

IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT, IN AND
FOR ALACHUA COUNTY, FLORIDA.

CASE NO.: 01-2021-CF-003691-A
DIVISION I

STATE OF FLORIDA

vs.

ANDRE ABRAMS, SR.,
Defendant.

TRIAL

DATE: Thursday, March 6, 2025

TIME: 8:38 a.m. - 4:49 p.m.

PLACE: Judge Stephan P. Mickle, Sr., Courthouse
220 South Main Street
Gainesville, Florida 32601

BEFORE: The Honorable Sean Brewer

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were reported by:

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appearing on behalf of the Defendant.

ALSO PRESENT:

Andre Abrams, Senior, Defendant

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WITNESSES FOR THE DEFENSE

No witnesses

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EXHIBITS FOR THE STATE

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EXHIBITS FOR THE DEFENSE

No Exhibits

1 P R O C E E D I N G S

2 (The following proceedings were had
3 before the Court and out of the presence of
4 the Jury:)

5 THE COURT: Good morning, sir.

6 Sir, when I say we start at 8:30, I
7 expect you to be here at 8:30. Understand?

8 MR. ABRAMS: Yes, sir.

9 THE COURT: Thank you.

10 All right. We are on the record in Case
11 01-21-CF-3691, *State of Florida vs. Andre*
12 *Abrams, Senior.*

13 Does the State or Defense plan on
14 presenting any flash drives today?

15 MS. GOECKEL: Yes, Your Honor. We have
16 one set for our demonstrative aid that we
17 were going to use in one of our testimony.
18 As far as the clerk has right now, she has a
19 disk. We also have the two other ones which
20 have the body cam of Officer Perez and
21 Officer Marcotte, which we're not entering
22 in our case in chief, but it is a
23 possibility it might be used during the
24 trial; so we do have those on a USB, as
25 well.

1 THE COURT: I just want you to come up
2 with a laptop so I can see them with the
3 Defense.

4 MS. GOECKEL: Sure.

5 THE COURT: Do you have any, sir?

6 MR. MARTIN: No, sir, but I do have a --
7 I'm assuming the demonstrative aid that
8 they're referring to is a video that they
9 disclosed -- was that on the 5th?

10 MS. GOECKEL: I believe so.

11 MR. MARTIN: Right. Which we would
12 object to.

13 THE COURT: Okay.

14 MR. MARTIN: So --

15 THE COURT: I don't know what the
16 demonstrative aid is.

17 MR. MARTIN: Yes, sir. Is that what
18 you're --

19 MS. GOECKEL: It's one of the ones we're
20 watching.

21 THE COURT: Why don't you-all come on
22 up.

23 So the first thing I just want to do is
24 just see what's on the disks, then on the
25 flash drives, then I will take up the

1 objection to the demonstrative aid as a
2 motion in limine.

3 MS. GOECKEL: Yes, Your Honor. So there
4 is a video and there's three photos. Do you
5 want to -- do you want me to play the video,
6 as well, or would you --

7 THE COURT: No, no, no. Here is my
8 question. Are these coming through the same
9 witness?

10 MS. GOECKEL: Yes, all four of these are
11 coming through the same witness.

12 THE COURT: And you don't plan on
13 entering the drive until all four of them --
14 the predicate has been laid for all four to
15 be in evidence?

16 MS. GOECKEL: And it's more -- it's
17 demonstrative, so it's not going --

18 THE COURT: This is the demonstrative
19 aid?

20 MS. GOECKEL: This is the demonstrative,
21 yes.

22 THE COURT: And tell me what the
23 demonstrative aid is.

24 MS. GOECKEL: Yeah. So the
25 demonstrative is a video clip of the

1 functioning and operation of the
2 flamethrower conducted by the fire chief,
3 John Adler, as well as the photographs that
4 set the scene of where that demonstration
5 took place --

6 THE COURT: Okay.

7 MS. GOECKEL: -- for the witness to then
8 explain, as well.

9 THE COURT: Okay. And so what I'm going
10 to ask you to do is proffer the predicate
11 for the demonstration.

12 MS. GOECKEL: Okay.

13 THE COURT: I don't know if you were in
14 here when I ruled on the demonstration on
15 Monday -- on the live demonstration on
16 Monday.

17 MS. GOECKEL: I knew that, as far as
18 taking the jury out and showing them, that
19 was denied. But I do not recall what the
20 rest of the conversation was.

21 THE COURT: Okay. So what I ruled was
22 that it wasn't just a jury view; it was a
23 request for a demonstration. And I ruled
24 that there had been nothing pled or nothing
25 argued to show, A, that the demonstration is

1 being held under substantially similar
2 circumstances as what occurred on the night
3 of the incident.

4 MS. GOECKEL: Understood.

5 THE COURT: And then, B, that the
6 probative value of the demonstration
7 outweighs any prejudice that could be
8 incurred from a misleading demonstration to
9 the jury.

10 MS. GOECKEL: I understand.

11 THE COURT: Okay. So that was the
12 ruling on the live. I would -- if you
13 proffer the testimony, then I'll rule on
14 whether or not the predicate has been laid
15 for the demonstration.

16 MS. GOECKEL: Okay.

17 THE COURT: So your objection will be
18 taken under advisement, nothing is going to
19 be -- and I'm going to order that nobody
20 mention the demonstration during opening.

21 MS. GOECKEL: Certainly, yes, Your
22 Honor.

23 THE COURT: And so I'll rule when it's
24 appropriate, but your motion in limine --
25 your oral motion in limine is under

1 advisement.

2 MR. MARTIN: Yes, sir.

3 THE COURT: Anything further that you
4 want to say about that?

5 MR. MARTIN: Not on this matter, Your
6 Honor.

7 THE COURT: Okay. All right. So, and
8 you have a couple other flash drives that
9 you want to use potentially, I take it, in
10 rebuttal or maybe cross-examination.

11 MS. GOECKEL: Cross or rebuttal, yes.

12 THE COURT: Okay. All right.

13 MR. MARTIN: Okay. I'm sorry. So
14 you're not playing the body cam video in
15 your case in chief?

16 MS. GOECKEL: The 40-second one I am.
17 These are just the full body cam videos of
18 the officers.

19 THE COURT: Is the 40-second one on a
20 disk?

21 MS. GOECKEL: It is. That's the one
22 that's on the disk right there.

23 THE COURT: And that's the only thing on
24 the disk?

25 MS. GOECKEL: That's the only thing on

1 the disk.

2 So this is Officer Marcotte's body cam.

3 And it's body cam number 3. He has three

4 separate body cams and we are only --

5 THE COURT: Okay. So this is a body

6 cam. And what does it cover?

7 MS. GOECKEL: So this is Officer

8 Marcotte when he's on the scene and he's

9 talking to the Defendant. So he comes up,

10 he starts talking to the Defendant. He gets

11 pulled away by Perez to discuss a little bit

12 more about the investigation, then comes

13 back and continues talking to the Defendant.

14 THE COURT: Okay. And how long is this

15 approximately?

16 MS. GOECKEL: 35 minutes.

17 THE COURT: Okay. So you have this?

18 MR. MARTIN: Yes.

19 THE COURT: All right. And if there --

20 what I'm understanding is that it's either

21 going to be rebuttal or cross, so we don't

22 know what purpose it would be used for now.

23 And if you have an objection at the time,

24 we'll take it up if it even is attempted to

25 be -- excuse me, introduced.

1 Okay. Can I see the next one?

2 MS. GOECKEL: Yes. Okay. And then this
3 is the body cam video of Officer Perez.
4 This is the -- it's a little over an hour,
5 the one that we were discussing on Monday --
6 or the subject of the motion on Monday. And
7 then this is the same body cam where the
8 State has a 40 -- 30-to-40-second clip that
9 we're using in our case in chief.

10 THE COURT: That you're taking out of
11 it?

12 MS. GOECKEL: Yes.

13 THE COURT: Okay. You have this, I take
14 it, Mr. Martin.

15 MR. MARTIN: I do.

16 So this is rebuttal or
17 cross-examination.

18 THE COURT: Sure.

19 MR. MARTIN: Is that right?

20 MS. GOECKEL: Yes.

21 MR. MARTIN: And you've redacted from
22 this one the portions that were specifically
23 objected to?

24 MS. GOECKEL: What do you mean?

25 MR. MARTIN: Well, the portions where

1 the detective is giving opinion and
2 commentary about his guilt.

3 MS. GOECKEL: So I'm not entering this
4 into our State case in chief. This is just
5 to have if we need for cross-examination
6 and/or rebuttal.

7 MR. MARTIN: So you wouldn't play it --
8 I'm sorry. I didn't mean --

9 MS. GOECKEL: Nothing has been redacted.

10 MR. MARTIN: But you wouldn't play the
11 whole thing.

12 MS. GOECKEL: No, that's not the
13 intended purpose. I mean, I guess it's a
14 possibility we would play the whole thing,
15 but I don't foresee that happening.

16 THE COURT: So we will take up all those
17 issues if it becomes relevant. And it may
18 be that there is a portion that is relevant
19 and the whole thing is not. And then I have
20 no idea because I haven't heard any argument
21 yet, but I may rule that they can cut a
22 portion of it and have it entered that
23 doesn't have the objectionable opinions that
24 you're referring to. It may be that the
25 objectionable opinions, the door has been

1 opened. I have no idea. But we'll take all
2 that up as it comes.

3 MR. MARTIN: Yes, sir.

4 THE COURT: All right. Anything further
5 on the issue of media?

6 MS. GOECKEL: I don't believe so.

7 THE COURT: Okay. Thank you. If
8 you-all can return to your desks, and we'll
9 take up some other issues.

10 MS. GOECKEL: Your Honor, I'm going to
11 give the demonstrative aid to Madam Clerk.

12 THE COURT: Sure.

13 All right. While that's all occurring,
14 it's my understanding that Mr. Abrams sent
15 an email to my judicial assistant. I have
16 not seen the email, okay, but I asked her to
17 send that to the parties.

18 MR. MARTIN: She did.

19 THE COURT: Okay. So you-all have a
20 copy of that?

21 MR. MARTIN: Yes, sir.

22 MS. GOECKEL: Yes, Your Honor.

23 THE COURT: Is that something that both
24 sides are in agreement is something that I
25 should be reviewing?

1 MR. MARTIN: Quite frankly, it comes
2 in -- it's in the form of what I would
3 characterize as a Nelson inquiry, request
4 for a Nelson inquiry. So I don't believe I
5 can take a position on that.

6 THE COURT: Okay. Can I have -- and
7 unfortunately, the way we handled this was
8 just to send it to you. I need somebody to
9 forward it back to me, if that's the case,
10 so that I can view it.

11 MS. GOECKEL: I can forward it to you or
12 I can print it. Which one would you prefer?

13 THE COURT: Print would be great because
14 I am going to ask the clerk to enter it into
15 the file.

16 While that is occurring, are there any
17 other issues that we need to address this
18 morning?

19 Yes, sir.

20 MR. MARTIN: So, Your Honor. To my
21 review of the file, I don't believe there
22 has been any sort of Williams Rule notice
23 filed in this case.

24 THE COURT: Okay.

25 MR. MARTIN: And this me being

1 proactive, and I know that part of what's
2 going on in the atmosphere of this case is
3 that there's some ongoing disputes between
4 neighbors.

5 THE COURT: Okay.

6 MR. MARTIN: And we would suggest that
7 any prior bad acts that have not been
8 properly noticed should not be admitted and
9 the witnesses should be instructed that they
10 should contain their comments to the facts
11 of this particular case.

12 THE COURT: Okay. Have you filed a
13 motion in limine for this?

14 MR. MARTIN: There was no notice for me
15 to presume that they were going to
16 attempt --

17 THE COURT: So why are you presuming
18 that this morning?

19 MR. MARTIN: Nothing happened, Your
20 Honor. I'm just --

21 THE COURT: Okay. So we're in the same
22 stature as we were last week when you could
23 have filed a motion in limine.

24 MR. MARTIN: I think it's that we don't
25 have any notice or any belief, but this is

1 an abundance of caution. So, yeah, if it
2 comes up, yes, sir, I certainly will object.

