

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

STATE OF FLORIDA,

Plaintiff,

Case No.: 2023CF000562CFAXWS

vs.

WILLIAM ARSAND CLIFTON,

Defendant.

---

PROCEEDINGS: Stand Your Ground Motion  
DATE: October 13, 2023  
BEFORE: The Honorable Mary Handsel  
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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P R O C E E D I N G S

1  
2 THE COURT: Then we have on the last case I have  
3 is the William Clifton matter. We're here both on a  
4 pretrial and a Stand Your Ground motion.

5 Is your client here?

6 MR. FALLS: Yes, Your Honor.

7 THE COURT: Okay. Tell him to come up and sit  
8 with you.

9 Mr. Sarabia, are you handling this for the State?

10 MR. SARABIA: Yes, Judge.

11 THE COURT: Okay. Give me one second. Let me  
12 finish signing.

13 (Courtroom conversations.)

14 THE COURT: Mr. Falls, I know this has  
15 Mr. Metcalf's name on it but you're handling that for  
16 your client, yes?

17 MR. FALLS: As well. There should be a joint  
18 notice of appearance in all of our cases. I think  
19 sometimes the Clerk of the Court just picks the first  
20 signed name.

21 THE COURT: Okay. No problem. For the record  
22 you'll be handling the matter today for your client?

23 MR. FALLS: Yes. James Falls on behalf of William  
24 Clifton.

25 THE COURT: All right. And we are here on

1 23CF562. The Defense has filed a demand -- excuse me  
2 -- a defendant's motion to dismiss based on stand your  
3 ground immunity.

4 Mr. Sarabia, did you receive a copy of their  
5 motion?

6 MR. SARABIA: Yes, Judge. I believe there's an  
7 amended motion as well.

8 THE COURT: I don't know about that. I only have  
9 the regular motion. So give me a moment. I got out of  
10 court late today so I didn't have a chance to look at  
11 the docket. So sorry.

12 All right. I've read the amended motion. Is the  
13 State ready to proceed?

14 MR. SARABIA: Yes, Judge.

15 THE COURT: Okay. Is the Defense ready to  
16 proceed?

17 MR. FALLS: Yes, Your Honor.

18 THE COURT: All right. Other than the amended  
19 motion that looks like it was e-filed on September 6th  
20 of this year, is there any other amendments that I  
21 don't have in front of me?

22 MR. FALLS: No additional filings from the  
23 Defense, Your Honor.

24 THE COURT: All right. State, you ready to begin?

25 MR. SARABIA: And, Judge, first we would say that

1 the Defense is at this point failed to make a prima  
2 facie claim as they have not presented any evidence.  
3 And I understand the case law is against me, but we  
4 always preserve our appellate right in that capacity.

5 And I expect that you're going to rule against me  
6 and I will present evidence.

7 THE COURT: I will deny that. I will say that  
8 it's -- he hasn't really explained in any detail under  
9 the case law how someone pushing you down and taking a  
10 step would indicate that they could inflict great  
11 bodily harm or death. Since there's no indication in  
12 the motion that the person who he claims he was  
13 standing his ground against, other than being a larger  
14 person, had any weapons or any ability to inflict great  
15 bodily harm or death.

16 So I'm not sure that the use of a firearm in a  
17 situation where the person used non-deadly force  
18 against them is sufficient under the case law. But for  
19 the sake of argument I will say that it meets its  
20 burden and we'll go forward and I can deal with that in  
21 my order. Okay?

22 MR. SARABIA: Very good, Judge.

23 And just briefly if the Court would allow me to  
24 make an opening so the Court knows what to expect.  
25 There are a number of inaccuracies in the defendant's

1 motion, but what I expect that the Court is going to  
2 see that almost all -- almost the entirety of this  
3 event is on video surveillance, very clear video  
4 surveillance which we're going to play for you.

5 THE COURT: Okay.

6 MR. SARABIA: The only part that is not able to be  
7 seen is basically the defendant from the waist up at  
8 some of the most relevant parts so you cannot see the  
9 firearm. But I don't think there's any argument that  
10 the firearm was there. There will be testimony  
11 regarding exactly what the firearm was doing at various  
12 points.

13 But what you're going to see is this is a nice  
14 neighborhood day where people are out with just talking  
15 on the side of the road in their yards with kids  
16 playing and then the defendant drives up, he stops his  
17 car, he identifies that there is a very low lying piece  
18 of plastic across the road, a bumper that can be bought  
19 at Walmart, I think, and he then obstructs the road  
20 with his vehicle.

21 As he gets out the owner of the speed bump  
22 attempts to approach him nicely. There's no cursing.  
23 There's no aggression. The defendant refuses to  
24 acknowledge or interact with this person and instead  
25 aggressively removes the speed bump from the opposite

1 direction that the defendant was traveling from the  
2 roadway which prompts the individual who owns it to  
3 approach the defendant.

4 The defendant does take a couple of steps back and  
5 immediately draws the firearm and points it at the  
6 person who has already begun to retreat. Because,  
7 again, it was one of the most non-aggressive pushes or  
8 lead ups to a push that the criminal justice system  
9 sees. And the defendant then continues to point the  
10 firearm as the individual retreats many, many feet and  
11 into his house and then points the firearm at three  
12 individuals who are just standing there on the side of  
13 the road and those three individuals are the ones who  
14 are charged in the Information.

15 So you're going to hear from those three  
16 individuals as well as the person who initially pushed.

17 THE COURT: Okay. Mr. Falls, do you wish to make  
18 an opening statement? It's the State's burden so you  
19 don't have to say a thing.

20 MR. FALLS: Ready to proceed, Your Honor.

21 THE COURT: Okay. Call your first witness.

22 MR. SARABIA: The State would call Michael  
23 Krnjaich.

24 THE COURT: All right. Can we have Mr. Krnjaich  
25 come in? He should be out in the hallway.

1           Just to let both parties know I might have some  
2           detectives stepping into the courtroom. They have a  
3           warrant for me to sign. I've been working on a case  
4           for a couple of days now and I've been signing  
5           warrants, multiple warrants for days on this case. So  
6           I think they have one more. I told them just to come  
7           up. When they get here I'll take a break. I'll have  
8           them come up here and I'll sign it.

9           MR. SARABIA: Perfectly fine. And, Judge, if I  
10          play a video through this system, will you be able to  
11          see it on your screen?

12          THE COURT: No. But if you play it up there I can  
13          watch it from here.

14          MR. SARABIA: Very good.

15          MR. FALLS: And, Your Honor, for the purposes of  
16          the hearing Defense would invoke the rule of  
17          sequestration and ask that Counsel instructs his  
18          witnesses not to speak to each other about their  
19          testimony.

20          THE COURT: I'm sure he already did.

21          MR. SARABIA: I have already done that, Judge.

22          THE COURT: All right. Mr. Krnjaich, right here.

23          Is the person -- well, before I --

24          Mr. Krnjaich, just stop right there.

25          MR. KRNJAICH: Yeah. Sorry.

1 THE COURT: I'm not going to be talking to you for  
2 a second.

3 Is the lady in here -- are you going to call her,  
4 because you're invoking the rule it's for both sides?

5 MR. FALLS: No, Your Honor.

6 THE COURT: Okay.

7 Sir, raise your right hand.

8 THEREUPON,

9 MICHAEL KRNJAICH,  
10 the witness here, after having been duly sworn, was examined  
11 and testified as follows:

12 THE COURT: All right. Can you have a seat in the  
13 witness stand. Everything we do here is going to be  
14 digitally recorded so I just need to make sure that you  
15 speak in a loud and clear voice that the microphone  
16 picks it up. You're pretty close to me and I'm the  
17 only one you care about right now but the record has to  
18 be clear, too.

19 So, State, you want to proceed.

20 MR. SARABIA: Yes, Judge.

21 DIRECT EXAMINATION

22 BY MR. SARABIA:

23 Q Could you please introduce yourself to the Court?

24 A Yes. My name is Michael Krnjaich.

25 Q Could you please that last name for the record?

1 A Sure. K-r-n-j-a-i-c-h.

2 Q And I'm not going to say it properly --

3 A Yeah. Mike is fine.

4 Q Mr. Krnjaich --

5 A There you go.

6 Q -- where were you living back on February 9th of  
7 2023?

8 A At 3290 Barbour Trail in Odessa, Florida.

9 Q And is that a residence?

10 A It is.

11 Q And is it part of a neighborhood?

12 A It is.

13 Q How would you describe that property?

14 A Single family home located on a street with  
15 hundreds of homes.

16 Q Okay.

17 THE COURT: What's the name of the neighborhood?

18 THE WITNESS: Starkey Ranch.

19 THE COURT: Oh, okay. I got it.

20 Q (By Mr. Sarabia) And Barbour Trail, is that a  
21 residential road?

22 A It is.

23 Q And how would you describe it? Four lane road or  
24 what?

25 A It's a two lane road, cars coming in and out, you

1 know, one direction heading out to the main road, that would  
2 be south I presume. And then the other direction headed  
3 north heads more interior to the community.

4 Q Okay. And I want to turn your attention to about  
5 5:45, 5:50 in the afternoon of February 9th. Do you recall  
6 what you were doing at that time?

7 A Yes. Me and my family, my wife and my two sons  
8 and some of the neighbors and their kids were outside just  
9 -- the kids want to go outside and play so we were all  
10 outside just conversating while the kids played in the yard.

11 Q Now, this particular road, because again I want to  
12 give the Court some context, you're familiar with State Road  
13 54?

14 A I am.

15 Q You familiar with U.S. 19?

16 A Yes.

17 Q And these are busy commercial roads?

18 A Correct.

19 Q Now, what is -- what is this road like at 5:45 in  
20 the afternoon, Barbour Trail?

21 A It's, you know, residents coming home, you know,  
22 back from work. I'm assuming just normal every day traffic,  
23 traffic flow.

24 Q Okay. And are there -- is this the type of  
25 neighborhood and type of road where there's lots of

1 neighbors outside talking with each other and kids playing  
2 in the yard?

3 A Yes. All the time.

4 Q In particular you mentioned that you had two  
5 children?

6 A Yes.

7 Q What were their ages?

8 A At that time they were two and four.

9 Q And were they outside playing in the grass in the  
10 front yard?

11 A Yes.

12 MR. FALLS: Objection. Relevance.

13 THE COURT: Overruled.

14 Go ahead.

15 THE WITNESS: Yes, they were.

16 Q (By Mr. Sarabia) Okay. Now, I would like to  
17 approach you -- I'm going to approach you with what I'm  
18 marking as State's Exhibit Number 1.

19 MR. SARABIA: I apologize, Judge. I did not get a  
20 sticker on there.

21 THE COURT: That's okay. Not a problem.

22 MR. SARABIA: I'm going to write a number one on  
23 the back for now.

24 THE COURT: Don't worry. We got it. Number 1,  
25 whatever it's going to be.

1 MR. SARABIA: I anticipate this will be the only  
2 exhibit.

3 Q (By Mr. Sarabia) Do you recognize this?

4 A I do.

5 Q And what is this?

6 A It's a CD of my security camera footage from the  
7 events that happened.

8 Q Okay. The events from February 9th that we're  
9 here to talk about right now?

10 A Yes.

11 Q And to be clear this -- the vantage point of this  
12 security camera is from your porch?

13 A Yes.

14 Q And does it record faithfully and accurately?

15 A Yes.

16 Q And it actually has audio as well, correct?

17 A Yes.

18 Q Okay.

19 MR. SARABIA: Judge, at this time the State would  
20 like to move State's Exhibit 1 into evidence.

21 MR. FALLS: No objection.

22 THE COURT: All right. State's 1 will come into  
23 evidence.

24 Before you mark that, I'm going to take these  
25 guys.

1 MR. SARABIA: That's fine.

2 THE COURT: Real quick.

3 (Pause in proceedings.)

4 THE COURT: All right. Can you turn down the  
5 lights for me so I can watch this?

6 MR. SARABIA: Yeah. We'll publish and then we'll  
7 go over some of the details. Okay?

8 THE COURT: Okay.

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

11 Q (By Mr. Sarabia) So there's some questions about  
12 that. You're the individual in like the grey cut off shirt?

13 A Yes.

14 Q Now, there's an object in the roadway. What is  
15 that object?

16 A The one going across the road is a temporary speed  
17 bumps and then on the ends of them off to the side is a sign  
18 saying slow down children at play.

19 Q Okay. And this temporary speed bump, can you  
20 describe it is -- does it have spikes on it?

21 A No. Not at all. It's a piece of plastic about an  
22 inch off the ground.

23 Q Okay. And prior to utilizing that, prior to  
24 February 9, did you take steps to try and make sure that you  
25 could legally put it there?

