the
12 foundation that was properly made by Counsel in the
13 presentation of Exhibit Number 2.

14 As it relates to William Clifton, this Court is
15 obviously not surprised by the fact that he invoked his
16 Fifth Amendment privileges due to the four counts of
17 aggravated assault that are currently pending, to the
18 best of this Court's knowledge.

19 And the Court understands that the Petitioner in
20 this particular case, this is -- would not have to call
21 all four victims or alleged victims in the aggravated
22 assault. This is not the felony trial or hearings
23 related to those pending charges and this Court is
24 solely relying and reviewing the issues as it relates
25 to the civil risk protection order.

1 So upon review of all of the above --

2 Where are my notes? Here we go.

3 -- the Court is going to find that the Petitioner
4 has, in fact, met their burden of proof as it relates
5 to the clear and convincing evidence and provided this
6 Court that William Clifton does pose a significant
7 danger of causing personal injury to others while
8 having in control or purchasing or possessing any
9 firearms or ammunition and that legislature has said if
10 that fact they have met their burden of proof the Court
11 must enter a risk protection order up to 12 months.

12 And the Court is going to find due to the
13 allegations and the presentation that 12 months would
14 be the appropriate time period. The Court shall issue
15 a final risk protection order for a period of 12
16 months.

17 The Court is going to advise the Respondent that
18 you must understand, sir, that you are prohibited from
19 owning, possessing, carrying, purchasing any firearms
20 or ammunition for a period of 12 months. And if you
21 violate that risk protection order it is also another
22 third-degree felony.

23 The Petitioner has a right during the last 30 days
24 of the risk protection order to file a written motion
25 to extend the risk protection order if they believe

1 that you continue to meet the criteria for the RPO. If
2 they do, a hearing will be set and the Petitioner will
3 have the burden of proving by clear and convincing
4 evidence that you continue to meet the criteria for the
5 risk protection order. If they prevail the Court can
6 extend the risk protection order for a period of one
7 year.

8 You have a right to file a written motion to
9 vacate the risk protection order prior to its
10 expiration if you believe you no longer meet the
11 criteria for the risk protection order. You may only
12 do this one time. If you do, a hearing will be set and
13 the Petitioner will be given notice. You will have the
14 burden to establish by clear and convincing evidence
15 that you no longer meet the criteria and then it would
16 be safe to vacate the risk protection order.

17 You must be prepared to present sworn testimony of
18 a licensed mental health expert or doctor or other
19 counselor who has been treating you and is willing to
20 come into court to testify under oath that you no
21 longer meet that criteria and that the Court should
22 lift the risk protection order.

23 All right. So, Counsel, that risk protection
24 order will be for a period of 12 months?

25 MS. MANSFIELD: Yes, Judge.

1 THE COURT: And the date will be?

2 MS. MANSFIELD: April 5th, '24.

3 THE COURT: All right. And is an additional
4 evaluation needed?

5 MS. MANSFIELD: I don't believe so, Judge.
6 There's no mental health issues that I'm aware of or
7 that the behavioral health team is aware of.

8 THE COURT: And no need for additional compliance
9 hearing, correct?

10 MS. MANSFIELD: Correct.

11 THE COURT: All right. Anything else, Counsel?

12 MS. MANSFIELD: No, Your Honor.

13 THE COURT: Mr. Falls?

14 MR. FALLS: Not from Respondent, Your Honor.

15 THE COURT: All right. Thank you, Counsel. I
16 will go ahead and finish the final risk protection
17 order and present it to the Clerk.

18 (Courtroom conversations.)

19 THE COURT: All right. The Court has signed the
20 final risk protection order, provide copies.

21 MS. MANSFIELD: Thank you, Judge.

22 THE COURT: Thank you.

23 (Proceedings concluded.)

24

25

CERTIFICATE OF COURT REPORTER

STATE OF FLORIDA

COUNTY OF PASCO

I, Joanne Ellis, a digital court reporter 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 22nd day of September, 2023.

/S Joanne Ellis
Joanne Ellis
Digital Court Reporter
Sixth Judicial Circuit