3 THE COURT: Understood.

4 All right. Is this an oral motion in
5 limine to prevent them from presenting prior
6 bad acts from the Defendant towards the
7 neighbors?

8 MR. MARTIN: Yes.

9 MS. GOECKEL: Your Honor, I just noticed
10 that there are several people who walked in
11 the courtroom. Just for the sake of these
12 pretrial discussions that do involve
13 testimony, the State is going to go ahead
14 and invoke the rule of sequestration.

15 THE COURT: Sure.

16 MS. GOECKEL: I don't know if these are
17 the defense family or witnesses, but --

18 THE COURT: All right. So do you have
19 witnesses here?

20 MS. GOECKEL: I do, but they're not in
21 the courtroom.

22 THE COURT: That's fine. Can you bring
23 those witnesses in.

24 Mr. Martin, other than people in the
25 courtroom, do you have any witnesses here?

1 MR. MARTIN: Your Honor, I don't foresee
2 any witnesses being presented at this trial
3 other than potentially Mr. --

4 THE COURT: Understood.

5 MR. MARTIN: So those individuals, I
6 don't know who they are.

7 MR. ABRAMS: That's my family.

8 THE COURT: Okay.

9 (Brief pause to retrieve potential
10 witnesses.)

11 THE COURT: All right. Good morning.

12 Y'all are in a single-file line. Can
13 you fan out just a little bit so I can see
14 y'all. Great. Thank you-all.

15 I'm going to read you the rule of
16 sequestration that has been invoked. Each
17 of you has been summoned as a witness in
18 this case. The Court has invoked a rule of
19 procedure which requires your exclusion from
20 the courtroom at all times except during the
21 time that you testify in this case. You are
22 directed to remain out of the courtroom
23 except when you are called to testify.

24 Up to this time it has been okay for you
25 to talk to anybody and everybody about the

1 case. However, while you are waiting to
2 testify, and after you have done so, you are
3 not to discuss this case or your testimony
4 among yourselves or with anyone else. You
5 may, however, one witness at a time, discuss
6 your testimony with counsel for either party
7 in the case.

8 You will now retire from the courtroom
9 until you are called. Counsel for each of
10 the parties is instructed to advise each of
11 their respective witnesses not present at
12 this time of the direction I have just
13 given. And each of them shall be governed
14 thereby.

15 Any violation of the direct -- of this
16 direction may not only subject you to
17 contempt of court, which could result in
18 fines or incarceration, but also may
19 disqualify you as a witness in this case.

20 Does everybody understand the
21 instruction I just gave?

22 Okay. And so at this point I am going
23 to excuse all of you from the courtroom and
24 we will call you in one at a time when it's
25 your time to testify.

1 Thank you.

2 While we do that, I just, out of an
3 abundance of caution, want to let everybody
4 know that, if you are a potential witness in
5 this case, you would have to leave the
6 courtroom now. If you're not, you're free
7 to stay and watch the entire proceeding.
8 Okay?

9 Thank you-all.

10 All right. Any objections or
11 corrections to the rule of sequestration
12 instructions that the Court has given?

13 MS. GOECKEL: Not from the State.

14 MR. MARTIN: No, sir.

15 THE COURT: Okay. Now I'm ready to move
16 on to the email from Mr. Abrams that was
17 sent Tuesday morning at 9:04, apparently, to
18 my judicial assistant. I have a copy in
19 front of me.

20 Let me ask, Ms. Goeckel, everything that
21 is raised in this email, are those all
22 things that were raised in front of Judge
23 Kreider at the Nelson inquiry on Monday
24 morning?

25 MS. GOECKEL: I believe some of these

1 were raised in front of Judge Kreider, but I
2 do not believe all of them were.

3 THE COURT: Can you tell me if Judge
4 Kreider is here? Can anybody tell me if
5 Judge Kreider is here?

6 THE BAILIFF: I don't know. I didn't
7 see his truck out there.

8 THE COURT: Okay.

9 THE BAILIFF: Let me see if they can
10 call his office.

11 THE COURT: Well, I'll just give him a
12 call.

13 So here is what I'm going to do. Other
14 than the email issue, are there any other
15 issues that need to come up before the
16 Court?

17 MR. MARTIN: None from the Defense.

18 MS. GOECKEL: Not from the State, Your
19 Honor.

20 THE COURT: So I'm going to handle this
21 issue in just a second. It's going to
22 require a conversation with Judge Kreider
23 because I was not here for the Nelson
24 inquiry that occurred Monday morning.

25 When I read the instructions, presuming

1 that I come back and read the instructions,
2 do you want right to remain silent read,
3 Mr. --

4 MR. MARTIN: Yes.

5 THE COURT: Or do you have an objection
6 to right to remain silent being read?

7 MR. MARTIN: Yes, sir, that's fine. We
8 don't have an objection to that.

9 THE COURT: Okay. Thank you.

10 All right. So we're going to take a
11 brief recess. I'm going to say five minutes
12 in hopes that we get started right at
13 9:00 o'clock. When I come back, I'll handle
14 this issue, and then I plan on going
15 straight into openings.

16 MS. GOECKEL: Yes, Your Honor.

17 THE COURT: Okay. We'll be in a brief
18 recess.

19 THE BAILIFF: All rise.

20 (Brief recess.)

21 (The following proceedings were had
22 before the Court and out of the presence of
23 the Jury:)

24 THE COURT: All right. We're back on
25 the record.

1 And in reference to the email that I'm
2 going to file with the clerk for March 4th,
3 2025, at 9:04 a.m., I've conferred with
4 Judge Kreider who held a Nelson inquiry on
5 Monday, March 3rd. Judge Kreider has
6 informed me that all of the concerns raised
7 by Mr. Abrams in this email -- I'm sorry,
8 the email was March 3rd at 3:52 p.m. I
9 apologize. It was forwarded to counsel on
10 March 4th at 9:04 a.m. -- that all of the
11 concerns raised in Mr. Abrams' email have
12 been addressed at the Nelson inquiry except
13 for one, which is number 6 in his email,
14 that Mr. Martin has not disposed -- sorry,
15 deposed all victims, which is incomplete to
16 date.

17 So let me hear from Mr. Martin on that
18 issue. And we are having a Nelson inquiry
19 on that issue.

20 MR. MARTIN: The listed victims have
21 been deposed in this case.

22 THE COURT: Okay.

23 MR. MARTIN: All the victims have been
24 deposed.

25 THE COURT: All right. Okay. So with

1 that, I'm going to deny the motion for a
2 Nelson inquiry. I'm going to find that
3 Mr. Martin has provided competent
4 representation as to that issue. And I will
5 get an order filed. Not immediately, but I
6 will get an order filed to that effect.
7 That email is going to be entered into the
8 clerk's system.

9 Is there anything further that needs to
10 be addressed before we bring the jury out?

11 MS. GOECKEL: Yes, Your Honor. Just to
12 make sure that we've covered everything, I
13 did forget to tell the Court that I have a
14 USB of the photographs just for the purposes
15 of showing them to the jury. I can
16 certainly --

17 THE COURT: Photographs that you're
18 going to put into evidence?

19 MS. GOECKEL: Yes, the photographs will
20 be in evidence. But I was going to put them
21 up on the TV for better viewing of the jury.

22 THE COURT: Okay. And the only thing on
23 that USB is the photographs?

24 MS. GOECKEL: It's a PowerPoint of the
25 photographs, yes, Your Honor.

1 THE COURT: All right. Is there
2 anything added to the PowerPoint other than
3 the photographs?

4 MS. GOECKEL: It has a title page, *State*
5 *of Florida vs. Andre Abrams*, and then two
6 photographs.

7 THE COURT: Just two?

8 MS. GOECKEL: Yes.

9 THE COURT: All right. Mr. Martin.

10 MR. MARTIN: But the intention is just
11 to introduce the photographs?

12 THE COURT: Yes, but I think what I'm
13 hearing is the way it's going to be
14 published is through the USB drive.

15 MS. GOECKEL: Correct.

16 THE COURT: Okay. So with that, are we
17 ready to bring the jury in?

18 MS. GOECKEL: The State is ready.

19 MR. MARTIN: Yes, sir.

20 THE COURT: Okay. Thank you.

21 (Brief pause to retrieve Jury.)

22 THE BAILIFF: All rise for the Jury.

23 (The following proceedings were had
24 before the Court and Jury:)

25 THE COURT: Please be seated.

1 Good morning. How is everybody doing?

2 I want to check and make sure that
3 there -- I gave you some instructions on
4 Monday about not doing research in the case,
5 et cetera. Has anybody had any problems
6 with any of those instructions since Monday?

7 Let the record reflect that all jurors
8 are shaking their heads no.

9 Thank you for that.

10 And with that, I would like you-all to
11 stand for Madam Clerk to swear you in.

12 THE CLERK: Good morning.

13 Do you solemnly swear or affirm that you
14 will well and truly try the issues between
15 the State of Florida and the Defendant, and
16 render a true verdict according to the law
17 and the evidence, so help you God?

18 COLLECTIVELY: (Affirmative response.)

19 THE CLERK: Thank you.

20 THE COURT: Members of the jury, you
21 have been selected and sworn as the jury to
22 try the case in the *State of Florida vs.*
23 *Andre Abrams, Senior*. This is a criminal
24 case. Andre Abrams, Senior, is charged with
25 three counts of aggravated assault with a

1 deadly weapon.

2 The definition of aggravated assault
3 with a deadly weapon will be explained to
4 you later. You must decide this case based
5 on the evidence presented and the law that I
6 give you. Evidence consists of the sworn
7 testimony of witnesses, exhibits admitted
8 into evidence, and everything else that I
9 tell you to consider as evidence.

10 The State's charging document, which is
11 called an Information, is not evidence and
12 is not to be considered by you as any proof
13 of guilt.

14 It is my responsibility to explain the
15 law to you. It is your solemn
16 responsibility to determine if the State has
17 proven its accusation beyond a reasonable
18 doubt against Mr. Abrams in accordance with
19 the law that I will provide to you. Thus,
20 the province of the jury and the province of
21 the Court are well defined and they do not
22 overlap. This is one of the fundamental
23 principles of our system of justice.

24 Before proceeding further, it will be
25 helpful if you understand how a trial is

1 conducted. At the beginning of the trial,
2 the attorneys will have an opportunity, if
3 they wish, to make an opening statement.
4 The opening statement gives the attorneys a
5 chance to tell you what evidence they
6 believe will be presented during the trial.
7 What the lawyers say is not evidence and you
8 are not to consider it as such.

9 Following the opening statements,
10 witnesses will be called to testify under
11 oath. They will be examined and
12 cross-examined by the attorneys. Documents
13 and other exhibits may be introduced as
14 evidence.

15 After the evidence has been presented,
16 the attorneys will have the opportunity to
17 make their closing arguments. Following the
18 closing arguments by the attorneys, the
19 Court will instruct you on the law
20 applicable to this case. After the final
21 instructions are given, you will retire to
22 consider your verdict.

23 You should not form any definite or
24 fixed opinion on the merits of the case
25 until you have heard all the evidence, the

1 arguments of the lawyers, and the
2 instructions of the law that I give you.
3 Until that time, you should not discuss the
4 case among yourselves. Your verdict must be
5 based solely on the evidence or lack of
6 evidence and the law. Jurors must decide
7 this case without distraction and only on
8 the evidence presented in the courtroom.
9 Jurors must not conduct any investigation on
10 their own. This includes reading
11 newspapers, watching television, or using a
12 computer, cell phone, the Internet, any
13 electronic device or any other means at all
14 to get information related to this case or
15 the people and places involved in this case.
16 You may not visit places mentioned in the
17 trial or use the Internet to look at maps or
18 pictures to see any place discussed during
19 the trial.

20 If you investigate, research or make
21 inquiries on your own, I have no way to make
22 sure the information you obtain is proper
23 for this case. The parties, likewise, have
24 no opportunity to dispute or challenge the
25 accuracy of what you find. This is contrary

1 to our judicial system, which assures every
2 party the right to ask questions about and
3 challenge the evidence being considered
4 against it and to present arguments with
5 respect to that evidence. Any independent
6 investigation by a juror unfairly and
7 improperly prevents the parties from having
8 that opportunity our judicial system
9 promises.