1 A Yes, absolutely.

2 Q And the people that you spoke to, members of law  
3 enforcement, did they lead you to believe that you could?

4 A Yes. And --

5 MR. FALLS: Objection. Hearsay.

6 THE COURT: Overruled. Go ahead.

7 Q (By Mr. Sarabia) And so while you guys were  
8 socializing out in the yard-way, did a vehicle pull up?

9 A Yes.

10 Q And did that vehicle act abnormally to you?

11 A Yes.

12 Q Okay.

13 A It came to -- as you can by the video -- a pretty  
14 abrupt stop and the gentleman jumped out and started  
15 walking, you know, very fiercely towards us or towards even  
16 the middle of the road and screaming obscenities at us  
17 something along the lines of, you people and your -- sorry,  
18 Your Honor -- but you people and your fucking speed bumps  
19 and this, this and that.

20 And we tried to tell him that, you know --

21 Q And real quick --

22 A Yep.

23 Q So, as he got out did you -- did you know what his  
24 intentions were?

25 A No.

1 Q Were you concerned?

2 A Yes.

3 Q Did you approach him? Walk in his direction?

4 A I did once he kept coming towards our direction.

5 Q Okay. And did you attempt to interact with him?

6 A I verbally attempted to interact with him.

7 Q Did you try to use calm tones or did you use angry  
8 tones?

9 A Calm tones.

10 Q Like you were talking to a four year old or a two  
11 year old?

12 A Basically, yes.

13 Q And did you use any obscenities?

14 A No.

15 Q And I think we can hear on there you say, hey  
16 buddy, hey buddy, what are you doing? Is that what --

17 A That's correct.

18 Q -- were those the words you used?

19 A That's correct.

20 Q And were you -- were you trying to peacefully  
21 interact with this person who was approaching the speed  
22 bumps aggressively?

23 A Yes. I just wanted him to basically get back in  
24 his car. Like, hey, don't touch our stuff. That's not your  
25 property. Why are you even out of your car?

1 Q Did he give you any kind of visual acknowledgment  
2 or any kind of physical acknowledgement that you were  
3 speaking with him?

4 A No.

5 Q Now, we hear -- he appears to be saying things as  
6 he approaches the speed bump. Was he saying those things to  
7 you or did he appear to be muttering?

8 A He was just screaming it into the air.

9 Q Okay. So instead of interacting with you, what  
10 did he do?

11 A He got closer to, you know, the speed bump's my  
12 property, he picked them up as he was screaming and the  
13 threw them -- threw one set across the road and then as I  
14 got to him telling him not to touch my property, that's when  
15 the encounter occurred.

16 Q Okay. So, and real quick, that vehicle that is  
17 driving and then stops, is that heading in a northbound  
18 direction?

19 A It's heading towards the interior of the  
20 community.

21 Q Okay. Is that north?

22 A Correct. Yes.

23 Q Okay. So this speed bump that he approaches and  
24 then violently flings away, is that in the southbound lanes?

25 A Correct. Yes.

1 Q So that one -- to be clear, because I'm not sure  
2 how easy it is to tell from the video, the speed bump that  
3 he grabs and flings in the other direction is not  
4 obstructing his lane of travel, is it?

5 A No.

6 Q Okay. So after this individual has acted in this  
7 way, has been saying the things he's been saying and has  
8 been refusing to --

9 MR. FALLS: Objection. Counsel testifying.

10 THE COURT: Overruled.

11 Go ahead.

12 Q (By Mr. Sarabia) -- acknowledge you; did you push  
13 him?

14 A I did.

15 Q Okay. And what was the purpose of pushing him?

16 A Just to get him off doing any further damage to  
17 more of my property.

18 Q Okay. And once you pushed him, did you advance on  
19 him at all?

20 A No. I stood right there and it was one push and I  
21 stood clearly right there. You can see on the video.

22 Q Okay. Now, and as you approached him and when you  
23 pushed him, did you have any weapons?

24 A I did not.

25 Q Did you have a gun or knife or anything on your

1 person?

2 A No.

3 Q In fact, were you even wearing baggy clothes or  
4 anything that would easily conceal a weapon?

5 A I always wear baggy clothes, yes.

6 Q Well, like gym shorts?

7 A Gym shorts and gym shirt.

8 Q I know you're probably not very familiar with the  
9 criminal justice system, when I say baggy clothes I mean  
10 like cargo pants and like things which you can hide weapons  
11 within?

12 A No. Nothing like that. No. No.

13 Q Okay. And you talked about a cut off T-shirt.  
14 That's pretty form-fitting?

15 A It was -- it was loose. You know, but tight  
16 around my waist.

17 Q Okay. Not something that would be easy to conceal  
18 a weapon in?

19 A Correct.

20 Q Okay. How about the other people who were present  
21 on scene, do you know their names?

22 A I do.

23 Q What are those?

24 A My wife Amanda, Dan Zweifel, Will Adams and Sara  
25 Connolly and the kids.

1 Q And are those other neighbors?

2 A They are.

3 Q And were you guys just socializing in the front  
4 yard there before this car pulled up?

5 A Yes.

6 Q And did you see weapons in any of their hands?

7 A No.

8 Q Did you see them make any aggressive actions up  
9 until the point where you retreated?

10 A No.

11 Q Okay. So after the push, can you describe,  
12 because we can't entirely see from the video what the person  
13 you pushed is doing, can you describe for us what that  
14 person does?

15 A Sure. After -- after I pushed the gentleman, he  
16 went back a little bit, gained a stance and pulled a firearm  
17 out from the backside of his -- his pants and pointed it at  
18 me. And at that point I just was in panic and retreated,  
19 you know, fell backwards and stumbled away and ran away.

20 Q Okay. And at the time that the firearm was pulled  
21 out, were you moving towards that person at all?

22 A No.

23 Q Had you made any further aggressive movements or  
24 given any kind of aggressive language to that person?

25 A No.

1 Q And you indicated you retreated, which I believe  
2 we can view on the video, ultimately you get your children  
3 and you're inside of the -- you're going inside that would  
4 be the front door?

5 A Correct. Yes.

6 Q Roughly how far is that area of the front door  
7 from the middle of the road where the defendant was standing  
8 with a firearm?

9 A About 100 feet.

10 Q Okay. And while that's going on were the other  
11 three people, the three friends that you mentioned, were  
12 they still standing more or less close to the roadway where  
13 they had started out?

14 A Yes. The exact same spot.

15 Q Okay. And we hear an individual screaming during  
16 the course of the event. Does that person start screaming  
17 almost immediately after the firearm is pulled?

18 A Yes.

19 Q And who is that individual that's screaming?

20 A That's my wife.

21 Q Okay.

22 MR. SARABIA: I don't have any more questions for  
23 this witness, Judge.

24 THE COURT: Okay. Cross.

25 MR. FALLS: Yes, Your Honor.

## 1 CROSS-EXAMINATION

2 BY MR. FALLS:

3 Q Good afternoon, Mr. Krnjaich.

4 A Good afternoon.

5 Q I want to begin with just some special -- or  
6 specific details about yourself. How tall are you?

7 A Almost 6'1.

8 Q How much do you weigh?

9 A 185.

10 Q I have had the ability to watch some body camera  
11 footage in the case and I don't want to make this weird but  
12 do you work out?

13 A Do I work out?

14 Q Yes.

15 A Yes.

16 Q So you would say that you're in pretty decent  
17 shape?

18 A It's subjective, I guess. I don't know.

19 THE COURT: Note for the record he looks in good  
20 shape.

21 THE WITNESS: Okay.

22 Q (By Mr. Falls) Do you lift free weights?

23 A I used a tonal.

24 Q I'm sorry. Can you repeat that?

25 A I use a tonal and free weights.

1 Q Tonal and free weights. Do you ever do a bench  
2 press?

3 A Yes.

4 Q Have you ever maxed out or tested what your  
5 capacity of a bench press is recently?

6 A No.

7 Q About how much weight do you usually lift pound-  
8 wise?

9 A On a bench press?

10 Q Sure.

11 MR. SARABIA: And, Judge, I would object. Unless  
12 they can show the defendant was aware, I don't see how  
13 this is relevant.

14 MR. FALLS: I think it's relevant. It goes  
15 directly to the strength in which he was able to use  
16 force when he pushed Mr. Clifton.

17 THE COURT: I don't have any problem you asking  
18 the question. I'm not sure it directly correlates.  
19 I'm sure he wasn't bench pressing your client. But if  
20 he knows, I'll listen to the evidence. Okay?

21 THE WITNESS: I don't max out. That's not the way  
22 I work out. So no, I don't know what I bench.

23 Q (By Mr. Falls) Okay. You don't have any idea of  
24 how much weight you lift?

25 A I have no idea.

1 Q Okay. Now, as it relates to the incident at hand,  
2 when you first have an encounter with Mr. Clifton you shoved  
3 Mr. Clifton?

4 A The first encounter I had was a verbal encounter.

5 Q Okay. The first physical encounter that you had,  
6 you shoved Mr. Clifton, correct?

7 A I pushed him, yes.

8 Q I'm sorry?

9 A I pushed him, yes.

10 Q Okay. Now, let's dispense semantics between  
11 shoved or pushed, but you used force against Mr. Clifton?

12 A Yes.

13 Q And as it relates to the amount of force you used,  
14 it was enough to send Mr. Clifton halfway across the street?

15 A I don't think that is correct. No.

16 Q Okay. Were you in the middle of the street at the  
17 time?

18 A I was actually on the middle of the other side of  
19 the street, on the south side of the street.

20 Q Okay. And at the point in time once you shoved  
21 him, he ended up closer to the opposite driveway of your  
22 home?

23 A I would say he probably went back about four feet,  
24 a couple of feet.

25 Q Okay. About six or seven steps backwards after

1 being pushed?

2 A I'm not sure. I don't know.

3 Q All right. You'd agree that the video's an  
4 accurate reflection of what happened?

5 A Yes, absolutely.

6 Q And as it relates to your testimony earlier, you  
7 indicated that you didn't take any additional advancements  
8 or any additional steps towards Mr. Clifton after shoving  
9 him?

10 A Yes. You saw the video.

11 Q Okay. And, again, you would agree that the  
12 video's an accurate reflection of what happened that day?

13 A Yes.

14 Q Okay. Now, as it relates to what immediately  
15 occurred after you see Mr. Clifton draw his firearm, you  
16 indicated that you retreated?

17 A Yes.

18 Q Okay. And then you ended up back towards what  
19 would have been your driveway, yard area?

20 A Yes.

21 Q Okay. And this would have been behind the  
22 individuals that you previously named Mr. Zweifel,  
23 Ms. Connolly and Mr. Adams?

24 A That's their names, yes. But, no, I didn't end up  
25 behind them.

1 Q Okay. So on that video you did not end up behind  
2 those three individuals?

3 THE WITNESS: Judge, I was to the side of them.  
4 That would be like them being over there and me being  
5 here.

6 THE COURT: The video speaks for itself.

7 THE WITNESS: Yeah. Correct.

8 THE COURT: He's saying no.

9 MR. FALLS: Okay.

10 THE COURT: I'll relook at the video. It doesn't  
11 look he goes behind them. It looks like he's sitting  
12 over here and they're over there. But --

13 THE WITNESS: Yes. Correct.

14 THE COURT: -- exactly at what seconds, it will  
15 speak for itself. So --

16 MR. FALLS: Sure. And I'll be sure to --

17 THE COURT: -- he says no, he didn't go behind  
18 them. The video for me looks like he's by himself and  
19 they're by themselves and they're separated by whatever  
20 amount of distance that is in a yard. It's hard to  
21 tell from a Ring camera view. But they're separated.

22 THE WITNESS: Correct.

23 THE COURT: But maybe you want to point out at  
24 some point where he runs behind them and then goes to  
25 the right. I don't know. So his answer is no. The

1 video speaks for itself.

2 MR. FALLS: Understood, Your Honor.

3 THE COURT: Okay.

4 Q (By Mr. Falls) So at a certain point and as Her  
5 Honor just mentioned, the Ring doorbell footage is not one  
6 to give the most accurate angle from the perspective of  
7 where Mr. Clifton was and where you were; is that correct?

8 A No. I think it gives a perfect angle of where he  
9 was and where I was and where the other three individuals  
10 were.

11 Q Okay. So as it relates to that perfect angle,  
12 again, you'd said you were not behind those three  
13 individuals?

14 A I would say that, yes.

15 Q Okay. Moving to the time period in which you see  
16 a firearm. Are you able to give us an idea as to how long  
17 that firearm was out?

18 A It all happened fast. I couldn't count the  
19 seconds, no, but it was out the entire time from me  
20 retreating backwards, seeing him again, grabbing my child  
21 and getting my child into the house he still had the firearm  
22 out.

23 Q Okay. So there's a specific time period in the  
24 video --

25 And, Your Honor, I'll point out the timestamps in

1 argument --

2 -- but there's a specific time period in the video  
3 where you can see yourself kind of come to a rest and your  
4 shoulders drop and it looks as though some tension or stress  
5 has kind of been released from your body at that point.  
6 Would that be an accurate representation?

7 A The firearm was no longer pointed at me at that  
8 time.

9 Q Okay. All right. Are you able to say on which  
10 portion of Mr. Clifton's body the firearm was pulled from?

11 A What was the question? I'm sorry.

12 Q Are you able to testify as it relates to which  
13 portion of Mr. Clifton's body the firearm was pulled from?

14 A From what I saw it looked his right backside.

15 Q Are you able to testify as it relates to the color  
16 of the firearm?

17 A I believe it was silver.

18 MR. FALLS: Nothing further for this witness.

19 Thank you.

20 MR. SARABIA: Nothing else, Judge.

21 THE COURT: Does either side mind if I ask a  
22 question?

23 MR. SARABIA: Not at all.

24 THE COURT: Defense?

25 MR. FALLS: No, Your Honor.

1 THE COURT: Okay.

2 EXAMINATION

3 BY THE COURT:

4 Q Do you know him?

5 A Not at all.

6 Q Have you ever seen him before?

7 A Never.

8 Q Do you know anybody that does know him?

9 A After this incident a lot of --

10 MR. FALLS: Objection, Your Honor.

11 THE COURT: What's the objection? I'm not asking  
12 what they told him. I'm just asking if anybody --

13 MR. FALLS: Well, I think he was going down that  
14 path so I would ask him to --

15 THE COURT: Okay.

16 Q (By The Court) Just if you could just answer, I  
17 don't care if you found out before or after, did --

18 A Yes, we know people that know him.

19 Q People that know him?

20 A Yes.

21 Q Okay.

22 THE COURT: Give me one second.

23 Q (By The Court) And in the motion that was filed by  
24 the Defense it says that Mr. Clifton was falling to the  
25 ground, he extended his arms to prevent falling completely

1 to the ground. Did you see anything like that?

2 A No.

3 Q The only reason I ask is your testimony, just so  
4 I'm clear from the record, is you pushed him, your words,  
5 and he took a couple of steps back?

6 A Yes.

7 Q No indication that he had to put his arms down  
8 or --

9 A He never -- he never touched the ground with his  
10 hands or any other type of his body but his feet.

11 Q And so the whole time this occurs, from the time  
12 he gets out of the car to the time you run in the house with  
13 the kids whether the gun's out or not, he is fully upright?

14 A Yes.

15 Q There's no time that he ever falls to the ground?

16 A No.

17 Q And after you pushed him the one time, it's your  
18 testimony you never made any other movements towards him?

19 A No.

20 Q Did any of those other people you were with make  
21 any movements towards him?

22 A No.

23 THE COURT: Okay. Any questions from the State  
24 based on that?

25 MR. SARABIA: No, Judge.

1 THE COURT: Okay. Defense?

2 MR. FALLS: No, Your Honor. I do want to add,  
3 however, as it relates to Your Honor reading portions  
4 of the -- the motion into the record, I do think it was  
5 clear through my motion that it was never indicated  
6 that Mr. Clifton fell to the ground.

7 THE COURT: I just read verbatim your motion.  
8 Your motion says and that's why I asked that was  
9 falling to the ground he extended his arms to prevent  
10 falling completely to the ground. Those are your  
11 words. I was just asking this witness if that was an  
12 accurate representation of his recollection of what  
13 occurred.

14 MR. FALLS: I understand that, Your Honor. I just  
15 want to make sure that it's clear that that was not my  
16 intention as it relates to indicating that Mr. Clifton  
17 fell. Right? I guess, sure, if there's an argument to  
18 be made that falling to the ground would indicate that  
19 he fell. That's not what the intention was and I do  
20 think the video accurately reflects that Mr. Clifton  
21 was falling -- in the motion of falling. He was pushed  
22 to the point that he had to take several steps  
23 backwards and he was not upright after being shoved.

24 Again, I can reserve that for argument. But I  
25 just wanted to make sure --

1 THE COURT: Okay. Well, again, you're not  
2 testifying.

3 MR. FALLS: I get it.

4 THE COURT: I was asking the witness a question  
5 from his perspective what he saw and he answered the  
6 question and you can make any argument or present any  
7 evidence, but I wasn't there and I would have to watch  
8 the video in a little more clearer position, which I  
9 will, but I wanted the witness to put on the record if  
10 he felt that that was an accurate representation.

11 He testified right now that he took a couple of  
12 steps back. It didn't look like he did anything that  
13 would indicate that he was about to fall or fell to the  
14 ground. That's his testimony. We're good there.

15 Sir, you may step down. Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: State, you want to call any other  
18 witnesses?

19 MR. SARABIA: Yes, Judge. The State would call  
20 Will Adams.

21 THE COURT: Okay. Can I have Will Adams step in?

22 THE BAILIFF: Yes, ma'am.

23 THE COURT: Sir, I want -- for the witness, don't  
24 talk about what they asked or anything you answered.  
25 Okay?

1 THE WITNESS: Okay.

2 THE COURT: Thank you.

3 Good afternoon, Mr. Adams. If you can come to  
4 this podium here that has a microphone on it.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: You step right there. Raise your right  
7 hand.

8 THEREUPON,

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

12 THE COURT: All right. If you could have a seat  
13 in the witness stand. Everything we do today is  
14 digitally recorded. We don't have a live court  
15 reporter. If we need it we'll get it typed up. So I  
16 just need to make sure that you speak loud enough that  
17 it's picked up by the microphone. Okay?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: All right. State, you may proceed.

20 MR. SARABIA: Thank you, Judge.

21 DIRECT EXAMINATION

22 BY MR. SARABIA:

23 Q Will you please introduce yourself to the Court?

24 A Will Adams.

25 Q And how do you spell your last name?

1 A A-d-a-m-s.

2 Q And, Mr. Adams, where did you reside back on  
3 February 9th of 2023?

4 A On Barbour Trail.

5 Q And how close to 3290 Barbour Trail did you  
6 reside, and that would be Mike's house?

7 A Two houses down.

8 Q Okay. Same side of the road?

9 A Same side.

10 Q Okay. And did you know Mike and his wife?

11 A Yes.

12 Q And did you guys socialize regularly?

13 A Yes.

14 Q Is it unusual in the afternoon hours for the kids  
15 to be playing on Barbour Trail and for you guys to be out  
16 talking?

17 A No, not before the incident.

18 Q Okay. And let me ask you a little bit about  
19 Barbour Trail. Ultimately we've seen the video once but a  
20 vehicle comes up in the northerly direction as opposed to  
21 the southbound lanes; if you were to follow Barbour Trail  
22 north and keep going, does it -- does it ever encounter  
23 another major thoroughfare?

24 A No.

25 Q Okay. So it's strictly a residential road to go

1 further into the neighborhood?

2 A Yes.

3 Q Now, Mr. Clifton, are you familiar with him?

4 A Now I am, yes.

5 Q Prior to February 9th of this year, were you  
6 familiar with him?

7 A No.

8 Q Had you ever met him before?

9 A No.

10 Q Okay. Are you currently as you sit here aware  
11 where he lived back on February 9th?

12 A No.

13 Q General area of Starkey Ranch?

14 A No idea.

15 Q Okay. So at the time that this occurred around  
16 5:45, a little bit after 5:45 in the afternoon, who was  
17 outside in front of Mike's residence?

18 A Mike, his wife Amanda, Sara Connolly who lives  
19 across the street, Dan Zweifel who lives two houses down the  
20 other direction from the Krnjaiches there and a gaggle of  
21 kids. Mike's kids, a couple of Dan's kids, my daughter and  
22 one of her friends a little bit further down the road on  
23 their scooters.

24 Q Okay. And so you had kids that were outside along  
25 this road as well?

1 A Yes.

2 Q And how old are those kids?

3 A Riley, my daughter was 12 at the time.

4 Q Okay. And did you see anything unusual occur  
5 while you were standing out there?

6 A Yes.

7 Q Okay. And I have the video surveillance pulled up  
8 and paused. It's at time 5:49:17 PM. Do you see yourself  
9 on this video?

10 A Yes.

11 Q Which individual are you?

12 A Blue shirt.

13 THE COURT: You can stand up if you want, point to  
14 it.

15 THE WITNESS: Sure.

16 MR. SARABIA: You can step down.

17 THE COURT: You can step down.

18 THE WITNESS: Blue shirt, whitish or lighter  
19 colored shorts, looking at a phone and holding an  
20 apple.

21 THE COURT: That's funny.

22 Q (By Mr. Sarabia) The guy standing probably  
23 closest to the tree right there?

24 A Yep, closest to the tree.

25 Q Okay.

1 THE COURT: Thank you.

2 Q (By Mr. Sarabia) And while you're at it, the  
3 person who would be next to the right in the black shirt and  
4 the jeans, is that Mike's wife?

5 A Yeah. That's Amanda.

6 Q And then the next person over in the blue shirt  
7 and the black pants, who is that?

8 A Sara Connolly.

9 Q And the person who is partially obstructed by the  
10 pole that would be to the left as we're looking at the  
11 video, who is that?

12 A Dan Zweifel.

13 Q Okay. You can resume your seat.

14 A Okay. And you can see where Dan's daughter was  
15 over there on the --

16 MR. FALLS: Objection. Narrative.

17 THE COURT: Overruled. Go ahead. Tell me Dan's  
18 daughter's where?

19 THE WITNESS: Yeah. Over there. You can't see  
20 her I don't think but on the electric car on the  
21 sidewalk.

22 THE COURT: So you can see the car but you can't  
23 see the kid?

24 THE WITNESS: Correct.

25 THE COURT: Okay. Got you.

1 Q (By Mr. Sarabia) Okay. So as you guys were  
2 standing there, were you guys lighting off fireworks?

3 A No.

4 Q Were you shooting off guns?

5 A No.

6 Q Were you doing anything loud or aggressive?

7 A No.

8 Q So while you're there talking and a car drives up,  
9 what did you observe occur?

10 A The car pulled up, guy got out, went over and  
11 started moving the speed bumps that were in the road, you  
12 know, I don't know, he was saying something as he was doing  
13 it. I can't remember what he was saying.

14 Q Now, let me ask you, as he got out of the vehicle  
15 and headed towards the speed bumps, would you describe his  
16 demeanor in heading towards the speed bumps as aggressive or  
17 not aggressive?

18 MR. FALLS: Objection. Leading.

19 THE COURT: Overruled.

20 Go ahead.

21 THE WITNESS: Just general agitation. Like I  
22 said, he was -- he stopped abruptly, got out, made a  
23 beeline, you know, for the first set of speed bumps,  
24 threw them out of the way and then started to go for  
25 the next set of speed bumps when Mike Krnjaich stepped

1 in and gave him a shove.

2 Q (By Mr. Sarabia) Now, and you covered a lot of  
3 ground there. As before he, the defendant, even touched the  
4 first set of speed bumps, was Mike Krnjaich approaching him,  
5 walking out in his direction?

6 A I don't know. Mike was on the farther side of the  
7 driveway, you know, further over to the right from this  
8 screen here and I remember Mike was like, hey, whoa, hold  
9 on, buddy. You know, something to that effect. And I think  
10 right around the time he threw the first speed bump that's  
11 when Mike got to him. So I mean it was pretty quick, pretty  
12 quick.

13 Q Good description. And you indicated that Mike was  
14 saying things. Did you ever hear Mike use any aggressive  
15 language?

16 A No.

17 Q Did he ever curse at the defendant?

18 A No.

19 Q Did he ever make any verbal threats to the  
20 defendant as he was moving in the defendant's direction?

21 A No.

22 Q And up until the point of the shove, did Mike  
23 appear to have a calm demeanor?

24 A Yes.

25 Q Did you see the defendant in any way stop or

1 acknowledge or attempt to communicate with Mike before Mike  
2 pushed him?

3 A No. Like I said, when Mr. Clifton got out of the  
4 car you could tell he was agitated. You know, he was -- I  
5 don't know what he was saying. All I heard was something,  
6 you know, f'ing and illegal. And so he stormed over to the  
7 thing, didn't communicate, didn't make eye contact, didn't,  
8 you know, interact with anybody, just went and straight to  
9 the bump and threw it.

10 Q Okay. And in the process had to ignore Mike  
11 trying to talk to him in order to do that?

12 A Yeah. Mike was saying, whoa, hold on, buddy.  
13 What are you doing? You know, that sort of thing. You know  
14 trying to gauge the situation.

15 Q Okay. So as this is occurring and as Mike pushes  
16 the defendant, were you saying anything?

17 A No.

18 Q Did you make any aggressive movements in the  
19 direction of the defendant?

20 A No.

21 Q Did you have any weapons on you?

22 A No.

23 Q Did you have a gun or a knife or a broken beer  
24 bottle or anything of that nature on your person?

25 A No.

1 Q And what did you have in your hands at the time?  
2 I think you kind of already described?

3 A I had a phone in one hand and a half eaten apple  
4 in the other.

5 Q Okay.

6 A So --

7 Q And so as this is playing out, you weren't yelling  
8 out and cheering somebody on or jeering anybody?

9 A No.

10 Q How about Danny Zweifel and Sara Connolly and  
11 Amanda, were they yelling anything in the defendant's  
12 direction?