10 You are also not permitted to
11 communicate about this case with anyone
12 including your spouse, family members,
13 neighbors, and even your fellow jurors. No
14 communication includes no in-person,
15 telephonic, or electronic communication such
16 as emailing, text messaging, posting
17 information on social media or a website, or
18 any other form of communication.

19 During the trial the Court may take
20 recesses, and you will be permitted to
21 separate and go about your personal affairs.
22 It is important to remember that the
23 prohibition on communicating about this case
24 applies during these recesses whether you
25 are in the courthouse or elsewhere. If at

1 any time you find yourself in a situation
2 where others are discussing the case in your
3 presence, leave that situation at once and
4 immediately report the party to the bailiff
5 who will advise me.

6 All cell phone, computers, tablets, or
7 other types of electronic device must be
8 turned off while you're in the courtroom.
9 Turned off means the phone or other
10 electronic device is actually off and not in
11 a silent or vibrating mode. You may use
12 these devices during recesses, but even then
13 you may not use your cell phone or
14 electronic device to find out any
15 information about the case or communicate
16 with anyone about the case or the people
17 involved in the case. Do not take
18 photographs, video recordings, or audio
19 recordings of the proceedings or your fellow
20 jurors.

21 After each recess, please double-check
22 to make sure your cell phone or electronic
23 device is turned off. At the end of the
24 case while you are deliberating, you must
25 not communicate with anyone outside the jury

1 room. You cannot have in the jury room any
2 cell phones, computers, or other electronic
3 devices, and that includes smart watches.
4 Okay? So while you're deliberating, our
5 bailiff will collect all of those items.

6 If someone needs to contact you in an
7 emergency, the Court can receive messages
8 and deliver them to you without delay. A
9 contact number will be provided to you by
10 our bailiff.

11 Any juror who violates these
12 restrictions jeopardizes the fairness of
13 these proceedings and a mistrial could
14 result that would require the entire trial
15 process to start over. A mistrial is a
16 tremendous expense and inconvenience to the
17 parties, the Court, and the taxpayers. If
18 you violate these rules, you may be held in
19 contempt of court, face sanctions such as
20 serving time in jail, paying a fine, or
21 both.

22 In every criminal proceeding, a
23 defendant has the absolute right to remain
24 silent. At no time is it the duty of a
25 defendant to prove his innocence. From the

1 exercise of a defendant's right to remain
2 silent, a jury is not permitted to draw any
3 inference of guilt. And the fact that a
4 defendant did not take the witness stand
5 must not influence your verdict in any
6 manner whatsoever.

7 The attorneys are trained in the rules
8 of evidence and trial procedure. And it is
9 their duty to make all objections they feel
10 are proper. When an objection is made, you
11 should not speculate on the reason why it
12 was made. Likewise, when an objection is
13 sustained or upheld by me, you must not
14 speculate on what might have occurred had
15 the objection not been sustained nor what a
16 witness might have said the witness -- had
17 the witness been permitted to answer.

18 During this trial it might be necessary
19 to confer with the attorneys out of your
20 hearing to discuss matters that require
21 consideration by me alone. It is impossible
22 to predict when such a conference may be
23 required or how long it will last. When
24 such conferences occur, they will be
25 conducted to consume as little of your time

1 as necessary for a fair and orderly trial of
2 this case.

3 Now, if you would like to take notes
4 during this trial, you may do so. On the
5 other hand, of course, you're not required
6 to take notes if you do not want to. That
7 will be left up to you individually. You
8 will be provided with a notepad and a pen
9 for your use if you wish to take notes. Any
10 notes that you take will be for your
11 personal use. However, you should not take
12 them with you from the courtroom. During
13 recesses, the bailiff will take possession
14 of your notes and will return them to you
15 when we reconvene.

16 So what we're going to do is, when you
17 leave the room, I want you to turn your pads
18 upside down.

19 And will you have their juror numbers on
20 the back?

21 THE BAILIFF: Judge Kreider usually has
22 them put it on the front page as a cover
23 page and then flip it over.

24 THE COURT: And that's perfectly fine.

25 So when you get these, just write your

1 juror number only on the front page, and
2 then your notes can be after that, and you
3 can leave them on your seat. The bailiff
4 will make sure the courtroom is secure.
5 Nobody will have access to your notes. And
6 they will be back on your seat when you come
7 back.

8 After you have completed your
9 deliberations, the bailiff will deliver your
10 notes to me. They will be destroyed. No
11 one will ever read your notes.

12 If you take notes, do not get so
13 involved in note-taking that you become
14 distracted from the proceedings. Your notes
15 should be used only as aids to your memory.
16 Whether or not you take notes, you should
17 rely on the memory -- on your memory of the
18 evidence, and you should not be unduly
19 influenced by the notes of other jurors.
20 Notes are not entitled to any greater weight
21 than each juror's memory of the evidence.

22 Any objections or corrections to the
23 instructions given to the jury?

24 MS. GOECKEL: Not from the State.

25 MR. MARTIN: No, sir.

1 THE COURT: Okay. So with that, we are
2 ready to go into opening statements, and
3 that opportunity will be provided to the
4 State first.

5 And you may proceed.

6 MS. GOECKEL: Thank you, Your Honor.
7 May it please the Court?

8 THE COURT: Yes.

9 MS. GOECKEL: Opposing counsel.

10 Ladies and gentlemen of the jury, "I
11 could feel the heat on my face." "I thought
12 the car was going to explode." "I thought
13 it was going to catch on fire." Those are
14 the words that you're going to hear over and
15 over again as each victim gets up and
16 testifies about what occurred on
17 November 30th of 2021.

18 So we have N [REDACTED] B [REDACTED], [REDACTED]
19 [REDACTED] and [REDACTED] S [REDACTED]. These are
20 friends who know each other through school.
21 [REDACTED] [REDACTED] and M [REDACTED] E [REDACTED] live in
22 the same neighborhood. [REDACTED] S [REDACTED]
23 often takes them home from school, almost
24 every single day. And they drop -- she
25 drops them off at Ms. [REDACTED]'s house.

1 Well, on November 30th of 2021, same
2 thing, A [REDACTED] S [REDACTED] takes the two other
3 girls to Ms. B [REDACTED]'s house. This time she
4 parks in front of Ms. B [REDACTED]'s house, a
5 little bit on the road and a little bit on,
6 like, the dirt patch area.

7 Directly across from Ms. B [REDACTED] is the
8 Defendant. He is a neighbor of N [REDACTED]
9 B [REDACTED] and her family.

10 They're sitting in their car. They're
11 talking. The music is on. They're enjoying
12 the company of one another.

13 The driver seat window, A [REDACTED] S [REDACTED],
14 who is driving, her window is slightly
15 cracked. Out of nowhere the Defendant comes
16 up and shoots his flamethrower directly at
17 the vehicle. All three of them describe the
18 heat that they feel and on top of it, the
19 fear that they were feeling at that time,
20 that either they were going to meet great
21 bodily harm or even potentially die if the
22 car exploded.

23 When he shoots that flamethrower
24 directly at them, they all shoot out of the
25 car and run towards the house. You're going

1 to hear A [REDACTED] S [REDACTED] say, "I was buckled
2 up. I had to unbuckle my seat belt. I
3 couldn't get out my driver side door because
4 the Defendant was on that side shooting the
5 flames directly to the car, so I couldn't
6 exit there." So all three of them had to
7 exit out the passenger side of the vehicle.

8 You're going to hear A [REDACTED] S [REDACTED]
9 describe how she was scrambling over the
10 other girls to get out because she's the one
11 closest to him.

12 And they're all going to say the same
13 thing, there was zero discussion or zero
14 communication between them and the Defendant
15 prior to him coming outside -- excuse me,
16 coming towards their vehicle with his
17 flamethrower and shooting flames towards
18 their vehicle. They're going to describe
19 that he continued to shoot those same flames
20 even after they had exited the vehicle.

21 Now, that's the facts in evidence that I
22 believe you will hear today. And you're
23 also going to hear at the end of the trial
24 the elements to aggravated assault with a
25 deadly weapon.

1 Mr. Abrams has been charged with three
2 counts, and the reason he's been charged
3 with three counts is because there was three
4 individuals in the car. So each person is a
5 count of aggravated assault of a deadly
6 weapon.

7 And I want to read to you only the
8 elements that the State has to prove beyond
9 a reasonable doubt just so they're in your
10 mind as you sit through and listen to the
11 facts and evidence in this case.

12 The first one is that the Defendant
13 intentionally and unlawfully threatened
14 either by word or act to do violence to
15 either A [REDACTED] S [REDACTED], N [REDACTED] B [REDACTED], or
16 M [REDACTED] E [REDACTED]. At the time the Defendant
17 appeared to have the ability to carry out
18 the threat. The act of the threat -- or
19 excuse me, the act of the Defendant created
20 in the mind of all three girls a
21 well-founded fear that the violence was
22 about to take place. The assault was made
23 with a deadly weapon.

24 I also want to briefly read to you the
25 description you're going to hear of a deadly

1 weapon. A deadly weapon is any object that
2 will likely cause death or great bodily harm
3 if used or threatened to be used in the
4 ordinary and usual manner contemplated by
5 its design and construction. Further, an
6 object not designed to inflict bodily harm
7 may nonetheless be a deadly weapon if it was
8 used or threatened to be used in a manner
9 likely to cause death or great bodily harm.

10 You're going to hear the description of
11 the flamethrower. You're also going to be
12 able to have an opportunity to view a
13 surveillance video of this incident. And
14 you're also going to see the flamethrower
15 itself that was used that day to threaten by
16 word or act the lives or the bodily harm
17 towards A [REDACTED] S [REDACTED], N [REDACTED] a B [REDACTED],
18 and M [REDACTED] E [REDACTED].

19 And I'm confident, at the end of this
20 trial, you will return a verdict that is
21 just and true; and that is a verdict of
22 guilty. Thank you.

23 MR. MARTIN: May it please the Court?

24 THE COURT: Yes, sir.

25 MR. MARTIN: Good morning.

1 Ladies and gentlemen, unlike what the
2 prosecutor just shared with you today, this
3 case is more than just about the fear of
4 three teenagers in a car. It's about the
5 shock and awe and often the emotional rush
6 to judgment when, quite frankly, you see a
7 flame, a jet of flame kind of shoot out of a
8 flamethrower, which you will see here today.

9 Now, in jury selection one of your
10 fellow panel members had commented on a
11 notion of there is your story, their story,
12 and then what happened. Well, it's in the
13 middle. So the perception of what happened
14 from Mr. Abrams' point of view, this is
15 about four years ago, November of 2021.
16 This incident occurred in the Duval
17 neighborhood. The Duval neighborhood is --
18 begins at the corner of Waldo Road and
19 Eighth Avenue.

20 And if you go all the way to the end of
21 Waldo Road where you'll see there is a
22 church -- two churches, Mount Caramel
23 Baptist Church and Antioch Baptist Church.
24 And there is a -- it's not a dead end, but
25 there is a corner that turns out and leads

1 to the old Horizon Center. If you don't go
2 as far as Horizon Center, but you go
3 straight down that last road, that turns --
4 that meets before it turns the corner, you
5 will find the location that we're discussing
6 here.

7 This is the Duval neighborhood. It's a
8 modest residential neighborhood. The houses
9 are not particular big. There are a few
10 that have carports, some, but most don't
11 have garages. So there are a number of
12 cars. It's not unusual to park on the
13 street.

14 On this particular occasion, the three
15 teenage girls that you're going to hear from
16 here today were coming from school. They
17 all go to the same school. A [REDACTED] S [REDACTED]
18 has a car and she drives them home.

19 And so you will hear from them, when
20 they came home, as teenagers often do, they
21 sit in the car. They chat, talk, tell
22 stories, play on their phones. There may be
23 some dispute between the three of them that
24 you will hear about whether or not the music
25 was on or off. In any event, I think they

1 will all tell you it wasn't very loud.

2 They will tell you that the back windows
3 of the vehicle were up. Matter of fact, I
4 think you will see some photographs of the
5 car itself where you will see the window --
6 back windows were up. There is a -- the
7 driver side of the window, you will see, is
8 about a quarter way down.