13 A No. The only thing that I remember is Amanda  
14 started calling for Mike. I think Mike's --

15 MR. FALLS: Objection. Hearsay.

16 THE COURT: Overruled. Go ahead.

17 THE WITNESS: So Amanda, you know, and if you  
18 watch the video again and I had a chance to watch it  
19 earlier, you can hear Amanda saying, hey, Mike, you  
20 know, Mike --

21 MR. FALLS: Objection. Hearsay.

22 THE COURT: Overruled. This is a stand your  
23 ground hearing. I'm allowed to consider hearsay and  
24 he's describing what's on the video which I'm going to  
25 watch.

1           So go ahead. I'm sorry. Go ahead.

2           THE WITNESS: That's it. I -- after the car  
3           stopped and Mr. Clifton started making his way to --  
4           into the road, that's when Amanda said, Mike, hey,  
5           Mike, you know, getting Mike's attention because he was  
6           over playing with the kids and, you know, further over  
7           to the right in the driveway.

8           Q        (By Mr. Sarabia) Okay. And, again, and so to be  
9           clear because there was some objection but she never made  
10          any statements to the defendant or said anything to the  
11          defendant during -- as this was playing out?

12          A        Not -- not to my memory, no.

13          Q        Okay. So once Mike pushes the defendant, can you  
14          describe what you observed happen then?

15          A        Mr. Clifton drew a gun and pointed it at Mike.  
16          Mike ran.

17          Q        When he pulled the gun and pointed it at Mike, was  
18          Mike still moving in Mr. Clifton's direction at all?

19          A        Not that I recall. It was -- it was a shove. So  
20          after -- after Mr. Clifton moved the first set of speed  
21          bumps he started going for the second set of speed bumps,  
22          which would have been on the right-hand side of the road,  
23          the right he was -- the side that he was driving on, that's  
24          when Mike and him, you know, came together and Mike gave him  
25          a shove.

1 Q Once the shove happens, does Mike continue to  
2 advance on the defendant?

3 A No. That was -- that was kind of it, you know.  
4 Mike gave him a shove and, you know, he went back a  
5 distance. There was a good amount of separation between  
6 them at that point and Mike was not advancing. I think he  
7 was just trying to keep him from moving the speed bumps  
8 again or the other speed bump.

9 And then, like I said, Mr. Clifton, you know, drew a  
10 gun really quickly and pointed it at Mike. Mike ran  
11 opposite direction down the road and then curved back  
12 towards his house.

13 Q As this is going on, the defendant has his gun  
14 out, is he pointing it the entire time that Mike's moving  
15 around?

16 A Yeah. So Mike -- Mike was gone. Mike was a lot  
17 faster than what he looks. He was -- he was gone and I  
18 think he was running, you know, down the road and then I  
19 think he was running for his kids, you know. And Amanda,  
20 you know, kind of the same thing. She screamed, ran up to  
21 the porch and then I wasn't looking at either -- at anybody.  
22 I was looking at the gun and --

23 Q And, so, where -- where were you as this is  
24 playing out?

25 A Pretty much the exact same spot there. I really

1 didn't --

2 Q Did you move at all?

3 A Well, once I saw the gun I moved like further  
4 behind the tree.

5 Q And why did you do that?

6 A Because I was scared.

7 Q Okay. And as you did that and as this other stuff  
8 is playing out, what does the defendant do with the gun?

9 A Well, he flagged -- he flagged all the rest of us.  
10 So Mike was gone and obviously, you know, running and then,  
11 you know, that's -- that's when I had an -- my first  
12 interaction with -- my only interaction with Mr. Clifton.  
13 So he pointed the gun at the three of us and we kind of all  
14 went and stood behind the tree.

15 And, so, like I said, so, he was pointing the gun at us  
16 and I said something to the effect of don't point that at me  
17 or don't point the gun at me. And I said, I'm just standing  
18 here eating an apple.

19 Q Okay. And I do want to play this portion of the  
20 video because I want to be very clear when he's pointing the  
21 gun at you because his stance changes a couple of times and  
22 you can't see the gun. So if you would watch it with me.  
23 Can you see it from where you are?

24 A Yes.

25 (Thereupon, the video was played. The recorded portion is

1 unintelligible and cannot be transcribed.)

2 Q (By Mr. Sarabia) Okay. At this point is the  
3 defendant pointing a firearm at you?

4 A Yes.

5 Q Okay.

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

8 Q (By Mr. Sarabia) And you're the individual that we  
9 can see who's interacting, verbally interacting with the  
10 defendant?

11 A Yes.

12 Q Now, are you using any aggressive language?

13 A I -- not in my opinion, no.

14 Q And did you threaten the defendant at all?

15 A No. I said --

16 Q Were you yelling, I'm going to kill you or F you,  
17 put that away, those types of obscene language?

18 A No. I think you can hear it. I say, don't point  
19 that at me or don't point your gun at me.

20 Q Okay. And are you saying that -- as you're saying  
21 that where is the defendant pointing the firearm?

22 A At me.

23 Q Okay. So at this point right here where you're  
24 interacting with him is he still pointing the firearm at  
25 you?

1 A Yes.

2 Q Okay.

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

5 Q (By Mr. Sarabia) And roughly how far were you from  
6 the defendant at that point?

7 A Twenty, maybe 20 feet, 25 feet. Somewhere -- 15  
8 to 25 feet. I don't know. It's hard to --

9 Q Okay. And, again, to be clear, all the way up  
10 until the end of this video you personally had not advanced  
11 on the defendant, you hadn't used any fighting words against  
12 the defendant, you hadn't pulled out any weapons or done  
13 anything aggressive whatsoever to the defendant?

14 A Correct.

15 Q Okay.

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

18 THE COURT: All right. Cross.

19 MR. FALLS: Yes, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. FALLS:

22 Q Very quickly, it's your testimony today that that  
23 video captures you indicating something to the effect of  
24 don't point that at me?

25 A Yes.

1 Q Okay. If I may?

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

4 Q (By Mr. Falls) Is that voice that you hear that  
5 says don't pull that out again, is that your voice?

6 A I think so, yeah.

7 Q Okay.

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

10 Q (By Mr. Falls) That voice that says, I'm just  
11 standing here eating an apple, is that your voice?

12 A Yes, sir.

13 Q Okay.

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

16 Q (By Mr. Falls) Is there anywhere on that video  
17 that was just played where you indicated that you stated to  
18 Mr. Clifton, don't point that thing at me?

19 A We just watched it together. Did you hear it?

20 Q That wasn't my question. My question was whether  
21 or not you heard on that video yourself saying, don't point  
22 that thing at me?

23 A Can you play it again?

24 Q Sure.

25 (Thereupon, the video was played. The recorded portion is

1 unintelligible and cannot be transcribed.)

2 Q (By Mr. Falls) After having a chance to review  
3 that video again, has it refreshed your recollection of the  
4 circumstances on that day?

5 A Yeah.

6 Q Okay. I'll ask the same question. At any point  
7 in that video did you hear yourself saying, don't point that  
8 thing at me?

9 A I didn't hear that, no.

10 Q Okay. So is it still your testimony today that  
11 you stated, don't point that thing at me?

12 A Yes, sir. It is.

13 Q Despite the fact that that's not anything or  
14 anywhere on that recording that we've played for the Court  
15 today?

16 A Yeah. I don't think you can hear every word, but  
17 I do recall specifically saying that.

18 Q Okay. But you would also agree that you stated,  
19 hey, don't pull that out again?

20 A If that's what it sounded like, yeah.

21 Q Okay. And then, I'm just standing here eating an  
22 apple?

23 A Yes, sir.

24 Q Okay. Now, as it relates to what you were able to  
25 see on that day, do you recall whether or not Mr. Clifton

1 was holding the firearm with one hand or two hands?

2 A I want to say it was two hands but it happened  
3 pretty quickly.

4 Q Okay. Do you recall telling the Detective Bonamen  
5 (phonetic) that was interviewing you that he was holding it  
6 with one hand?

7 A It was a while ago. I don't recall that.

8 Q Okay. If you had the opportunity to review  
9 Detective Bonamen's body camera footage and review the  
10 conversation that you had with him, would that refresh your  
11 recollection?

12 A Yes.

13 Q Okay. Now, as it relates to the color of the gun  
14 are you able to say that today?

15 A I assume black but I don't remember the exact  
16 color.

17 Q Okay. So the black in an answer that's an  
18 assumption?

19 A Yeah.

20 Q Okay. As it relates to the portion of  
21 Mr. Clifton's body that the firearm was drawn from, do you  
22 recall where the firearm was drawn from?

23 A Somewhere over on the right-hand side, but I don't  
24 remember if it was the front, backside. It's been a while.

25 Q All right. And as it stands the portion of the

1 video reflects you standing behind a tree that was in front  
2 of Mr. Krnjaich's home?

3 A Yes.

4 Q Okay. Now, based upon that angle, were you able  
5 to see the firearm being drawn?

6 A Yes.

7 Q And did you see Mr. Krnjaich take any additional  
8 steps towards Mr. Clifton after the initial shove?

9 A The two -- the twice that we just watched it now  
10 it didn't look like he took additional steps after the push.  
11 Looks like he just stood there.

12 Q Okay. And then as it relates to Mr. Krnjaich's  
13 path, did you see him end up circling back into the grass of  
14 his home?

15 A Yes.

16 Q Okay. And, so, when -- let's say during the  
17 investigation you potentially characterized what you saw, is  
18 it an accurate reflection to say that Mr. Clifton tracked  
19 Mr. Krnjaich with his firearm?

20 A Yeah. That makes sense.

21 Q Okay. So, from your perspective what you saw was  
22 an individual draw their firearm and then specifically track  
23 another individual, in this scenario Mr. Krnjaich?

24 A At the time it -- I didn't know where Mr. Krnjaich  
25 was. So --

1 MR. FALLS: Nothing further, Your Honor.

2 THE COURT: Okay. State, any redirect?

3 MR. SARABIA: Just briefly, Judge.

4 REDIRECT EXAMINATION

5 BY MR. SARABIA:

6 Q Once the firearm came out were you focused on the  
7 firearm?

8 A Yes.

9 Q And after the firearm came out and Mr. Krnjaich  
10 retreated, was the firearm pointed at you at some point?

11 A Yes.

12 MR. SARABIA: I don't have any more questions,  
13 Judge.

14 THE COURT: Anything else from either side?

15 MR. SARABIA: Not from this witness, Judge.

16 MR. FALLS: Not from this witness.

17 THE COURT: Okay. Can I ask a question? Anybody  
18 have a problem with that?

19 MR. SARABIA: Not at all.

20 EXAMINATION

21 BY THE COURT:

22 Q Mr. Adams, we hear your voice. Some of it's  
23 clear, some of it's muffled. There's screaming going on.  
24 Does Mr. Clifton say anything to you? I know you say  
25 something like, I'm just holding an apple, eating an apple,

1 something like that. Does he say something to you?

2 A I don't believe that he ever responded to me. You  
3 know, I think the only time I heard his voice, like I said,  
4 was when he first got out of his vehicle and was, you know,  
5 kind of muttering something.

6 Q And you can hear that on the video? He says  
7 something about illegal or unlawful or something like that?

8 A Something -- something to that effect, yes.

9 Q Okay. And, so, does he at any point -- so, you're  
10 saying he's pointing the gun. Is he looking at you? Making  
11 eye contact with you?

12 A When you're looking down the barrel of a gun it's  
13 really hard to know that 100 percent sure. But -- but it  
14 sure felt like it.

15 Q I mean, is that why you needed to feel like you  
16 had to tell him something? Like I got an apple. Like --

17 A Yeah. I'm like -- like I'm not -- yeah, I'm not a  
18 threat to you.

19 Q Kind of like hands up, don't shoot?

20 A Exactly. I'm standing here. I'm eating an apple.  
21 Like, you know.

22 Q Kind of like I'm not a threat? That's kind of  
23 what you were trying to tell him?

24 A Yeah. That was exactly. That was exactly it.

25 Q And he was out in the open? He didn't go back to

1 his car because I can -- his car is there --

2 A Yeah.

3 Q He's by his car, correct?

4 A Yeah. He's close. He's close to his car. He  
5 eventually did go to his car and he just went and sat in the  
6 driver's seat and it looked like he got on the phone, but,  
7 you know, it was a long time ago. But, like I said, he  
8 eventually went and got back in his car.

9 Q Okay. And, so, my last question to you, so he  
10 wasn't -- he didn't jump in his car and drive away like he  
11 was frightened or anything like that? He just sat in the  
12 car until the police got there?

13 A Yes. Well, he drove down the street a little bit.  
14 You know, and I think -- I assume he called the police  
15 himself because he just drove down the street and waited.

16 Q Okay. But that's what I'm saying. He didn't run  
17 away or -- he just went somewhere and then the police came?

18 A Yeah. He stood around for, you know, some period  
19 of time and then eventually he got into his car. It looked  
20 like he was on the phone and then he drove up, I don't know,  
21 100 yards or so.

22 Q Because the video just shuts off right there so I  
23 wasn't sure what happened.

24 A Right.

25 Q He's still out of the car when the video shuts

1 off?

2 A Yeah. He's still -- he's still out of the car.

3 Q My last question is: When he has the gun out --  
4 I'm sorry. When he's pushed by Mike, did he at any time  
5 look like he was falling to the ground or fell to the ground  
6 other than taking a couple of steps back?

7 A No. I mean, he went -- I mean, there was a good  
8 amount of separation there. You know, so, Mike gave him a  
9 pretty good shove. But, no, he seemed to regain his footing  
10 pretty quick and, you know, got into his --

11 Q And you've watched the video, we've shown it a  
12 couple of times. When the shove happens it looks like Mike  
13 actually goes northbound and he goes southbound back towards  
14 his car; would that be correct? Is that -- did they  
15 separate that way or did Mike stay still and he went back  
16 towards the car?

17 A I think -- I think Mike gave him the shove, right,  
18 and then he, you know, Clifton, you know, regained his  
19 composure and drew his firearm and then you saw Mike, you  
20 know, kind of go in the opposite direction. So...

21 Q So that's Mike who runs away?

22 A Yeah.

23 Q And then circles back towards --

24 A And he circles back, yeah.

25 Q -- towards his car. So he didn't run behind you

1 guys, he went the opposite way?

2 A Yeah. I mean, you can see Mike did actually, you  
3 know, start to come back behind where we are.

4 Q Okay.

5 A So --

6 Q Towards the house?

7 A Yeah. Back towards the front of the house where  
8 his wife and kids were.

9 Q So that would be -- put you between where the  
10 defendant is and where Mike is?

11 A Yes. That's what it looked like on the video  
12 there.

13 Q But then on the video Mike's on the porch with his  
14 children?

15 A Right.

16 Q Child. And is Mr. Clifton still pointing the gun  
17 at you at that point?

18 A Yeah. And, like I said, I assume it was pointed  
19 at me. I mean, it looked like it was at me and that's why I  
20 felt like I would say something like, you know, hey.

21 Q Because you're way closer to him? Mike's up at  
22 the house?

23 A Yeah. He's up at the house. I don't know that  
24 they would have had direct line of sight because of the way  
25 the tree was. You can see that I'm kind of, you know,

1 stooped down underneath the tree like showing my hands and  
2 you know Mike was, you know, at a little bit higher  
3 elevation obviously and then behind the tree. So, I mean,  
4 was Mike directly behind me? I'm, you know, I'm no  
5 forensics expert but I know what it felt like when I was  
6 there in the moment and that's why I said something. I  
7 didn't know -- I had no idea what was going on behind me.  
8 It was not the focus point for me at all.

9 Q But watching the video you can see Mike's not  
10 right behind you?

11 A Yeah. He's a little maybe off to the side a  
12 little bit there. So, you know, maybe a little bit off --  
13 off axis of where he was pointing the gun.

14 Q Okay.

15 A But, again, you know, there's a tree there. I  
16 mean, maybe -- maybe -- I don't know. I just know that when  
17 I was standing behind the tree and when I was having my  
18 interaction it was because I felt like the gun was pointed  
19 directly at me.

20 Q And when that's happening Mike's on the porch with  
21 his child?

22 A Yeah. He was -- well, I mean, it looked like Mike  
23 was kind of over to the side there a little bit. But -- but  
24 pretty close to the porch.

25 Q Okay. And if you had to say -- I don't know how

1 big these yards are -- how far is it from his porch to where  
2 you're standing? Fifty feet? Twenty feet?

3 A To where Clifton was standing and to the porch I  
4 want to say that that's, you know, I don't know 60 feet, 70  
5 feet, you know, somewhere in that range.

6 Q Okay. And then how far are you from Clifton? Ten  
7 feet?

8 A You know, if I'm standing on the shoulder of the  
9 road, I mean, what's a lane width? Ten feet or so?

10 Q Right.

11 A So 20 feet maybe.

12 Q Okay. Does he ever put the gun away that you  
13 recall?

14 A I -- I don't -- I don't remember that. It -- it  
15 did happen very quickly. So, I mean, at one point on the  
16 video I said, hey, don't -- don't take that thing back out  
17 or something to that effect. So maybe he did re-holster it.  
18 I don't know. I don't remember.

19 Q Okay. Okay.

20 THE COURT: State, any questions based on mine?

21 MR. SARABIA: No, Judge.

22 THE COURT: Defense?

23 MR. FALLS: Yes, Your Honor.

24 THE COURT: Okay.

25 (Thereupon, the video was played. The recorded portion is

1 unintelligible and cannot be transcribed.)

2 RECROSS-EXAMINATION

3 BY MR. FALLS:

4 Q At this point in time in the video, would you  
5 agree that this is when the firearm was pulled?

6 A Yes. It -- just before you see Mike run.

7 Q Okay. So for timestamp purposes of this specific  
8 video, this is the 53 second mark of the video as it relates  
9 to the imposed timestamp on the video, which I presume is  
10 from the Ring doorbell company. It indicates that it's  
11 5:49:57 PM. Is that an accurate representation?

12 A Yes.

13 Q Okay.

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

16 Q (By Mr. Falls) And at 1:04 of this video the  
17 imposed timestamp being 5:50:08 PM, is that you saying, hey,  
18 don't pull that thing out again?

19 A Yeah.

20 Q Okay. Now, is it a reasonable assumption that if  
21 you are telling somebody not to pull something out again  
22 that it had been re-holstered?

23 A I don't know if it was completely re-holstered or  
24 just out of sight.

25 Q Well, let me ask you this: Why would you say

1 that?

2 A So that he wouldn't pull it out again and point it  
3 at me again.

4 Q Okay. So it was not out at that time, the firearm  
5 being it?

6 A I don't know if it could have been re-holstered at  
7 that time. I really -- I couldn't say.

8 Q Okay.

9 A It was a pretty quick process.

10 Q Okay. So as it relates to your testimony today,  
11 you're saying that when you indicated not to pull that thing  
12 out again, it was for what reason?

13 A Because it wasn't pointed at me then and I didn't  
14 want it pointed at me again.

15 Q Okay. But I'll go back because you're changing it  
16 a little bit. You didn't say pointed at me you said pull  
17 that thing out again, correct?

18 MR. SARABIA: Objection, Judge. I think that's a  
19 misrepresentation of the video.

20 THE COURT: Sustained. And he's already testified  
21 so you don't get to tell him he's changing things. You  
22 asked him a question and he answered it. If you have  
23 another question for him, you can give him another  
24 question. Because he hasn't changed anything.

25 Q (By Mr. Falls) From what you hear did you say,

1 don't point that thing at me? And I'm specifically talking  
2 about that time period where I think it's 5:50:08 PM, right?  
3 I've been down the road where I asked you about whether or  
4 not you said pointing it at me. I'm just specifically  
5 talking about that statement at that period of time in the  
6 video?

7 A Yeah. It sounds like don't pull that thing out  
8 again.

9 Q Okay. Thank you.

10 MR. FALLS: Nothing further, Your Honor.

11 THE COURT: Okay.

12 MR. SARABIA: And real briefly based on Defense  
13 Counsel's question, Judge?

14 THE COURT: Okay.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. SARABIA:

17 Q Defense Counsel keeps adding the word again. Can  
18 you hear the word again or are you saying something to the  
19 effect of don't point that at me or I'm sorry, don't pull  
20 that out?

21 A Yeah. It's hard to tell on the video. There's a  
22 lot going on.

23 Q Okay. And is it fair to say there are parts of  
24 this where multiple people are speaking at the same time and  
25 it's difficult to discern exactly what one particular person

1 is saying?

2 A Yes.

3 Q Okay. And do you recall using the word again as  
4 you sit here today?

5 A If it wasn't for the video, I mean, I wouldn't  
6 even know where to start. So, it was a long time ago and  
7 there was a lot going on in that few seconds of time.

8 Q And when you say that you mean in terms of exactly  
9 the words that were used?

10 A Yeah. If -- if I had to write down the words  
11 verbatim of everything that I said that day I don't know  
12 what kind of accuracy there would be. I think the video is  
13 pretty clear but I do clearly remember saying don't point  
14 that thing at me. I'm just standing here eating an apple.

15 Q Okay.

16 A So --

17 Q And also you do remember clearly as you sit here  
18 today that the firearm was pointed at you at one point?

19 A Yes.

20 MR. SARABIA: No more questions, Judge.

21 THE COURT: Sir, you may step down. Thank you.

22 MR. SARABIA: And, Judge, State would call Sara  
23 Connolly.

24 THE COURT: All right. Can we have Ms. Connolly  
25 to come on in?

1 THE BAILIFF: Yes, ma'am.

2 THE COURT: Ms. Connolly, if you want to come on  
3 up to the microphone right here, ma'am.

4 THE WITNESS: Yes.

5 THE COURT: How are you?

6 THE WITNESS: Good. Thanks. How are you?

7 THE COURT: If you want to stop right there.  
8 Raise you right hand.

9 THEREUPON,

10 SARA CONNOLLY,  
11 the witness herein, having been first duly sworn, was  
12 examined and testified as follows:

13 THE COURT: All right. You can have a seat in the  
14 witness stand.

15 We're doing everything digitally today.

16 THE WITNESS: Okay.

17 THE COURT: So we just need to make sure that the  
18 microphone picks up all answers. No uh-huhs and uh-uhs  
19 or head nods. Okay?

20 THE WITNESS: Okay.

21 THE COURT: So that way we can type up your  
22 answers. All right.

23 THE WITNESS: Okay.

24 THE COURT: State, you may proceed.

25 MR. SARABIA: Thank you, Judge.

## DIRECT EXAMINATION

1  
2 BY MR. SARABIA:

3 Q Could you please state your name for the record?

4 A Sara Connolly.

5 Q And spell your last name for the record.

6 A C-o-n-n-o-l-l-y.

7 Q And back on February 9th of this year 2023, where  
8 did you live?

9 A On Barbour Trail.

10 Q Okay. Where do you live in relation to, I'm going  
11 to say, Mike's residence?

12 A Across the street.

13 Q Okay. And in fact I have the video paused. Can  
14 you see your driveway from this angle?

15 A I can, yes.

16 Q Okay. Is your driveway the one that is directly  
17 across from the four people standing there?

18 A That is correct.

19 Q Okay. Was it unusual for you to be socializing  
20 with neighbors to include Mike and Amanda and Dan and Will  
21 at this time --

22 A No.

23 Q -- in the afternoon hours --

24 A Not at all.

25 Q -- on the street?

1           A     It happened quite often.

2           Q     Okay.  So obviously we're here to talk about the  
3 incident where -- where Mike shoved the individual and the  
4 defendant pulled out a firearm.  Fast-tracking that.  Prior  
5 to Mike shoving the defendant, did you say anything  
6 threatening to the defendant?

7           A     No.

8           Q     Did you make any aggressive movements towards the  
9 defendant?

10          A     No.

11          Q     Did you see Will or Dan make any aggressive  
12 movements towards the defendant?

13          A     No.

14          Q     Did they say anything threatening towards the  
15 defendant?

16          A     No.

17          Q     Did you have any weapons in your hands?

18          A     No.

19          Q     Did you have any broken beer bottles or anything  
20 closely resembling a weapon in your hands?

21          A     No.

22          Q     Did you see any of the other individuals here  
23 aside from the defendant with any kind of weapons in their  
24 hands?

25          A     No.

1 Q Now, at the point -- there comes a point where  
2 Mike approaches the defendant and as he's doing so, as he's  
3 walking up to the defendant when the defendant is moving  
4 towards the speed bumps, was Mike trying to speak relatively  
5 calmly to the defendant?

6 A He was -- yes. He was asking him what he was  
7 doing and to stay away from his stuff.

8 Q Did Mike use any curse words?

9 A I don't believe so.

10 Q Did you hear Mike say anything threatening to the  
11 defendant?

12 A No.

13 Q Did the defendant give any kind of indication or  
14 acknowledgement that Mike was speaking to him?

15 A He just kept repeating that we were doing  
16 something f'ing illegal and saying a lot of curse words that  
17 we were doing the wrong thing by having the speed bumps in  
18 the road.

19 Q Okay. But did he appear to like interact with  
20 Mike or was he just speaking?

21 A He was just speaking.

22 Q Okay. So Mike pushes him. Can you describe after  
23 Mike pushed the defendant, what does the defendant do?

24 A He steps backwards and then backs up into my  
25 driveway and pulls a gun.

1 Q Okay. Did it surprise you when he pulled a  
2 firearm?

3 A Hundred percent.

4 Q At the time he pulled the firearm, was Mike moving  
5 towards him at all?

6 A No.

7 Q Was anybody moving towards him at all?

8 A No.

9 Q And once he pulled the firearm did Mike retreat?

10 A Yes.

11 Q And did the defendant move the firearm and point  
12 it in your direction and Dan's direction and Will's  
13 direction?