9 Now, you will hear from them that they
10 came, they talked and they were in the car
11 maybe about 10, 15 minutes, that they did
12 notice Mr. Abrams sitting on the porch, but
13 they didn't really pay him any particular
14 attention at the time. They carried on
15 their business.

16 And they really, as you heard, there was
17 no interaction between Mr. Abrams and these
18 young ladies prior to their seeing this jet
19 of flame. As was mentioned by the state
20 attorney, I suspect you're going to see a
21 surveillance video and you're going to see
22 photographs of the area taken immediately or
23 shortly thereafter of the incident.

24 And on that surveillance video, it will
25 be up to you to determine whether or not the

1 flames were projected at the vehicle in
2 question or were they projected at the
3 ground, the scarring that you will see, most
4 certainly see, that was on the ground.
5 Because I don't think there will be any
6 dispute here today that you will hear from
7 the evidence that there was any damage
8 whatsoever to the car.

9 In the surveillance video, you will see
10 girls leaving the vehicle, but you won't see
11 any indication that Mr. Abrams, if that's
12 who you believe is in the video, chasing
13 these girls. That's up to you basically to
14 see. There you will hear some conversation
15 about an argument that ensued and you will
16 hear no dispute after this incident, not
17 during, not before, but after. You will
18 learn that during the course of the trial.

19 You will hear that police was called.
20 They made contact with Mr. Abrams, who was
21 standing on his property waiting for law
22 enforcement, that the flamethrower in
23 question was sitting right there in the
24 yard. You will get a chance to see that.
25 You will get a chance to judge what those

1 actions mean, what are those actions
2 indicative of. That's going to be up to
3 you.

4 Now, at jury selection we talked about
5 how do you go about doing that, how do you
6 weigh this evidence. Well, there are going
7 to be several instructions, but the main
8 one -- there are going to be three that I
9 want -- that you should focus on, at least I
10 suggest that.

11 The witnesses who come and give you
12 testimony, you need to look and see if those
13 witnesses were in a position to actually see
14 what was going on; if they have a reason or
15 motivation to either exaggerate, stretch the
16 reality of what happened; are they being
17 straightforward and truthful with the
18 questions that the lawyers are asking.

19 And lastly, it's going to be -- you're
20 going to be instructed that what you need to
21 do is ensure that the State of Florida
22 proved each and every element of the offense
23 beyond the exclusion of any reasonable
24 doubt, not just whether the girls were in
25 fear, not just whether it was a deadly

1 weapon. Whether or not what was going on in
2 Mr. Abrams' mind was to specifically
3 threaten each of those young ladies that was
4 in the car.

5 And, ladies and gentlemen, unless you
6 can find each and every one of those
7 elements proved beyond and to the exclusion
8 of any reasonable doubt, then regardless of
9 whether you like Mr. Abrams, whether you
10 feel what Mr. Abrams may have done was
11 reckless, rude, or anything of that nature,
12 it's going to be your job to find him not
13 guilty here today. And I'm confident, at
14 the conclusion of the evidence, that's
15 exactly what you're going to do. Thank you.

16 THE COURT: The State may call their
17 first witness.

18 MS. GOECKEL: Yes, Your Honor. The
19 State calls N [REDACTED] B [REDACTED]

20 May I move the podium, Your Honor?

21 THE COURT: You may.

22 (Brief pause to retrieve witness.)

23 THE COURT: Ms. B [REDACTED], if you could,
24 turn and face the clerk before you sit down.
25 Thank you. The clerk is right here. I'm

1 sorry. [REDACTED]

2 THE CLERK: Good morning.

3 THE COURT: Stay where you're at.

4 THE BAILIFF: Raise your right hand.

5 Face the young lady right there.

6 THE CLERK: Do you swear or affirm the
7 evidence you're about to give will be the
8 truth, the whole truth, and nothing but the
9 truth?

10 MS. B [REDACTED] Yes, ma'am.

11 THE CLERK: Thank you.

12 MS GOECKEL: Good morning.

13 MS. B [REDACTED] Good morning.

14 MS. GOECKEL: May I proceed, Your Honor?

15 THE COURT: Yes.

16 N [REDACTED] B [REDACTED],

17 called as a witness by the State, produced and
18 duly sworn and responding "Yes, ma'am," was
19 examined and testified as follows:

20 **DIRECT EXAMINATION**

21 BY MS. GOECKEL:

22 Q Could you please state your first and
23 last name for the jury.

24 A Yes. My name is N [REDACTED] B [REDACTED]

25 Q And how do you spell your first name?

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A [REDACTED]

Q And how old are you today, Ms. [REDACTED]?

A I'm 19 years old.

Q How old were you back in November of 2021?

A I was 16, I believe.

Q And were you in school in November of 2021?

A Yes, ma'am.

Q Which school did you go to?

A North Central Florida. We called it NCF.

Q Okay. Is that in Gainesville?

A Yes, ma'am.

Q In November of 2021, where did you live?

A In Duval Heights.

Q Do you recall the address?

A 1006 Northeast 25th Terrace.

Q Okay. And is that in Alachua County?

A Yes, ma'am.

Q Now, during that time -- well, specifically in November of 2021, did you know the person who lived across the street from you? Did you know his name?

A No, I didn't know his name.

1 Q Okay. But --

2 A But --

3 Q -- you were familiar with that neighbor?

4 A Yes, ma'am.

5 Q You had seen him before?

6 A Yes, ma'am.

7 Q All right. Do you see that neighbor in
8 the courtroom today?

9 A Yes, ma'am.

10 Q Could you please point him out? And how
11 I want you to do that is to describe an article
12 of clothing he's wearing, as well as where he's
13 seated in the courtroom, as well.

14 A Right here to my right with the gray
15 jacket, glasses.

16 MS. GOECKEL: Your Honor, let the record
17 reflect that the victim has identified the
18 Defendant in the courtroom.

19 THE COURT: Without objection, it will
20 so reflect.

21 MS. GOECKEL: Thank you.

22 BY MS. GOECKEL:

23 Q All right. So let's talk about
24 specifically about November 30th of 2021. Do you
25 recall about what time you would have come home

1 from school that day?

2 A Probably around between 2:00 and 3:00,
3 I'm not sure, I don't remember when we used to
4 get out.

5 Q Okay. But 2:00 and 3:00?

6 A Yeah.

7 Q Somewhere about there?

8 A Somewhere around there.

9 Q And how did you get home from school?

10 A My cousin [REDACTED]

11 Q What's [REDACTED]'s last name?

12 A [REDACTED].

13 Q Did [REDACTED] go to the same school as you?

14 A Yes, ma'am.

15 Q Now, when you guys came home on that
16 Tuesday, was there anybody else in the car with
17 you?

18 A Yes, ma'am.

19 Q Who was that?

20 A M [REDACTED] E [REDACTED].

21 Q Did Ms. [REDACTED] go to the same school?

22 A Yes, ma'am.

23 Q Did -- at that time in 2021, did

24 Ms. E [REDACTED] also live in the same neighborhood as
25 you?

1 A Yes, ma'am.

2 Q And when you guys get home, where do you
3 park?

4 A We park in the driveway if my mom's car
5 wasn't there, but my mom's car was in the
6 driveway. So 9 times out of 10, we was, like,
7 parked slanted in the ditch a little bit, in
8 front of the house, basically.

9 Q So what I think I heard you say, and
10 correct me if I'm wrong, is if your mom's car is
11 not there, you'll park in the driveway.

12 A Yes, ma'am.

13 Q But most of the time your mom's car is
14 there. Is that correct?

15 A Uh-huh, yes, ma'am. Sorry.

16 Q That's okay.

17 So in that case, you'll park on the
18 side, in front of your house.

19 A Yes, ma'am.

20 Q And on this particular day, did you park
21 in front of the house?

22 A Yes, ma'am.

23 Q Do you recall if any of the windows were
24 open in  's car?

25 A Yes, ma'am.

1 Q Do you recall which window was open?

2 A I believe it was the driver's window.

3 Q Do you recall where you were seated in
4 the car?

5 A Yes, ma'am. I was in the passenger
6 seat.

7 Q And when you say the passenger seat, is
8 this the front or back of the car?

9 A Front, across from the driver seat.

10 Q Who was driving?

11 A .

12 Q Once you parked in front of your house,
13 what were the three of you doing in the car?

14 A We were talking and listening to music.

15 Q Is that unusual for you guys to do?

16 A No, ma'am.

17 Q And when you were talking and listening
18 to music, do you recall if the music was loud?

19 A No, ma'am.

20 Q Were you able to carry on a regular
21 conversation?

22 A Yes, ma'am.

23 Q And hear each other pretty well?

24 A Yes, ma'am.

25 Q At some point either when you drove up

1 or when you parked, did you notice the Defendant?

2 A Yes, ma'am.

3 Q When did you notice him -- let me ask
4 you this: Where was he when you first noticed
5 him?

6 A He was sitting on his porch.

7 Q Okay. Did you say anything to him?

8 A No, ma'am.

9 Q Did he say anything to you?

10 A No, ma'am.

11 Q Did you ever make eye contact with him?

12 A No, ma'am.

13 Q So he is sitting on his porch and the
14 three of you are in the vehicle?

15 A Yes, ma'am.

16 Q At any point in time while you guys are
17 in the vehicle, does he ever get up from his
18 porch?

19 A Yes, ma'am.

20 Q What do you see him do when he gets up
21 from his porch?

22 A He went inside his house and got the
23 flamethrower.

24 Q Was he inside very long?

25 A Not really. Not really. I can't -- I

1 don't recall.

2 Q All right. Fair enough.

3 Once he came back outside, you descried
4 that he got the flamethrower. Did you see that
5 in his hands?

6 A Yes, ma'am.

7 Q When you first noticed him holding it,
8 what was he doing?

9 A It looks like he was, like, probably,
10 like, looking at it, checking it or something.
11 I'm not really sure. I don't recall. Sorry.

12 Q Did he appear to be inspecting it?

13 A Yeah, I would say that.

14 Q And where was he at now when he was
15 holding his flamethrower?

16 A A little in front of his house, but
17 still in his yard, like, off his porch.

18 Q Okay. Now, you provided the name of
19 flamethrower. How did you know that this was
20 something that could shoot flames out?

21 MR. MARTIN: Object.

22 THE COURT: What is your objection, sir?

23 MR. MARTIN: I'm sorry.

24 THE COURT: This is your witness?

25 MS. OSTERMAN-BURGESS: Yes, Your Honor.

1 THE COURT: Yes, ma'am. What is your
2 objection?

3 MS. OSTERMAN-BURGESS: Objection as to
4 prior Williams Rule events.

5 THE COURT: Can I have the attorneys
6 approach, please.

7 (Begin sidebar conference:)

8 THE COURT: What is the answer you
9 expect to hear?

10 MS. GOECKEL: Yes. She has seen him use
11 it before, that's how she knows what it is.
12 I'm not intending to enter any evidence that
13 he was pointing it at anybody or any object
14 or person to threaten --

15 THE COURT: So the answer you're
16 expecting is that he's used it in his yard?

17 MS. GOECKEL: He's used it in his yard.

18 THE COURT: Not in a threatening manner?

19 MS. GOECKEL: I'm not even going to go
20 down that road, just that she's seen him use
21 it, and so that's how she knew what it was.

22 THE COURT: Anything from the Defense?

23 MS. OSTERMAN-BURGESS: Object to prior
24 instances of his conduct without
25 acknowledging that it wasn't threatening,

1 and leave that up to the jury --

2 THE COURT: So the answer you're
3 expecting is that he has used it in his
4 yard?

5 MS. GOECKEL: Well, all I'm asking her
6 is have you seen him use it. The answer is
7 yes. I'm not going any further because I
8 believe that could potentially open the door
9 to her saying both things: that he's used it
10 in his own yard, but she's also seen him
11 using it towards threatening other people.

12 THE COURT: Has she seen him use it for
13 yard work?

14 MS. GOECKEL: Say that again.

15 THE COURT: Has she seen him use it for
16 yard work?

17 MS. GOECKEL: No, that I'm not sure
18 about.

19 THE COURT: So when she says she's seen
20 it before, what do you believe -- I know
21 she's not going to answer that question.
22 What do you believe the circumstances were
23 when she saw it before?