14 A Yes.

15 Q Now, what do you do as that's happening?

16 A I froze and I kind of moved behind Dan as much as  
17 I could and then I realized that Luke, the two year old, was  
18 on the driveway and so I turned to try to get him because it  
19 scared me to death that he was there but Mike had already  
20 gotten to him.

21 Q Okay. And specifically focusing on when the  
22 defendant pointed the firearm at you, were you afraid?

23 A Yes.

24 Q And at that point that he pointed the firearm at  
25 you, were you making any aggressive movements towards him?

1 A No.

2 Q Were you saying anything aggressive towards him?

3 A No.

4 Q Were you threatening him in any way?

5 A No.

6 Q And did you hear Will or Dan make any kind of  
7 threatening statements towards him?

8 A No.

9 Q Did they make any aggressive movements towards  
10 him?

11 A No.

12 MR. SARABIA: I don't have any more questions,  
13 Judge.

14 THE COURT: Cross?

15 MR. FALLS: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. FALLS:

18 Q As it relates at the point in time of -- good  
19 afternoon, Ms. Connolly. As it relates to the point in time  
20 which Mr. Krnjaich retreats away after the firearm was  
21 drawn, did you see where Mr. Krnjaich ended up?

22 A Yeah. He went behind me.

23 Q Okay. So he was behind you and behind Mr. Adams  
24 and Mr. Zweifel?

25 A Kind of. He had gone on to his driveway, which

1 was to my back right --

2 Q Uh-huh.

3 A -- and gone around because that's where his  
4 youngest son was.

5 Q Okay. And did he end up making his way towards  
6 the portion or in the portion of his grass or lawn area?

7 A I remember him running toward the porch with his  
8 son and kind of throwing him in the front door to get him  
9 away from everything.

10 Q Okay. But you don't recall whether or not  
11 Mr. Krnjaich ended up at a point in time in his lawn?

12 A Not -- not during that, no. I just remember him  
13 grabbing his son from the driveway and getting him on the  
14 front porch into the front door.

15 Q Okay. As it relates to the firearm and  
16 specifically do you recall what color the firearm was?

17 A Dark.

18 Q Do you have an idea of which portion Mr. Clifton's  
19 body the firearm was drawn from?

20 A No, I don't.

21 Q Do you have an idea of whether or not Mr. Clifton  
22 was holding the firearm with one hand or two hands?

23 A I believe it was with two.

24 Q Okay. And I think on direct examination you  
25 recounted that Mr. Clifton backed up?

1 A So when Mike pushed him, he stepped backwards.

2 Q When you say stepped backwards, do you mean to  
3 indicate that he had like stumbled backwards after being  
4 shoved?

5 A Yes. That's probably accurate.

6 Q Okay.

7 MR. FALLS: All right. Nothing further. Thank  
8 you, Your Honor.

9 THE COURT: State, anything else?

10 MR. SARABIA: No, Judge.

11 THE COURT: Ms. Connolly, thank you very much,  
12 ma'am. You may step down.

13 THE WITNESS: Thank you.

14 MR. SARABIA: The State would next call Daniel  
15 Zweifel.

16 THE COURT: All right. Can I have Mr. Zweifel in?

17 THE BAILIFF: Yes, ma'am.

18 THE COURT: Mr. Zweifel, good afternoon. If you  
19 can come to this podium right here with the microphone  
20 for me. You want to stop right there. Raise you right  
21 hand.

22 THEREUPON,

23 DANIEL ZWEIFEL,

24 the witness herein, having been first duly sworn, was  
25 examined and testified as followed:

1 THE COURT: All right. Have a seat in the witness  
2 stand for me. Speak in a loud and clear voice.  
3 Everything's being recorded digitally so we just need  
4 to make sure you use language so we can, if we need to,  
5 transcribe it we can type it up. Okay?

6 THE WITNESS: Okay.

7 THE COURT: All right. State, you may proceed.

8 MR. SARABIA: Thank you.

9 DIRECT EXAMINATION

10 BY MR. SARABIA:

11 Q Can you please state your name for the record?

12 A Daniel Zweifel.

13 Q And can you please spell your last name?

14 A Z-w-e-i-f-e-l.

15 Q And, Mr. Zweifel, I'm going to turn your attention  
16 back to February 9th of this year, 2023, where were you  
17 living at that time?

18 A Same place now, 3264 Barbour Trail.

19 Q And where is that in relation to 3290 Barbour  
20 Trail, Mike and Amanda's residence?

21 A Two houses down.

22 Q Okay. Now, around 5:45 in the afternoon, were you  
23 socializing with Mike, Amanda, Will Adams and Sara Connolly?

24 A Yes.

25 Q Was that unusual for you to be doing in the

1 afternoon hours along the roadway?

2 A No. Fairly common.

3 Q Okay. And while you were interacting, did a  
4 vehicle drive up and somebody get out?

5 A Yes.

6 Q Now, when that person got out, did they approach  
7 the plastic speed bumps that had been placed in the middle  
8 of the road?

9 A Yes.

10 Q Did they approach the plastic speed bumps in an  
11 aggressive manner?

12 A Very much.

13 Q As that was happening, did you have any weapons?

14 A No.

15 Q Did you have any guns, knives, fireworks, broken  
16 bottles in your hands?

17 A No.

18 Q Did you make any aggressive movements towards the  
19 individual who was heading towards the speed bumps?

20 A No.

21 Q Did you say anything to the person who was heading  
22 towards the speed bumps?

23 A Heading towards?

24 Q Yeah.

25 A I think I said, you know, what are you doing.

1 Something like that but I don't remember exactly what.

2 Q Did you curse at that individual?

3 A No.

4 Q Did you make any threats towards that individual?

5 A No.

6 Q Did you do anything aggressive towards that  
7 individual?

8 A No.

9 Q And did you see Mike -- I keep calling him Mike  
10 because I'm not going to pronounce his last name correctly.

11 A We struggle with it also.

12 Q But did you see Mike move towards the defendant as  
13 he aggressively headed towards the speed bumps?

14 A Yes.

15 Q And was Mike using any curse words as he  
16 approached him and attempted to interact with him?

17 A No.

18 Q Did Mike say anything threatening?

19 A No.

20 Q Was Mike using language that one would use if  
21 trying to deescalate a situation?

22 A I think he said, what are you doing? Something  
23 like that. But, yeah, it would have been just what are you  
24 doing? What's going on?

25 Q Okay. Did the defendant at all respond to Mike's

1 attempts at communication?

2 A Yes.

3 Q What did he do?

4 A He was -- I don't remember exactly what he was  
5 saying but he was definitely, you know, aggressively yelling  
6 some profanities along with I think saying something about  
7 these are illegal about the speed bumps, can't have these  
8 out here. Just --

9 Q As he was doing that, was he -- was he speaking to  
10 Mike? Like, did he ever turn and acknowledge Mike and  
11 interact with him or was he just speaking?

12 A Just speaking.

13 Q Okay. And did there come a point where the  
14 defendant grabbed one of the speed bumps in the opposite  
15 lane of travel and flung it off the road?

16 A Yes.

17 Q All right. And upon doing that did Mike shove the  
18 defendant?

19 A Yes.

20 Q And when he did so, what did the defendant do?

21 A Took a step or two back and then drew a gun from  
22 his waistline.

23 Q Okay. Did that surprise you?

24 A Shocked me, yes.

25 Q Did it scare you?

1 A Very much.

2 Q What did he do with the firearm?

3 A Pointed it at first at Mike. Mike retreated, ran  
4 off to the side I believe. And then he pointed it at me and  
5 Will and Sara.

6 Q Okay. Now, I have the video up and it's paused at  
7 a particular location. Do you see yourself?

8 A Yeah. I'm kind of right behind that pillar, the  
9 white pillar with khaki pants, black shirt, hands in pocket.

10 Q Okay. So you're the individual that would -- that  
11 is visible and that is furthest to the left as we're looking  
12 at the screen right now?

13 A Yes.

14 Q Okay. When the firearm gets pulled out, did you  
15 move anywhere for safety?

16 A I don't remember moving much. I was frozen in  
17 time.

18 Q Okay.

19 A I think I maybe shifted a little bit to try to  
20 hide behind that little tree or at least block a view. But  
21 there wasn't very far to go.

22 Q Okay. And as -- when the defendant pointed the  
23 firearm at you and Will Adams and Sara Connolly, were any of  
24 you making any threats to him?

25 A No.

1 Q Were any of you making any aggressive movements  
2 towards him?

3 A No.

4 Q Had any of you produced a weapon in that short  
5 interval of time?

6 A No.

7 Q Were any of you essentially involved in the  
8 situation that had unfolded thus far?

9 A Not directly, no.

10 Q Other than being spectators?

11 A Just being spectators, yeah.

12 Q So once the defendant points the firearm at Mike,  
13 points the firearm at the three of you who are standing  
14 there, did the defendant continue to stand in the roadway,  
15 driveway area for a period of time?

16 A Yes.

17 Q Was there any interaction that he had with you or  
18 the other -- or Will Adams or Sara Connolly?

19 A Not -- not verbal. No. No interaction really.

20 Q Okay. But did he immediately retreat to his  
21 vehicle or retreat quickly in any manner?

22 A No.

23 Q How would you describe his actions after,  
24 basically where the video ends?

25 A He stood there with the gun pointed. I remember

1 making what I thought was eye contact with the end of his  
2 gun, the barrel of his gun and he stood there for what felt  
3 like a long time, probably wasn't real time, but, you know  
4 it was definitely an intimidation move. It felt like to  
5 make sure that -- I don't know what he was making sure of.  
6 I mean, none of us were moving. We were pretty frozen.

7 Q Okay. And as that happens, then how does it end?  
8 What does he do?

9 A Eventually, I think he called 911 or police or  
10 something and explained the situation and then he wound up  
11 getting in his car and drove up, took a left on Berrypick  
12 and waited up there for police to arrive.

13 Q And where is Berrypick in relation to where we're  
14 seeing?

15 A If you look to the right it would be three houses  
16 there and then it would go left.

17 Q Okay. And even when he went up to Berrypick and  
18 stayed there in his vehicle, was he still within sight of --  
19 of you if you were standing outside of this residence?

20 A No. No. We'd have to walk because there's houses  
21 blocking. So we'd have to walk to the end of the street to  
22 see where he went.

23 Q Okay. How long -- how long do you think he  
24 remained parked in front of the speed bump where we see him  
25 pull up after having drawn the firearm until he moved his

1 vehicle over to Berrypick?

2 A Geez, I'm not exactly sure about that. Maybe five  
3 minutes, but I don't know.

4 Q But minutes not seconds?

5 A Yeah. Yeah. There was a period of time.

6 Q Okay. And because I don't remember if I covered  
7 this, when he pointed the firearm at you were you afraid?

8 A Terrified.

9 MR. SARABIA: I don't have any more questions,  
10 Judge.

11 THE COURT: Cross.

12 CROSS-EXAMINATION

13 BY MR. FALLS:

14 Q Good afternoon, Mr. Zweifel.

15 A (Unintelligible).

16 Q Skipping to the point in time in which  
17 Mr. Krnjaich retreated, were you ever able to see where he  
18 went? Were you kind of trained on the firearm?

19 A I over -- out of my peripheral I saw him running  
20 up his driveway, which would be right there. You can see  
21 the edge of it right there.

22 Q Were you ever aware of whether or not Mr. Krnjaich  
23 ended up at some point in time back in his yard area behind  
24 you all?

25 A I don't recall a time when he was back in the

1 yard, no.

2 Q Okay. Nothing further. Thank you.

3 MR. SARABIA: No more questions, Judge.

4 THE COURT: Mr. Zweifel, thank you. You may step  
5 down.

6 THE WITNESS: Sure.

7 THE COURT: State, call your next witness.

8 MR. SARABIA: State rests, Judge.

9 THE COURT: Okay. Defense, do you have any  
10 witnesses you'd like to call?

11 MR. FALLS: May I have a moment, Your Honor?

12 THE COURT: Sure.

13 MR. FALLS: Can we go off record?

14 (Audio off.)

15 THE COURT: All right.

16 MR. FALLS: At this time Defense rests.

17 THE COURT: Okay. Are we ready to do argument?  
18 State?

19 MR. SARABIA: Yes, Judge. We would also release  
20 all the witnesses. I think that they would want to be  
21 present.

22 THE COURT: Okay. If you want to step out there  
23 and tell them they are either free to go or they can  
24 come in and sit and listen if they'd like.

25 And in the meantime, if my Deputy can go ahead and

1 turn the lights up.

2 MR. SARABIA: Thank you, Judge.

3 THE COURT: I think we got stickers, didn't we?

4 THE CLERK: Yes.

5 MR. SARABIA: We have. And I will retrieve the  
6 exhibit and give it to the Clerk, Judge.

7 THE COURT: Okay.

8 MR. SARABIA: We did get a sticker.

9 THE COURT: And I'll need that anyway when we're  
10 done.

11 THE CLERK: Yes, Your Honor.

12 THE COURT: Thanks.

13 ARGUMENT

14 MR. SARABIA: And, Judge, the theme of the State's  
15 argument is that nothing that the defendant does in  
16 this entire situation is reasonable. Especially, like  
17 he is now trying to indicate is justifiable use of  
18 deadly force.

19 From the moment that the defendant arrives on  
20 scene, you see him pull up in a vehicle, he's not going  
21 slow on a residential neighborhood where there are kids  
22 all over the place playing, he gets out of his vehicle,  
23 he heads straight for these very unobtrusive plastic  
24 speed bumps, which clearly he is delaying himself more  
25 by headed over to the speed bumps than he would be just

1 maybe slowing down a mile or two and rolling over it.

2 But in so doing he creates an obstruction in the  
3 roadway by leaving his car. In fact, you can see  
4 another vehicle come behind him that cannot pass and  
5 he's standing in the other place and then he very  
6 aggressively, dare I say violently, removes one that's  
7 not even in his lane of travel.

8 And he is approached very politely I might add by  
9 -- and I'm going to use first names, Judge, because I  
10 just am not going to be able to get it right.

11 THE COURT: Mike.

12 MR. SARABIA: By Mike who says, hey, buddy, hey,  
13 buddy, what are you doing? There's absolutely nothing  
14 threatening about it. There's nothing aggressive about  
15 it. And the defendant doesn't respond. The defendant  
16 doesn't like take a moment and like, hey, these  
17 shouldn't be here. There's no conversation whatsoever.

18 He continues on his course and flings one of them  
19 across the road which generates the reaction out of  
20 Mike, which I would argue is not inappropriate given  
21 the circumstances but regardless we did not charge  
22 aggravated assault for him pointing the firearm at  
23 Mike.

24 The defendant steps back a couple of feet and then  
25 immediately draws a firearm. Now, the totality of the

1           circumstances, there are other people. And there's  
2           nobody yelling. There's nobody heckling. There's  
3           nobody cursing other than the defendant. There is  
4           absolutely no danger to him other than the danger that  
5           he decides to put himself in.

6           And he pulls out the firearm, which is a gross  
7           escalation of the situation. You can see how everybody  
8           reacts because of it's such a gross escalation of the  
9           situation. And the bottom line is it's not reasonable.  
10          There is nothing reasonable about it.

11          Moreover, we see Mike doesn't advance. And Mike  
12          doesn't advance even before the firearm's pulled out.  
13          Once the firearm is pulled out Mike retreats. Mike is  
14          well beyond any kind of being able to pose any kind of  
15          danger to the defendant. The defendant continues to  
16          have the firearm out and then points it at the  
17          individuals that are just standing there on the side of  
18          the road not doing anything except looking at their  
19          phone and eating an apple.

20          And you can see in the video how it plays out.  
21          You heard testimony from all of them that he points the  
22          firearm at them after having pointed it at Mike. And  
23          there's no justification for that. Even if we were to  
24          grant the defendant that pulling the firearm out  
25          initially was justified and the State does not agree

1 with that, but if we were to grant that to him then he  
2 better be 100 percent within the bounds of the law as  
3 he proceeds and he is not. He then points it and  
4 involves other people, which is grossly, grossly  
5 outside of his rights as a citizen of the State of  
6 Florida.

7 So, again, you can go through every different step  
8 of the 777 statute and each time the defendant fails  
9 miserably on the point of reasonable. Reasonable.  
10 Nothing he does is reasonable.

11 And tellingly it's not like he flees the scene  
12 afterwards. There's no indication that he's afraid.  
13 He is trying to provoke a situation where he can in his  
14 mind pull out his firearm and feel like a big man.  
15 There's no fear here. There's only wanting to feel big  
16 and that's what he does.

17 So, Judge, we're asking that -- the State has  
18 proved by clear and convincing evidence that the  
19 defendant is not justified in using the deadly force  
20 that he used and so we're asking you to deny his motion  
21 for stand your ground.

22 THE COURT: Okay. Defense.

23 MR. FALLS: Thank you, Your Honor.

24 In addressing Defense's motion, I will touch upon  
25 the reasonableness of Mr. Clifton's actions in use of

1 -- threatened use of his firearm.

2 As it relates to the video, obviously, Your Honor  
3 is going to review the video and I would ask that Your  
4 Honor potentially takes note of some of these  
5 timestamps as it relates to the video in and of itself.

6 In reviewing that video, there appears to be --  
7 now mind you I'm not the end all be all, but from my  
8 review at the 51 second mark at the video you can see  
9 Mr. Krnjaich approaching Mr. Clifton. And at that 51  
10 second mark Mr. Clifton takes two steps away from  
11 Mr. Krnjaich in an attempt to avoid any physical  
12 confrontation.

13 Then the push occurs. In counting the amount of  
14 steps that Mr. Clifton takes in an effort to regain his  
15 balance, from my count it appears as though there is  
16 nearly seven steps. And I think we've heard from a  
17 witness today, I believe that would have been  
18 Mr. Adams, who indicated that there was a good bit of  
19 distance between the two after the push.

20 Part of the reason which I've asked Mr. Krnjaich  
21 why or about his workout regimen and, you know, the  
22 build and shape of him is because from the view of the  
23 push it seems as though it was quite forceful at least  
24 from the perspective that it causes Mr. Clifton to have  
25 to take at least seven steps or is falling backwards or

1           however -- whatever the semantics are, as he is  
2           regaining his balance.

3           Now, in basically slowing the video down in an  
4           attempt to get a better look with, you know, with my  
5           laptop obviously it's a bit closer to my face, but with  
6           the idea is that at the 53 second mark of the video it  
7           appears, and it's Defense's position that Mr. Krnjaich  
8           takes one step in the direction of Mr. Clifton.

9           The idea is or at least the argument is from  
10          Defense perspective that after the forceful shove  
11          seeing that he is regaining his balance he takes one  
12          additional step for what Mr. Clifton believes is  
13          another attempt to inflict great bodily harm upon him.

14          THE COURT: Counsel, you have a problem.

15          MR. FALLS: I'm sorry.

16          THE COURT: You have a problem. You haven't put  
17          any of your witnesses on. So I have to go on the  
18          testimony of the statements in evidence in this case.

19          MR. FALLS: I understand, Your Honor. I'm making  
20          argument based upon the evidence that's been presented  
21          to the Court.

22          THE COURT: No. You're saying that your client  
23          believed something that's not in evidence.

24          MR. FALLS: I'm having a little trouble  
25          understanding where the Court's coming from.

1 THE COURT: I'm just making it clear to you. I'm  
2 going to let you make your argument. I want it clear  
3 there is no evidence that your client felt, believed,  
4 understood, could even presume that he was any way in  
5 any danger. There is no evidence.

6 MR. FALLS: I understand what Your Honor --

7 THE COURT: This is a stand your ground motion.  
8 This is a nonsworn-to statement. It means nothing. It  
9 gives the State the standard to go forward.

10 I'm just for the record, I want it clear your  
11 client did not testify. There is no evidence that  
12 there was any fear on the behalf of your client.

13 MR. FALLS: Your Honor, if I may?

14 THE COURT: Sure.

15 MR. FALLS: The argument that I'm making is based  
16 upon the circumstances.

17 THE COURT: So instead of saying your client I  
18 would suspect that you want to use a reasonable person?  
19 Because you have -- I can't tell you what your client's  
20 feeling or thinking or anything else. Your client  
21 chose not to testify. I'm just saying for the record  
22 for your argument if you want to argue a reasonable  
23 person standard, feel free. You can't argue your  
24 client anything because I don't know what your client  
25 was thinking. I don't know what he's feeling. I got

1 evidence from witnesses sworn under oath in my  
2 testimony and I got nothing else.

3 MR. FALLS: Okay.

4 THE COURT: So I just for the record, if you're  
5 going to argue, the only argument you can make is what  
6 a reasonable person might think, but I can't believe  
7 what your client was thinking. You can't say what your  
8 client was thinking. You can't argue what your client  
9 was thinking. Not evidence in this hearing.

10 So I'm just asking you to stick with the evidence  
11 that's in the hearing. That's all I'm asking.

12 MR. FALLS: For clarification purposes, Your  
13 Honor, because I would like the record to be clear, is  
14 Your Honor indicating that I cannot make the argument  
15 of what my client was thinking on that day?

16 THE COURT: Correct. You have -- it's not --

17 MR. FALLS: Okay. Thank you. I'll move on.

18 THE COURT: You're more than welcome to make the  
19 argument of what a reasonable person would think, but  
20 you cannot make an argument of what your client was  
21 thinking or feeling or anything else because that's not  
22 in evidence.

23 MR. FALLS: I understand the Court's position.  
24 I'll move on. Thank you, Your Honor.

25 THE COURT: Okay. Okay. Thank you.

1 MR. FALLS: Going back, Your Honor, to the  
2 timestamp on which I was reflecting upon, at the point  
3 in time of 53 seconds on the video, there is a period  
4 of time where Mr. Krnjaich takes one additional step in  
5 the direction of Mr. Clifton. As it relates to that  
6 one additional step a reasonable person would believe  
7 that after being shoved with enough force to stumble  
8 back seven feet and create a great amount of distance  
9 as testified to by one of the witnesses, and seeing  
10 that individual that just inflicted physical harm take  
11 an additional step towards them a reasonable person  
12 would believe that they are in imminent harm, imminent  
13 great bodily harm or imminent death given the facts and  
14 circumstances that would be known to a reasonable  
15 person at that time. A reasonable person at that time  
16 being in Mr. Clifton's shoes knowing the size  
17 difference, the amount of strength and the force that  
18 was used in that initial shove.

19 Now, as it relates to the video and moving  
20 forward, it would appear at the 53 second mark of that  
21 video that Mr. Krnjaich realizes that a firearm was  
22 drawn and at that point he retreats.

23 Going further, at the 58 second mark as testified  
24 to by Mr. Krnjaich when he was standing in the portion  
25 of his lawn visible on the Ring camera footage, his

1 body tension releases a bit and his shoulders drop and  
2 Mr. Krnjaich indicated on the stand today that that  
3 firearm was not pointed at him at that time.

4 Going a step further, there is a period of time  
5 that can be heard and that's probably right around the  
6 1:04 mark where the witness Mr. Zweifel testified to  
7 today that he indicated, hey, don't pull that out. It  
8 is Defense's position that the statement in completion  
9 is hey, don't pull that out again.

10 Now, from the Defense's perspective that statement  
11 in and of itself should give a reasonable person the  
12 understanding that the firearm had been holstered or at  
13 lease at a point where it was no longer visible given  
14 the statement don't pull that out again.

15 Taking it one step further, there is at least some  
16 sort of disagreement as to what was able to be heard or  
17 what wasn't able to be heard, but I do believe that the  
18 video in and of itself does not capture the witness  
19 Mr. Zweifel indicating -- indicate -- excuse me,  
20 Mr. Adams, indicating that the not to point that thing  
21 at me again. I do think that the statement was I'm  
22 just standing here eating an apple.

23 Taking all of that into perspective and evaluating  
24 it from the perspective of whether or not a reasonable  
25 person would be in fear for great bodily harm or death,

1           it's the Defense's position that given everything and a  
2           totality of the circumstances it was reasonable.

3           Now, taking it a step further, there's an  
4           indication that Mr. Clifton stayed on the scene.  
5           Counsel indicates that it was because it was an  
6           indication that he wasn't in fear. I think the  
7           argument is -- I think it's a strong argument from the  
8           perspective that if Mr. Clifton got in his car and  
9           immediately left the scene there then would be enough  
10          argument that it was because of a consciousness of  
11          guilt. I think ultimately the Court can take from the  
12          fact that everyone testified to today that Mr. Clifton  
13          ended up getting in his car and remaining on scene was  
14          the fact that Mr. Clifton did not or at least cannot be  
15          drawn from that that he had a consciousness of guilt.

16          With all the information that has been presented  
17          to the Court today, given the timestamps that I have  
18          provided, I would ask this Court to reflect upon the  
19          video and cross reference those timestamps. I think  
20          there was some disagreement as to what was visible or  
21          what was not visible on the video. I am not the end  
22          all be all, but I will say pay extremely close  
23          attention to the video and you know to those  
24          timestamps.

25          But given all and everything that I've argued

1 today, given the evidence that has been presented it's  
2 Defense's position that the State has failed to meet  
3 their burden by presenting clear and convincing  
4 evidence that Mr. Clifton was not in reasonable fear of  
5 great bodily harm or death and, therefore, should be  
6 granted immunity from prosecution in these charges.

7 THE COURT: Okay.

8 State, anything else?

9 MR. SARABIA: Judge, I would just say that there  
10 is no real good argument that Mr. Krnjaich takes any  
11 steps towards Mr. Clifton after the shove. He's, if  
12 anything, just shifting his weight. There's no  
13 substantial movement of aggression in that direction.