24 MS. GOECKEL: I know that she -- in
25 testimony, and I believe in deposition, she

1 has stated that she has seen him use it
2 towards other kids when they walk across his
3 yard, or if they're playing in the back
4 field behind his house, or she's seen him
5 use it in the street before too.

6 THE COURT: All right. Is the answer to
7 this question necessary?

8 MS. GOECKEL: Well, it's going to
9 explain why she was watching him a little
10 bit more.

11 THE COURT: Okay.

12 MS. GOECKEL: Why she was already
13 hesitant.

14 THE COURT: Okay. If she ends up saying
15 he used it on this day --

16 MS. GOECKEL: Correct.

17 THE COURT: She knows what it is because
18 she saw him use it on this day.

19 MS. GOECKEL: Yes.

20 THE COURT: Okay. I am going to sustain
21 the objection only to the fact that I don't
22 think that, from what I've been told, the
23 reason she knows about this is a prior bad
24 act and she -- this is not necessary for her
25 to explain to the jury, that it is a

1 flamethrower, because she sees it during
2 this incident. So I am going to sustain the
3 objection.

4 I am not going to limit you from saying,
5 were you watching him while he was doing it.
6 That's a perfectly fair question. We can't
7 get into why you were watching him. She can
8 tell the jury, "I was watching him."

9 MS. GOECKEL: Okay.

10 THE COURT: Okay. So anything further
11 from either side?

12 MS. OSTERMAN-BURGESS: No, Your Honor.

13 THE COURT: Okay. Thank you.

14 (Sidebar conference concluded.)

15 BY MS. GOECKEL:

16 Q So just to pick up where we left off,
17 you said you saw him messing with it, inspecting
18 it, and he was still in his yard. Is that
19 correct?

20 A Yes, ma'am.

21 Q Now, as you're sitting in your car, do
22 you still kind of continue to watch him at that
23 point in time?

24 A Not actually, like, just pay attention,
25 but, like, yeah, I was still looking over.

1 Q Is it fair to describe it that it was
2 more, like, out of the corner of your eye type
3 watching?

4 A No, because I was in the passenger seat,
5 so I was actually looking over, like, I was
6 looking over.

7 Q So you had to turn your head to look at
8 him?

9 A Uh-huh, yes, ma'am.

10 Q All right. So after you see him messing
11 with it, you're sitting in the car, what's the
12 next thing you remember?

13 A I remember he start blowing it.

14 Q Started what?

15 A Blowing it.

16 Q Blowing it. Now, where specifically did
17 you see him when he started using the
18 flamethrower?

19 A Walking out his driveway.

20 Q He's coming out of his driveway. Is he
21 walking towards the road?

22 A Yes, ma'am.

23 Q And where are you -- where is your car
24 parked or where is  's car parked in relation
25 to his driveway?

1 A A little, like -- her car was parked,
2 like, a little, like, in the, like, along his
3 driveway. Like, if his driveway is right here
4 (indicating), the car was, like, right here
5 (indicating), but, like, a little in the front.
6 Sorry. I'm, like, trying to...

7 Q That's okay.

8 But was it blocking his driveway?

9 A No, ma'am.

10 Q Is it fair to describe it was still on
11 the side of your -- where your house is located?

12 A Yes, ma'am.

13 Q All right. So he's walking out the
14 driveway as he's using it. Do you see which
15 direction he's headed as he's using it?

16 A It wasn't, like, one direction. He was
17 kind of just, like, just kind of, like, spraying
18 it, just not --

19 Q And what direction were the flames going
20 when he was spraying it?

21 A Whichever way he turned. He was just,
22 like, shooting it like that (indicating).

23 Q At any point in time did you see him
24 directly shoot it towards your car?

25 A When we got out, when we felt like he

1 had shot it towards the car.

2 Q Tell me about that. What made you feel
3 like he had shot it towards the car?

4 A He was very close with it. I've seen
5 him use it before and so I knew how far --

6 Q Let me stop you right there. So you're
7 sitting in the car. And --

8 A Yes, ma'am.

9 Q -- do you feel anything significant to
10 make you feel like this flamethrower is being
11 directed at your car?

12 A Yes.

13 Q What is it that you feel?

14 A I felt heat.

15 Q Okay. And did you have a chance to look
16 over before you exited the vehicle?

17 A Yeah. My -- like I told you, I was
18 already -- I kept looking at him because he was
19 getting closer.

20 Q Okay. Was there any area of the car
21 that it was pointing at that specifically
22 concerned you?

23 A Between, like, the driver seat and the
24 back seat, like, right there.

25 Q And who was seated in the driver seat?

1 A [REDACTED] S [REDACTED] .

2 Q And once you saw that and once they
3 start getting closer to the car, what did you do?

4 A When he started getting closer to the
5 car, I was kind of already, like, aware that I
6 was -- like, it looks like he getting closer. So
7 I was already thinking, like, to just get out the
8 car, but I didn't think he would get that close.

9 Q What made you decide to finally get out
10 of the car?

11 A When he shot it towards the car and I
12 seen, like, flames, but all I was thinking was
13 get out the car.

14 Q Okay.

15 A Yeah.

16 Q So I want to make sure that we've got
17 this very clear. When you first saw him, he was
18 using the flamethrower. Is that correct?

19 A When we first arrived?

20 Q No. I'm sorry.

21 When you saw him in the driveway walking
22 towards you, you did see him using the
23 flamethrower. Is that correct?

24 A Yes. He was already using it.

25 Q At that point in time, it was not

1 directly pointed at the car. Is that what you're
2 saying?

3 A No. It was just along the -- like,
4 along the road.

5 Q Okay. And then at some point in time
6 that changes -- is that right? -- that he then
7 points it to the car.

8 A Yes, ma'am.

9 Q Tell me about that. Where do you see
10 him when he actually does point it towards the
11 car?

12 A Okay. So the car was, like, facing this
13 way, right. And he never -- it was -- he never,
14 like, was standing in one spot just shooting it.
15 He was always just, like, moving it around, like,
16 making, like, road trails and stuff.

17 And, like, it would get closer and
18 closer and, like, when it got closer, that's when
19 I was like, oh, no, like, he might hit the car.

20 And when he finally did shoot it and I
21 felt like it had hit the car, because I felt
22 heat, that's when I thought "get out the car"
23 and -- keep going?

24 Q Yeah. Go ahead.

25 A That's when I thought "get out the car."

1 And when I opened the door to get out the car,
2 [REDACTED] jumped on me. So it was kind of, like,
3 both of us trying to get out one door because she
4 couldn't get out her door. And then M [REDACTED] got
5 out through the back.

6 Q So he was on the driver side of the door
7 when he was shooting the flames. Is that right?

8 A Basically, yeah.

9 Q Basically?

10 A Yeah.

11 Q Or at least that's the direction the
12 flames were going towards the car.

13 A Yeah. Like I said, it was never, like,
14 just shooting it straight. He always, like, just
15 kind of, like, threw it around.

16 Q I understand. But you said you remember
17 feeling the heat.

18 A Yes, ma'am.

19 Q And then at the point that you got out
20 of the car, you described that [REDACTED] was always
21 trying to get out at the same time.

22 A Yes. She was trying to get over me.

23 Q How scared were you at this point in
24 time?

25 A I was scared for my life.

1 Q Why were you scared for your life?

2 A Because I didn't know what was going to
3 happen. When I think about fire and a car, I
4 think about it blowing up or something. Gas
5 could have been on the road still. I didn't know
6 what was going to happen, so I tried to get out
7 of the car.

8 Q And once you got out of the car, where
9 did you go?

10 A We had -- because of the way we were
11 parked, it's kind of, like, a ditch right there.
12 So we walked up the ditch and, like, stood,
13 like -- sorry -- like, near this tree in front of
14 my house. And then my mom and grandma came out.

15 Q Okay. Were you saying anything when you
16 left the vehicle, when you exited the vehicle?
17 Like, when you were running towards the house,
18 were you saying anything?

19 A No. More, like, still, like, trying to
20 figure out what happened, like, we was, like,
21 what the freak, like, what.

22 Q Now, when you -- I think I already asked
23 you this question, but just want to make sure.
24 When you first parked under -- by your house,
25 there was no conversation between you and the

1 Defendant. Is that correct?

2 A Correct.

3 MS. GOECKEL: All right. One moment.

4 (Counsel conferring.)

5 MS. GOECKEL: May I approach the clerk?

6 THE COURT: Yes.

7 MS. GOECKEL: I'm showing defense
8 counsel what's been marked for
9 identification purposes as State's Exhibit
10 A1 and 2.

11 May I approach the witness?

12 THE COURT: You may.

13 BY MS. GOECKEL:

14 Q All right. Ms. , I'm showing you
15 State's Exhibit A1 and 2. Can you just take a
16 second to look at 1 and 2?

17 A Uh-huh.

18 Q And are these photographs a fair and
19 accurate depiction of where the car was parked
20 and where the Defendant was standing when he was
21 using the flamethrower?

22 A Yes, ma'am.

23 Q Okay.

24 MS. GOECKEL: At this time the State
25 moves into evidence State's Exhibit A1 and 2

1 as State's Evidence 1A and B.

2 THE COURT: Any objection?

3 MS. OSTERMAN-BURGESS: No, Your Honor.

4 THE COURT: Thank you.

5 What's been premarked as A1 and 2 will
6 go in evidence as State's Exhibit Number 1,
7 Composite A and B.

8 (State's Composite Exhibit Number 1 was
9 received in evidence.)

10 MS. GOECKEL: And may I publish to the
11 jury?

12 THE COURT: You may.

13 (State's Composite Exhibit Number 1
14 published.)

15 BY MS. GOECKEL:

16 Q All right. So this has been put into
17 evidence as State's 1A. And we just -- you just
18 looked at this photograph. Is the car in this
19 photograph, is that A  's car?

20 A Yes, ma'am.

21 Q And so that's the ones that you were --
22 that's the car you were in at the time this
23 incident occurred?

24 A Yes, ma'am.

25 Q Can you please tell me -- look at that

1 photograph and look at the driver's front window.
2 Does that appear to be open or slightly open to
3 you?

4 MR. MARTIN: Objection.

5 MS. OSTERMAN-BURGESS: Objection, Your
6 Honor.

7 THE COURT: What is the objection?

8 MS. OSTERMAN-BURGESS: Your Honor, may
9 we approach?

10 THE COURT: You may.

11 (Begin sidebar conference:)

12 MS. OSTERMAN-BURGESS: It sounded like
13 the form of the question was asking the
14 witness to make a -- kind of make a guess,
15 what it looks like it was, rather than --

16 THE COURT: Okay.

17 (Counsel conferring.)

18 THE COURT: Anything further?

19 MS. OSTERMAN-BURGESS: Invades the
20 province of the jury in a sense of having to
21 weigh the evidence.

22 THE COURT: Overruled. The witness
23 may -- the question that I heard was does
24 the window appear to open in the item that
25 has been introduced into evidence. And she

1 may answer that. Thank you.

2 (Sidebar conference concluded.)

3 BY MS. GOECKEL:

4 Q Okay. In the photo that's up here,
5 which is State's 1A, does the driver-side window
6 appear to be open in that photograph?

7 A Yes, ma'am.

8 Q Is that a fair representation of how it
9 was open while you guys were seated in the
10 vehicle?

11 A Yes, ma'am.

12 Q Okay. And then what are we looking at
13 to the front of the picture here that's closest
14 to you, the bottom part of the picture, what area
15 is that? Let me get a little closer. So what is
16 this area of the photograph, the bottom middle
17 portion of the photographs?

18 A His driveway.

19 Q Is that where he was standing when you
20 first saw him using it?

21 A Yes, ma'am.

22 Q All right. When he -- when you
23 described him approaching the vehicle, did he
24 ever go off to, like, the grassy part or did he
25 continue down his driveway towards the street?

1 A Down his driveway.

2 Q And now I'm showing you State's
3 Evidence 1B. Can you tell us what we're looking
4 at in this photograph, in the centermost part of
5 that photograph?