14 And there is -- we can't get inside of the  
15 defendant's head and imagine what is there for purposes  
16 of this motion. It's not laid out in the motion itself  
17 and the defendant certainly didn't testify. So  
18 speculating about that gets the Court nowhere.

19 But, again, the charges charged against the  
20 defendant are against not Mr. Krnjaich but the other  
21 three individuals and they did nothing. And they were  
22 not aggressive in any manner and all three of them had  
23 the gun pointed at them just because they were there.

24 MR. FALLS: If I may briefly, Your Honor, because  
25 it raises a good point for me, Your Honor, that I did

1 leave out in my original argument as it relates to the  
2 testimony today I think it was apparent that, A,  
3 Ms. Connolly indicated that Mr. Krnjaich ended up  
4 behind her.

5 And then as it relates to the Court questions of  
6 the witness Mr. Adams, I believe, who testified that  
7 Mr. Krnjaich did end up behind him. He indicated,  
8 well, not directly behind me, I mean, I'm not forensic  
9 evidence but there may have been a little -- he may  
10 have been a little bit off (unintelligible).

11 Ultimately the argument that I was making based  
12 upon the location of where Mr. Krnjaich ended up is  
13 that the Court heard from Mr. Zweifel who indicated  
14 that Mr. Clifton was tracking Mr. Krnjaich, tracking  
15 him with the firearm and at a certain point in time the  
16 video displays Mr. Krnjaich ending up in the yard  
17 behind the three individuals that are listed as the  
18 victims in this case.

19 Wherefore, it is Defense's argument that because  
20 of the location and because of the distance in between  
21 the individuals here today that would lead them to  
22 believe that they were being aimed at with the firearm  
23 but the evidence can support that the firearm's  
24 actually tracking Mr. Krnjaich who ended up behind  
25 those three individuals.

1 Thank you.

2 RULING

3 THE COURT: Okay. I will take an opportunity.  
4 I'm going to write an order in this matter. I will  
5 look at the video. I'll indicate preliminarily and I  
6 will complete this with the written order in this  
7 matter, that the State has filed the allegations of  
8 aggravated assault with a deadly weapon against  
9 Mr. Clifton with the victims being not the original  
10 person who pushed him, but being the three individuals  
11 who had nothing to do with that.

12 So the Court has to look at, in this particular  
13 case, is first whether the defendant had a right to  
14 pull a firearm. You may display a firearm in the State  
15 of Florida legally. So he can pull it out but he can't  
16 point it at people. So the difference is pulling out a  
17 firearm and holding it low or maybe pulling it out,  
18 keeping it in his car, whatever he wants to do. The  
19 part that makes this an aggravated assault is when you  
20 point it at somebody. That's the difference between  
21 when you look at the case law between *Little* and *Burns*  
22 (phonetic), it's the difference between open carrying a  
23 weapon and actual ag assault.

24 In this particular case I think the evidence is  
25 clear and the Defense are stipulating in their motion

1 that the firearm was not pulled out but the firearm was  
2 pulled out and pointed at people. And the problem is  
3 is that you have to get even by the first aggravated  
4 assault, which the State didn't even file, the item  
5 that is in road is the property of another. It is not  
6 the property of the defendant.

7 So first and foremost, the defendant doesn't have  
8 a right to decide legally or illegally that he gets to  
9 take other people's property. So this is property of  
10 another that's laying in the road that he doesn't like.  
11 So he stops his car. He doesn't say, hey, I don't  
12 think it's right for you all to have those here. Can  
13 we move them? Can you move them? Call the Sheriff's  
14 Office. No. He doesn't do that. He decides to go  
15 take the property of another. And if you take the  
16 property of another they have a right to defend their  
17 property.

18 So first and foremost, the defendant taking  
19 someone's property and the fact that someone went over  
20 there to try and stop him from taking their property  
21 does not give him the right then to pull a firearm out  
22 and threaten them with it.

23 So the problem Mr. Clifton has is he's the  
24 aggressor in this matter and there's case law and  
25 there's jury instructions and there's a whole lot of

1 other stuff. So he's not in his own residence. He's  
2 not in his own vehicle. He's not in his own yard.  
3 He's not defending his own property. He has none of  
4 those rights.

5 So then we get to the stand your ground, general  
6 stand your ground motion that he has a right -- he has  
7 an obligation if he's doing something wrong to retreat  
8 before he pulls out the firearm. And, so, he gets  
9 pushed. He does not fall to the ground. He does not  
10 lose his -- he might lose his balance and step back  
11 several feet. Everybody said he steps back. He gives  
12 distance between him and who he thinks is a danger.  
13 There's no weapons used by the other person. There's  
14 no indication that he has any weapons. And he, at  
15 best, loses his own footing when he pushes him. He  
16 steps either back once or forward once but he doesn't  
17 move from his location. I've watched the video three  
18 times specifically looking at the person who pushed who  
19 is not the victim in this case and is not named as the  
20 victim in this case. So therein lies one of the  
21 issues.

22 So the person who pushes him stands still. He  
23 goes back by everybody's at least a lane, a driving  
24 lane in a residential neighborhood. Maybe ten feet, I  
25 think someone testified. So ten feet. He goes ten

1 feet back. The other person stands still. He's got  
2 absolutely no reason in any reasonable person standard  
3 to believe that he is in any danger of death and great  
4 bodily harm.

5 He didn't punch him in the face. He didn't punch  
6 him on the leg. He didn't say, you know, I'm an MM  
7 fighter. He didn't do a whole bunch of other stuff  
8 that we've heard. Hey, I'm a boxer. I'm an MM  
9 fighter. What do you want to do? Come at me. He  
10 doesn't say any of that. He doesn't threaten him. He  
11 doesn't, hey, if you do anything else I'll kill you.  
12 He doesn't make any statements whatsoever of aggression  
13 towards the defendant other than push him away from his  
14 own property that he has now thrown and by the  
15 testimony maybe destroyed because he threw it, while he  
16 says you're doing, quote, fucking illegal stuff.

17 He's the only one cussing. He's the only one  
18 aggressive. No one else is aggressive there. No one.  
19 The statements of the other people on the video are,  
20 hey, buddy, what are you doing? What are you doing?  
21 Hey, what are you doing?

22 He doesn't stop. He doesn't talk to them. He  
23 doesn't say, you touch that I'm going to kill you. He  
24 doesn't say any of that. He pushes him away from his  
25 own property and then there's at least ten feet. So

1           there's no indication that a reasonable person standard  
2           would make anyone believe that they are in danger of  
3           death or great bodily harm. Maybe bodily harm but not  
4           death or great bodily harm.

5           He hasn't been injured in any way. He was pushed.  
6           Pushed. That's it. Hands. Nothing to the face. No  
7           reason to believe he has a weapon. Nobody has a  
8           weapon.

9           So then we get the gun, comes out, points it at  
10          the pusher. The State doesn't even charge that.  
11          Doesn't even charge him as a victim. He runs. The  
12          person who he's scared of runs, runs the other  
13          direction. Runs.

14          So now he's ten feet. Now he's 20 feet. Now he's  
15          15 -- he's always further away from the defendant after  
16          he pulls the firearm then he was when he was pushed.  
17          He's a lane, then he's a sidewalk, then he's into the  
18          grass, then he's up on the porch.

19          So this person who he's supposedly is in fear of  
20          death or great bodily injury, which I don't find he was  
21          even at ten feet, is now 15 feet, 20 feet and by some  
22          indications 70 feet away from him but he still has the  
23          firearm pointed.

24          He then points the firearm at Ms. Connolly, who  
25          has done nothing. He points the firearm at Mr. Adams,

1 who has done nothing. And Mr. Zweifel, who has done  
2 nothing. They've stand still. I believe two out of  
3 the three's testimony is they froze. Does nothing.

4 No serious indication that they are of any way a  
5 danger to him and he cannot say that he was pointing it  
6 at Mike because Mike is now 70 feet away on the front  
7 porch. So he didn't have a right to be fear in the  
8 first place, he clearly doesn't have a right to be fear  
9 when Mike's running the other way and at one point if  
10 he's pointing this gun he's now pointing at Mike and a  
11 child because Mike has the child in his hands when he's  
12 running to the porch when you can hear Mr. Adams  
13 saying, hey, whoa, whoa, I'm eating an apple.

14 So the problem that Mr. Clifton has is that no  
15 reasonable person would believe that they were in  
16 danger of death or great bodily harm from Mike and then  
17 accidentally point the gun at three other individuals  
18 who are standing ten feet away from him or less when  
19 Mike's 60 feet with a child on the front porch. It  
20 doesn't make any sense. It's not going to make any  
21 sense. There's no way stand your ground works here.

22 You know, Mr. Clifton is going to get his motion  
23 to stand your ground denied. And I'll do an order and  
24 I'll write it up and I'll provide it to you and you can  
25 see if you want to appeal. But the video is clear.

1 The aggressor is Mr. Clifton. He goes and grabs  
2 people's belongings that are not his. He does not own  
3 the road. He is not law enforcement. He has no right  
4 to take other people's property.

5 It would have been no different if one of those  
6 child's bikes were in the front of the road. What's  
7 the difference? They put a plastic thing down so  
8 people don't drive fast when their little kids are  
9 driving in the road. If he believes they're illegal  
10 then call law enforcement. Let them decide. He  
11 doesn't get to grab people's belongings and start  
12 throwing them around and then claim self-defense when  
13 he pulls out a gun and points it at them.

14 They have a right to protect their property and he  
15 was in no way in danger of death or great bodily harm  
16 from anyone.

17 So first he points it at Mike, State didn't even  
18 charge that. And then he points it at three people who  
19 had nothing to do with that. Didn't touch him. Didn't  
20 point at him. Didn't have no weapons in their hand.  
21 They made no aggressive action towards him and he took  
22 an opportunity to go ahead and point it at them and  
23 stay pointing it at them.

24 Whether he ran away or whether he called 911 or  
25 whether he drove around, I don't care. He pointed the

1 gun at them. They all testified that he pointed it  
2 directly at them. He pointed at them individually.  
3 They all were frozen. He did that until I guess he  
4 felt like everybody was frozen enough. And then he got  
5 in his car, called 911 and drove away.

6 So at this point, he has no right to claim stand  
7 your ground because there's in no way, shape or form  
8 anything I've seen on the video or heard in testimony  
9 would believe that he was at any time in fear of death  
10 or great bodily harm from anyone.

11 And the first push was reasonable because he  
12 actually destroyed somebody's property and they have a  
13 right to do non-deadly force in order to protect  
14 themselves or their property.

15 So at this point the push was legal and his  
16 escalating it to use of a deadly force when there was  
17 non-deadly force used in the first place, you don't get  
18 to make that jump. And there's a whole bunch of cases  
19 that back that up.

20 So at this point it will be denied. I'll add some  
21 case law that I have downstairs.

22 And this is a pretrial. And we can decide after I  
23 sign the order whether you and your client want to  
24 appeal and I can reset the pretrial.

25 For those who are here, if they want to go ahead

1 and leave so they don't have any contact with the  
2 defendant in the hallway or the parking lot that will  
3 be great. The last thing we need is more conversation.

4 All right. So I'll reset the pretrial on  
5 Mr. Clifton's case. I'll prepare an order denying the  
6 stand your ground motion. And I do want to take the  
7 video just so I can use the timestamps in there.

8 I have December -- I'm in the wrong year. I was  
9 looking at -- sorry. I was looking at what February  
10 was, what day of the week it was.

11 I have December 4th at 1:30? Counsel, you  
12 available?

13 MR. SARABIA: That's fine with the State.

14 MR. FALLS: I personally will not be available.  
15 But if may --

16 THE COURT: How about the 18th?

17 MR. FALLS: I'm going to be out that month on  
18 paternity leave. My wife is having --

19 THE COURT: Oh. Congratulations.

20 MR. FALLS: Thank you. I just want to make sure  
21 that Attorney Metcalf will be available.

22 THE COURT: Okay. Do you have --

23 MR. FALLS: And I can look at the 4th as well.

24 THE COURT: Okay. Look at the 4th and the 18th.

25 MR. FALLS: The 4th Attorney Metcalf will be in

1 Pinellas.

2 THE COURT: In the afternoon?

3 MR. FALLS: In the morning.

4 THE COURT: No. This is in the afternoon.

5 MR. FALLS: Okay.

6 THE COURT: It will be December 4th at 1:30.

7 MR. FALLS: Cool. I will double book him for that  
8 day.

9 THE COURT: Okay. December 4th at 1:30 for  
10 pretrial and I'll prepare the order. Okay?

11 All right. You all have a nice weekend.

12 MR. SARABIA: Thank you, Judge.

13 MR. FALLS: You as well.

14 (Proceedings concluded.)

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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 30th day of August, 2024.

/S/ Joanne Ellis

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Joanne Ellis  
Digital Court Reporter  
Sixth Judicial Circuit