6 A It looks like the marks from where he
7 sprayed around.

8 Q And that's what you were describing
9 earlier -- correct? --

10 A Yes, ma'am.

11 Q -- when you said he was dragging it on
12 the road.

13 A Yes, ma'am.

14 Q And so is that what he was doing prior
15 to shooting the flames directly at the vehicle?

16 A Yes, ma'am.

17 Q I know there was some back-and-forth
18 discussion between us about trying to give a
19 sequential, you know, events as far as leading up
20 to him actually throwing the flame at the
21 vehicle. So I want to make that a little bit
22 clear for the jury.

23 When he was first in his driveway --

24 A Yes, ma'am.

25 Q -- and he was using the flamethrower,

1 can you describe specifically what he was doing
2 with his body and what he was doing with his
3 hands when he was using it?

4 A Well, his hands was on the flamethrower.

5 Q Okay.

6 A Like this, I believe, because I don't
7 know how it works. And he was kind of just,
8 like, spraying it across the road like that, just
9 like (indicating), making --

10 Q Was he walking out of his driveway and
11 into the road as he was using it?

12 A Yes, ma'am.

13 Q All right. I think that was what I
14 wanted to make sure was very clear.

15 MS. GOECKEL: Give me one second.

16 (Counsel conferring.)

17 MS. GOECKEL: No further questions.

18 THE COURT: Okay. Cross-examination?

19 MS. OSTERMAN-BURGESS: May it please the
20 Court?

21 THE COURT: Yes.

22 **CROSS-EXAMINATION**

23 BY MS. OSTERMAN-BURGESS:

24 Q Good morning, Ms. .

25 A Good morning.

1 Q So you were sitting in the car with your
2 two friends just kind of talking among
3 yourselves.

4 A No. My two cousins.

5 Q And this gentleman that you're
6 describing, you were not paying specific
7 attention to him, just kind of keeping an eye on
8 the area.

9 A Yes, ma'am.

10 Q And ongoing conversation, you're
11 probably, you know, focused on that conversation
12 rather than everything else going on outside.

13 A Yes, ma'am.

14 Q And same thing with the music, I don't
15 recall if you said that it was low or loud, but
16 enough that you could still hear everybody and --

17 A Yeah, it was low.

18 Q -- so on.

19 And the gentleman, he didn't say
20 anything to you.

21 A No, ma'am.

22 Q Or to the other girls in the car.

23 A No, ma'am.

24 Q I think you described earlier that you
25 were in the driver side of the car. Is that

1 right?

2 A Yes, ma'am.

3 Q And was it in the front or the rear?

4 A The front passenger seat.

5 Q Front passenger. And you weren't able
6 to see kind of exactly how far the flame was from
7 the vehicle. Right?

8 A Not necessarily, but I knew it was
9 close. I could tell it was close.

10 Q And your focus, as I imagine, was solely
11 on getting out of the car.

12 A Yes, ma'am.

13 Q And once you were out of the car, the
14 flamethrower was not in use, like, it wasn't
15 still blowing.

16 A No, ma'am. I don't remember. Sorry.

17 Q Sorry. Just to be clear, are you
18 saying, no, it was not blowing or, no, you don't
19 remember if it was or not?

20 A I don't recall if he -- I believe he
21 stopped after we jumped out the car.

22 MS. OSTERMAN-BURGESS: Your Honor, if I
23 could have a moment?

24 THE COURT: Yes.

25 (Counsel conferring.)

1 MS. OSTERMAN-BURGESS: Thank you. I
2 have no further questions.

3 THE COURT: Thank you.
4 Any brief redirect?

5 MS. GOECKEL: Just a couple questions,
6 Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MS. GOECKEL:

9 Q When the Defendant was first using the
10 flamethrower while he was standing in his
11 driveway, could you feel a little bit of heat or
12 any type of heat coming from the flamethrower
13 while you were in the car?

14 A No, ma'am, not at -- no, ma'am.

15 Q Not while he's sitting in the driveway.

16 A Not while he was in his driveway.

17 Q Once he got closer to the vehicle and
18 actually shot the flames towards the vehicle,
19 could you feel the heat then?

20 A Yes, ma'am.

21 MS. GOECKEL: No further questions.

22 THE COURT: Okay. May this witness be
23 excused?

24 MS. GOECKEL: No, Your Honor, subject to
25 recall.

1 THE COURT: So thank you. What I'm
2 going -- and do you want her to remain in
3 the courthouse or --

4 MS. GOECKEL: Just close by.

5 THE COURT: Okay. So I want you to make
6 sure that they have your phone number, and
7 you need to remain close to the courthouse
8 in case you get recalled, okay, until the
9 trial is over. Okay?

10 THE WITNESS: Okay.

11 THE COURT: Thank you so much.

12 THE WITNESS: You're welcome.

13 (Witness excused from stand.)

14 MS. GOECKEL: Can we approach, Your
15 Honor?

16 THE COURT: You may.

17 (Begin sidebar conference:)

18 MS. GOECKEL: I was not intending to
19 offer the testimony about her seeing it
20 previous to this incident. Obviously, that
21 came out on direct. I would like an
22 opportunity to remind the other witnesses --

23 THE COURT: Yeah, you can have that. So
24 does a five-minute break work for you?

25 MS. GOECKEL: That's perfect, yes.

1 THE COURT: Okay. Thank you.

2 (Sidebar conference concluded.)

3 THE COURT: We're going to take a
4 five-minute comfort break. We have been
5 going at it a little over an hour, and I
6 like to try around an hour, between hour,
7 hour and a half, give you a time for a
8 break.

9 So we're going to take five minutes for
10 that, a little more than five minutes.
11 We'll come back at 10:10. Okay?

12 Thank you.

13 THE BAILIFF: All rise for the jury.

14 (The following proceedings were had
15 before the Court and out of the presence of
16 the Jury:)

17 THE COURT: We'll be at ease.

18 (Brief recess.)

19 (The following proceedings were had
20 before the Court and out of the presence of
21 the Jury:)

22 THE COURT: Okay. Let's bring the jury
23 back in.

24 THE BAILIFF: Yes, sir.

25 All rise for the jury.

1 (The following proceedings were had
2 before the Court and Jury:)

3 THE COURT: Everybody, please be seated.
4 You may call your next witness.

5 MS. GOECKEL: The State calls M 
6 E .

7 (Brief pause to retrieve witness.)

8 THE BAILIFF: Remain standing. Face the
9 young lady right there.

10 THE CLERK: Good morning.

11 Do you swear or affirm the evidence
12 you're about to give will be the truth, the
13 whole truth, and nothing but the truth?

14 MS. E : Yes, ma'am.

15 THE CLERK: Thank you.

16 MS. GOECKEL: May I proceed?

17 THE COURT: Yes.

18  ,

19 called as a witness by the State, produced and
20 duly sworn and responding "Yes, ma'am," was
21 examined and testified as follows:

22 **DIRECT EXAMINATION**

23 BY MS. GOECKEL:

24 Q Good morning.

25 A Good morning.

1 Q Could you please state your first and
2 last name for the jury.

3 A [REDACTED] [REDACTED].

4 Q And can you spell your first name?

5 A M [REDACTED]

6 Q Thank you.

7 How old are you today, Ms. E [REDACTED]?

8 A I'm 19 years old.

9 Q And November of 2021, how old would you
10 have been?

11 A 16.

12 Q All right. And in November of 2021,
13 were you living at the address of 1006 Northeast
14 26th Terrace?

15 A No, ma'am.

16 Q Who lived there?

17 A N [REDACTED].

18 Q Did you live nearby?

19 A Yes.

20 Q And did you and N [REDACTED] go to the
21 same school?

22 A Yes, ma'am.

23 Q Do you know a person named [REDACTED]

24 S [REDACTED]?

25 A Yes.

1 Q How do you know [REDACTED]

2 A She's my cousin.

3 Q And then in November of 2021, did you
4 also go to the same school as A [REDACTED]

5 A Yes.

6 Q Now, let's specifically talk about
7 November 30th of 2021. Did you go to Ms. [REDACTED]'s
8 house that day?

9 A Yes.

10 Q Tell me how you got to Ms. B [REDACTED]'s
11 house.

12 A We went to school. Then after school we
13 all went there.

14 Q Who is "we all"?

15 A Me, N [REDACTED], and [REDACTED] [REDACTED].

16 Q How did you get to Ms. [REDACTED]'s house
17 after school?

18 A We rode in [REDACTED]'s car after school.

19 Q Was [REDACTED] driving?

20 A Yes.

21 Q Where were you seated in the car?

22 A I was in the back seat behind the driver
23 side.

24 Q Once you got to Ms. [REDACTED]'s house, where
25 did [REDACTED] park?

1 A She parked, like, on the side in front
2 of his driveway.

3 Q Who is "his driveway"?

4 A Mr. Abraham, if that's his name.

5 Q And how do you know Mr. Abrams?

6 A He was a neighbor inside the
7 neighborhood.

8 Q Did he live near Ms. B 

9 A Yes, across the street.

10 Q He lived across the street from
11 Ms. 

12 A Yes.

13 Q Had you seen him before?

14 A Yes.

15 Q And did you see him on this date?

16 A Yes.

17 Q When you first arrived -- I'm sorry.

18 You were describing where  parked her car.

19 Could you just clarify that one more time? Where
20 did she park her car?

21 A On the side in N 's yard, but
22 it's, like, behind a post, like, right in front
23 of his driveway.

24 Q But not blocking his driveway?

25 A No.

1 Q When you guys drove up, did you happen
2 to notice if the Defendant was already outside?

3 A No, he wasn't.

4 Q He wasn't outside or you didn't notice?

5 A No, he wasn't outside.

6 Q Okay. When did you notice the
7 Defendant?

8 A After -- after it all happened.

9 Q Okay. While you guys were sitting in
10 the car, what are you guys doing?

11 A We're just talking on our phones, just
12 talking.

13 Q How are you seated in the car?

14 A I was on -- leaning on the driver -- on
15 the door, on the -- where I was sitting at, I was
16 leaning on the door, like, kind of slouched down.

17 Q So your back would have been towards the
18 Defendant's house?

19 A Yes.

20 Q What happened while you were in the car
21 with the two other girls 

22 A We were just -- what happened, like,
23 when the --

24 Q Did you ever -- did anything significant
25 happen while you guys were sitting in the car?

1 A No. We were just sitting talking.

2 Q What about anything significant in
3 regards to the Defendant while you guys were
4 sitting in the car?

5 A No. I didn't really notice him until
6 after the fact.

7 Q No discussions between the two of you --
8 or no discussions between you guys and the
9 Defendant?

10 A No.

11 Q And then what happened next?

12 A We were just sitting there and then we
13 all just felt heat. And I was sitting, like, how
14 I just said I was sitting, on the door. I felt
15 heat. And after I felt the heat, I leaned up and
16 I looked, and that's when A [REDACTED] got out the car
17 first, then N [REDACTED], and I was the last one
18 out the car. We were all just running and
19 screaming.

20 Q So when you leaned up and looked, which
21 direction are you looking?

22 A I'm looking towards his house, his
23 direction.

24 Q So would that be to your left then?

25 A Yes.

1 Q Okay. And what did you see when you
2 looked up towards his house?

3 A He was like -- his back was towards the
4 car and, like, the fire was going the other way
5 instead of towards the car.

6 Q And when he was spraying it towards the
7 other way, did you feel any heat then?

8 A No.

9 Q And I know you're kind of describing it
10 in slow motion for us, but was this a quick
11 exchange that you saw him?

12 A Yeah, it was very quick.

13 Q And then what happens after you leaned
14 up and looked towards his direction and saw what
15 he was doing?

16 A I ran out of the car.

17 Q And how did you get out of the car?

18 A I opened the car -- the door that's on
19 the other side and I went out that door.

20 Q Why didn't you go out the door that you
21 were leaning on?

22 A Because he was throwing fire right
23 there.

24 Q Okay. Once you got out of the car,
25 where did you go?

1 A We ran on the porch.

2 Q Did you say -- were you saying anything
3 when you were running from the car to the porch?

4 A No. I was just screaming.

5 Q You were screaming?

6 A Yeah.

7 Q Were you saying anything specific when
8 you were screaming?

9 A No.

10 Q Just screaming.

11 A I think I probably said, "Oh, my God."

12 Q Were you directing any of that "Oh, my
13 God" towards the Defendant?

14 A I was just saying that as in shock.

15 Q Why did you get out of the car so
16 quickly?

17 A Because it was fire and I was leaning
18 towards the gas tank. So if the fire was to
19 touch the gas tank, the car would have blew up.

20 Q Did that scare you?

21 A Yes.

22 Q Did you think that you would have
23 suffered either significant injury or death had
24 you stayed in the car?

25 A If the fire touched the car, yes, but

1 other than that, no.

2 Q Okay. So because of his actions, you
3 were concerned or afraid that you could be hurt
4 or killed?

5 A Yes.

6 MS. GOECKEL: One moment, Your Honor.

7 THE COURT: Yep.

8 (Counsel conferring.)

9 MS. GOECKEL: No further questions.

10 THE COURT: Cross-examination.

11 MS. OSTERMAN-BURGESS: Thank you, Your
12 Honor.

13 **CROSS-EXAMINATION**

14 BY MS. OSTERMAN-BURGESS:

15 Q Good morning, Ms.  .

16 A Good morning.

17 Q You said the driver-side window was
18 rolled down a little bit.

19 A Yes.

20 Q Do you recall about how much it was
21 rolled down?

22 A No, I don't remember. I just know it
23 was rolled down.

24 Q Okay. And the gentleman with the
25 flamethrower, he didn't say anything to you.

1 Correct?

2 A No.

3 Q Or to the other girls at any time?

4 A No.

5 Q And you said, when you looked up, you
6 saw his back was towards the car. He was
7 spraying the other way.

8 A Yes.

9 Q Was there ultimately any damage to the
10 car?

11 A No.

12 Q Okay. And once you were out of the car,
13 the flames had stopped by that point.

14 A Yes.

15 MS. OSTERMAN-BURGESS: Okay. No further
16 questions.

17 THE COURT: Thank you.

18 Any brief redirect?

19 MS. GOECKEL: Yes, just one question --
20 one or two questions.

21 **REDIRECT EXAMINATION**

22 BY MS. GOECKEL:

23 Q When you described his back was
24 towards -- when you look up and you see him, you
25 described that his back is towards the car. Does

1 that mean he's spraying the flamethrower towards
2 his house?

3 A Yes.

4 Q Okay. Did you see if he was spraying it
5 in the air or on the ground?

6 A He was spraying it on the road, like, on
7 the concrete.

8 MS. GOECKEL: Okay. No further
9 questions.

10 THE COURT: Would you like this witness
11 to be subject to recall?

12 MS. GOECKEL: No. She can be excused.

13 THE COURT: Does the Defense have
14 objection to this witness being excused?

15 MR. MARTIN: We would ask that she
16 remain close.

17 THE COURT: Okay. So, ma'am, you don't
18 have to stay in the courthouse, but you have
19 to make sure that they have your phone
20 number and you have to be close by in case
21 you need to be recalled until this trial is
22 over. Okay?

23 THE WITNESS: Okay.

24 THE COURT: Thank you.

25 (Witness excused from stand.)

1 MS. GOECKEL: The State calls 

2 .

3 THE COURT: Okay.

4 (Brief pause to retrieve witness.)

5 THE COURT: No, ma'am. If you'd come up
6 here, please.

7 THE BAILIFF: Remain standing. Face
8 that young lady right there and raise your
9 right hand.

10 THE CLERK: Good morning.

11 MS. S : Good morning.

12 THE CLERK: Do you swear or affirm the
13 evidence you're about to give will be the
14 truth, the whole truth, and nothing but the
15 truth?

16 MS. : Yes.

17 THE CLERK: Thank you.

18 MS. GOECKEL: May I proceed?

19 THE COURT: Yes.

20  

21 called as a witness by the State, produced and
22 duly sworn and responding "Yes," was examined and
23 testified as follows:

24

25

DIRECT EXAMINATION

BY MS. GOECKEL:

Q Good morning.

A Good morning.

Q Could you please state your first and last name for the jury.

A A S

Q And can you spell your first name,
please.

A A-m-a-r-i.

Q Thank you.

How old are you, A[REDACTED]?

A 21.

Q And how old would you have been on November of 2021?

A 17.

Q And in November of 2021, where were you going to school?

A North Central Florida Charter School.

Q Do you know Ms. N [REDACTED] B [REDACTED]

A Yes.

Q And do you know M [REDACTED] E [REDACTED]?

A Yes.

Q Were they both going to that school, as well?

1 A Yes.

2 Q Is it -- would you often drive them home
3 from school?

4 A Yes.

5 Q Where would you drive them home to,
6 like, which house would you take them to?

7 A Duval.

8 Q All right. And who lives in Duval?

9 A They do.

10 Q They both do?

11 A Uh-huh.

12 Q Now, specifically, on November 30th of
13 2021, which house did you take  E 
14 and N  a B  to?

15 A '  's.

16 Q Ms. B  's house?

17 A Yes.

18 Q So you guys call her 'Talya?

19 A Yes.

20 Q And in November 30th of 2021, where did
21 you park your car when you went to Ms. B  's
22 house?

23 A I think in the front of they house.

24 Q In the front of their house?

25 A Yes.

1 Q Versus, like, in their carport?

2 A Like, by the grass.

3 Q Okay. On the road by the grass?

4 A Yes.

5 Q Is that fair to say?

6 A Yes.

7 Q And were you driving?

8 A Yes.

9 Q Where were the other two seated in the
10 car?

11 A I don't remember. I know somebody was
12 in the passenger, somebody was in the back seat.

13 Q Okay. That was my question.

14 A Okay.

15 Q So they weren't both in the back seat
16 then.

17 A No.

18 Q Someone was up front with you and
19 someone was back in the back.

20 A Yes.

21 Q Now, do you recall if your driver-side
22 window was down at all?

23 A I would think so, because I felt heat,
24 so I would think so.

25 Q Okay. If I showed you a photograph of

1 that day, would that help recall -- help you
2 recall if your driver side window was down?

3 A I don't think so.

4 Q You don't think so?

5 A But it might.

6 Q You think it might?

7 A It might.

8 MS. GOECKEL: May I approach the clerk,
9 Your Honor?

10 THE COURT: You may.

11 MS. GOECKEL: May I approach the
12 witness?

13 THE COURT: You may.

14 BY MS. GOECKEL:

15 Q Is that your car, ?

16 A Yes.

17 Q Can you take a look at that car for me?

18 A Oh, yes. Mine's was down.

19 Q So your driver-side window was down?

20 A Yes.

21 THE COURT: Can I have the State
22 identify what --

23 MS. GOECKEL: I'm sorry, Your Honor. My
24 apologies. This is State's Exhibit 1A.

25 THE COURT: Okay.

1 MS. GOECKEL: It's in evidence.

2 BY MS. GOECKEL:

3 Q And so was it down all the way or just a
4 few inches?

5 A Probably just like that still.

6 Q Are you familiar with Ms. [REDACTED]'s
7 neighbor who lives across the street from her?

8 A Not really. I see him, though.

9 Q That was my next question. Have you
10 seen him before?

11 A Yes.

12 Q When you guys drove up, did you see him
13 outside at all at first?

14 A Yes, sitting on the porch.

15 Q He was sitting on his porch?

16 A Yes.

17 Q Was there any interaction between the
18 two of you, like, did you say hi, did he say hi,
19 anything like that?

20 A No.

21 Q Once you parked your car in front of the
22 house, what were you guys doing?

23 A Just sitting in the car.

24 Q Were you talking?

25 A We probably was on our phones. We

1 always do it.

2 Q That's something you usually do?

3 A Uh-huh, yes.

4 Q So when you drop Ms. B[REDACTED] off at her
5 house, you guys will often park in front of it.

6 Is that correct?

7 A Yes.

8 Q And hang out there?

9 A Yes, in the car.

10 Q For a little bit?

11 A Yes.

12 Q That wasn't the first day that you did
13 this?

14 A No.

15 Q Once you're sitting in the car, when is
16 the next time you notice the Defendant?

17 A When he was -- he was in the grass with
18 the flamethrower.

19 Q And when you say the grass, what grass?
20 On Ms. B[REDACTED]'s side or his side?

21 A His side, in his yard.

22 Q And what was he doing with the
23 flamethrower?

24 A Just doing what he always do, just fire
25 it in the air.

1 Q At any point in time did you ever see
2 him leave his yard?

3 A No.

4 Q Okay. What's the next thing you
5 remember?

6 A Feeling heat and running.

7 Q Okay. When you felt heat, did you look
8 to see where the source of that heat was coming
9 from?

10 A No.

11 Q All right. And where did you feel the
12 heat coming from?

13 A My window.

14 Q Like, on your -- on the driver-side
15 window?

16 A Yes, on my driver side.

17 Q Okay. What did you do when you felt
18 that heat?

19 A We just ran.

20 Q How did you get out of the car?

21 A Across the passenger side.

22 Q So you did not get out the driver-side
23 door?

24 A No.

25 Q Why didn't you get out the driver-side

1 door?

2 A That's where I felt the heat, on that
3 side. I ain't -- I don't think we looked or
4 nothing. Well, I know I didn't look or nothing.
5 I just ran.

6 Q Okay. So you didn't look. You just
7 felt the heat and got out of there?

8 A Yes.

9 Q Once you got out of the car, what did
10 you do?

11 A Ran to 'Talya's house.

12 Q Which is right there. Right?

13 A Yes.

14 Q Were you screaming or saying anything
15 while you're running to the house?

16 A I don't remember. But I'm sure I was
17 screaming, because her grandma came outside.

18 Q Did you look over once you exited the
19 vehicle or was your focus to get to the house?

20 A Yeah, we just went to the house.

21 Q You just went to the house.

22 A Yes.

23 Q All right. When you felt the heat, were
24 you scared?

25 A Yes.

1 Q Why were you scared?

2 A I thought -- I don't know. I really
3 thought the car was on fire or something. I
4 think that's why we all just ran.

5 Q So you thought the car was already on
6 fire.

7 A Something was.

8 Q When you saw him using it in his yard,
9 could you feel the heat then?

10 A No.

11 MS. GOECKEL: One moment, Your Honor.

12 (Counsel conferring.)

13 MS. GOECKEL: No further questions.

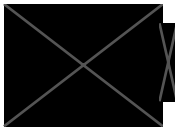
14 THE COURT: Thank you.

15 Cross-examination.

16 MS. OSTERMAN-BURGESS: Thank you, Your
17 Honor.

18 **CROSS-EXAMINATION**

19 BY MS. OSTERMAN-BURGESS:

20 Q Good morning, Ms. S 

21 A Good morning.

22 Q This all took place inside of your car.
23 Right?

24 A Yes.

25 Q Do you recall if the engine was turned

1 off?

2 A I'm sure.

3 Q You're sure it was. Is that kind of a
4 normal practice when you would pull into the
5 driveway?

6 A Yes.

7 Q Or excuse me, to the place where you
8 parked.

9 So ultimately, this gentleman didn't say
10 anything to you?

11 A No.

12 Q Right. He didn't say anything to the
13 other girls?

14 A No.

15 Q And then the driver-side window, you
16 said, was rolled down a little bit. Could you
17 tell me how far?

18 A She has a picture.

19 Q Based on the photo, the photo is --

20 A Yes. It don't look that much down.

21 Q Okay. And you said you were able to
22 feel the heat because the window was open.

23 A Yes.

24 Q Okay. But you didn't look to see kind
25 of what was going on outside the window. You

1 just got out of there.

2 A No. Yes, just got out of there.

3 Q So by the time you were out of the
4 vehicle, the flames had stopped?

5 A I really don't remember.

6 Q You don't remember, okay. You were
7 focused on the conversations you were having in
8 the car.

9 A Getting out the car, uh-huh.

10 Q Getting out of the car.

11 A Uh-huh.

12 MS. OSTERMAN-BURGESS: Your Honor, can I
13 have a moment?

14 THE COURT: You may.

15 (Counsel conferring.)

16 BY MS. OSTERMAN-BURGESS:

17 Q Ms.  do you recall if the
18 radio or other music was playing?

19 A No.

20 Q No, you don't recall or, no, it was not?

21 A I don't recall. If the car was off, I'm
22 sure, no.

23 MS. OSTERMAN-BURGESS: Thank you. I
24 have nothing else.

25 THE COURT: Redirect?

1 MS. GOECKEL: No, Your Honor.

2 THE COURT: May this witness be excused
3 or is this witness subject to recall?

4 MS. GOECKEL: I have no objection if
5 she's excused.

6 THE COURT: Mr. Martin?

7 MR. MARTIN: She can be excused.

8 THE COURT: She can be excused.

9 You are excused. I just want to tell
10 you the rule that I explained to you earlier
11 stays in effect until the end of the day.
12 Okay?

13 THE WITNESS: Okay. Thank you.

14 Does that mean I can leave or --

15 THE COURT: You can leave.

16 THE WITNESS: Like, the courthouse?

17 THE COURT: You may.

18 THE WITNESS: Thank you. Y'all have a
19 great one.

20 THE COURT: You too.

21 (Witness excused.)

22 THE COURT: State may call its next
23 witness.

24 MS. GOECKEL: Lennecia Stephens.

25 (Brief pause to retrieve witness.)

1 THE COURT: Good morning, Ms. Stephens.

2 THE CLERK: Good morning.

3 THE BAILIFF: Remain standing. Face
4 that young lady right there and raise your
5 right hand.

6 THE CLERK: Do you swear or affirm the
7 evidence you're about to give will be the
8 truth, the whole truth, and nothing but the
9 truth?

10 MS. STEPHENS: Yes, ma'am.

11 THE CLERK: Thank you.

12 **LENNECIA STEPHENS,**
13 called as a witness by the State, produced and
14 duly sworn and responding "Yes, ma'am," was
15 examined and testified as follows:

16 **DIRECT EXAMINATION**

17 BY MS. GOECKEL:

18 Q Good morning.

19 A Good morning.

20 Q Could you please state your first and
21 last name for the jury.

22 A Lennecia Stephens.

23 Q And can you spell your first name,
24 please.

25 A L-e-n-n-e-c-i-a.

1 Q Thank you. I appreciate it.

2 Lennecia, how do you know Ms. N 

3 ?

4 A That's my cousin.

5 Q And I want to specifically talk to you
6 about November 30th of 2021. All right?

7 A Okay.

8 Q Were you at Ms.  's house on that
9 day?

10 A Yes, ma'am.

11 Q Did you witness an interaction or an
12 incident involving the neighbor across the street
13 and Ms. ?

14 A I did.

15 Q What did you see?

16 A I saw him blowing his flamethrower at
17  's car.

18 Q Now, where were you at when you saw
19 this?

20 A I was outside of the car.

21 Q You were outside of the car. Where
22 outside the car are you?

23 A I don't actually remember. I believe I
24 was walking back into the yard. But I know I had
25 left from the car. But I was never in the car.

1 Q Never in the car.

2 A No, ma'am.

3 Q But you're somewhere between the car and
4 the house.

5 A Yes, ma'am.

6 Q Are you facing -- when you see him, are
7 you facing Ms.  's house or are you facing
8 his house?

9 A His house.

10 Q You're facing his house.

11 A I was -- okay. I was walking back to
12 the house, but heard it and turned around.

13 Q So when you turned around, what did you
14 see him do specifically?

15 A He was blowing it, like, towards her car
16 back and forth, like.

17 Q And the direction the flamethrower was
18 going was towards  's car?

19 A Yes, ma'am.

20 MS. GOECKEL: All right. No further
21 questions.

22 THE COURT: Thank you.

23 Cross-examination, please.

24

25

1 **CROSS-EXAMINATION**

2 BY MS. OSTERMAN-BURGESS:

3 Q Good morning, Ms. Stephens.

4 So how far away did you say you were
5 between where you were and what you saw?

6 A I was walking from her car. I don't
7 remember how far I was from her car or, like, any
8 of that.

9 Q It was just somewhere in that area.

10 A Yeah.

11 Q Okay.

12 A I wasn't actually at her car, though.

13 Q Yes. So ultimately, the car wasn't
14 damaged in any way, was it?

15 A Uh-uh, not that I seen.

16 MS. OSTERMAN-BURGESS: Nothing further.

17 THE COURT: Okay. Thank you.

18 Any redirect?

19 MS. GOECKEL: No, Your Honor.

20 THE COURT: May this witness be excused?

21 MS. GOECKEL: Yes.

22 THE COURT: Mr. Martin?

23 MR. MARTIN: Yes.

24 THE COURT: Ma'am, you are excused.

25 That means you can leave the courtroom. The

1 instruction I gave you this morning will
2 remain until the trial is over. Okay?

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 (Witness excused.)

6 THE COURT: And the State may call their
7 next witness.

8 MS. GOECKEL: Thank you, Your Honor.

9 The State calls Officer Willfredo Perez.

10 (Brief pause to retrieve witness.)

11 THE COURT: Good morning, sir.

12 If you would, raise your right hand for
13 the clerk to swear you in.

14 THE CLERK: Good morning.

15 Do you swear or affirm the evidence
16 you're about to give will be the truth, the
17 whole truth, and nothing but the truth?

18 OFFICER PEREZ: Yes, ma'am, I do.

19 **OFFICER WILLFREDO PEREZ,**

20 called as a witness by the State, produced and
21 duly sworn and responding "Yes, ma'am, I do," was
22 examined and testified as follows:

23 **DIRECT EXAMINATION**

24 BY MS. GOECKEL:

25 Q Good morning.

1 A Good morning.

2 Q Could you please state your name for the
3 jury.

4 A Willfredo Perez.

5 Q And where are you currently employed?

6 A Gainesville Police Department.

7 Q How long have you been employed with the
8 Gainesville Police Department?

9 A Going on 15 years.

10 Q What is your current position with
11 Gainesville Police Department?

12 A I'm a patrol officer.

13 Q Are you familiar with the Duval
14 neighborhood in Gainesville?

15 A Yes, ma'am.

16 Q Are you -- did you respond to a call
17 there on November 30th of 2021?

18 A Yes, ma'am.

19 Q When you responded to that area, who did
20 you make contact with?

21 A I made contact with Mr. Abrams and
22 multiple female victims.

23 Q Did you have an opportunity to speak
24 with those victims?

25 A Yes, I did.

1 Q Did you have an opportunity to hear --
2 or to understand their perspective of what had
3 just occurred?

4 A Yes, ma'am.

5 Q All right. And when you had an
6 opportunity to speak with the Defendant, were you
7 aware of any sort of recording that would have
8 captured the incident between the Defendant and
9 the victims?

10 A Yes, ma'am.

11 Q What kind of recording captured that
12 incident?

13 A He had surveillance cameras on his
14 residence.

15 Q Who is he?

16 A Mr. Abrams.

17 Q All right. Did you have an opportunity
18 to review the surveillance cameras of the
19 Defendant?

20 A Yes, ma'am.

21 Q How was that captured?

22 A He had an iPad that he was able to bring
23 out and show us video.

24 Q All right. And when you're talking with
25 him, do you have any sort of recording device on?

1 A Yes, ma'am.

2 Q What recording device do you have?

3 A My body-worn camera that we have that we
4 record during all of our investigations.

5 Q Was it working and operating at the time
6 that you reviewed the surveillance video with the
7 Defendant?

8 A Yes, it was.

9 Q Do you know if your body camera captured
10 the surveillance video -- or excuse me, the
11 Defendant's home surveillance video?

12 A It captured parts of the video that he
13 showed us.

14 Q Did he show you the incident that had
15 occurred between himself and the three female
16 victims?

17 A Yes, ma'am.

18 MS. GOECKEL: I'm showing defense
19 counsel what's been marked as State's
20 Exhibit B for identification purposes.

21 May I approach the witness?

22 THE COURT: You may.

23 BY MS. GOECKEL:

24 Q All right. Do you recognize State's
25 Exhibit B?

1 A Yes, ma'am.

2 Q Is that your initials there?

3 A Yes, ma'am.

4 Q Did you have a chance to watch State's
5 Exhibit B?

6 A Yes, ma'am.

7 Q And what is State's Exhibit B?

8 A It's video footage from my body camera.

9 Q And what is it capturing?

10 A It captures the video surveillance shown
11 to me on the iPad from Mr. Abrams.

12 Q Okay. And is it a fair and accurate
13 depiction of what the surveillance video caught
14 of that incident?

15 A Yes, ma'am.

16 MS. GOECKEL: At this time, Your Honor,
17 the State enters into evidence State's
18 Exhibit B as State's 2.

19 THE COURT: Any objection?

20 MR. MARTIN: No.

21 THE COURT: That will come in as State's
22 Number 2.

23 (State's Exhibit Number 2 was received
24 in evidence.)

25 MS. GOECKEL: One moment, Your Honor.

1 Your Honor, could we have a sidebar?

2 THE COURT: Yes.

3 (Begin sidebar conference:)

4 MS. GOECKEL: So this body camera,
5 obviously, has been redacted, clipped and
6 redacted, we need to have the jury
7 instructions read to them on the redaction.

8 THE COURT: I have that in front of me.
9 I was going to call you up to ask y'all. I
10 plan on reading 2.2, the instruction on
11 edited recording.

12 Any objection to that from either side?

13 MS. GOECKEL: No, Your Honor.

14 MR. MARTIN: No.

15 THE COURT: That's what I'll do.

16 Thank you.

17 (Sidebar conference concluded.)

18 MS. GOECKEL: And, Your Honor, may I
19 proceed to publish to the jury?

20 THE COURT: After I read the
21 instruction.

22 Members of the jury, you're about to
23 view a video recording. The Court instructs
24 you that the recording has been edited to
25 eliminate irrelevant portions that will not

1 add to your understanding of the case. The
2 fact that the recording has been edited
3 should not concern you in any way and must
4 not impact the way you view and consider
5 this evidence.

6 Thank you.

7 With that, you may publish State's 2.

8 MS. GOECKEL: Thank you, Your Honor.

9 THE COURT: All right. Before you play
10 it --

11 MS. GOECKEL: Yes, Your Honor.

12 THE COURT: -- if the Defense needs to
13 move to see it, you certainly can.

14 Is this how you're going to keep it?

15 MS. GOECKEL: Yes. May I have the
16 witness step down so he can see?

17 THE COURT: You certainly may.

18 (State's Exhibit Number 2 was
19 published.)

20 MS. GOECKEL: You can sit back down.

21 BY MS. GOECKEL:

22 Q Did you review that video after you had
23 talked to the three girls involved in this case?

24 A Yes, ma'am.

25 Q And when you viewed that video and you

1 look at where their car was parked, was it still
2 in the same position on that video as when you
3 arrived on scene?

4 A Yes, ma'am.

5 Q Did you have an opportunity to take
6 photographs or were there photographs taken in
7 this case?

8 A There were photographs taken, but I did
9 not take the photographs.

10 Q No problem.

11 MS. GOECKEL: May I approach the
12 witness, Your Honor?

13 THE COURT: You may.

14 BY MS. GOECKEL:

15 Q Okay. I'm showing you State's
16 Evidence 1A and B. If you could, just take a
17 moment to look at these two photographs for me.
18 And is this -- are these photographs of the scene
19 when you had arrived?

20 A Yes, ma'am.

21 Q Okay. So nothing had been changed.

22 A No, ma'am.

23 Q Was this car and that -- and where it
24 was parked the same as what you saw on the
25 surveillance video?

1 A Yes, ma'am.

2 Q Was this car and the window that was
3 down in this photograph the same as what you saw
4 on the surveillance video?

5 MR. MARTIN: Objection.

6 THE COURT: Grounds?

7 MR. MARTIN: As to this witness' opinion
8 as to was the photograph the same prior that
9 he arrived.

10 THE COURT: Okay. Can you repeat the
11 question for me?

12 MS. GOECKEL: Yes.

13 BY MS. GOECKEL:

14 Q As far as the driver-side window in the
15 photograph, was it also down or slightly down in
16 the video?

17 A Yes, ma'am.

18 THE COURT: So before you answer, I'm
19 sorry, I wanted to hear the question again.

20 I'm overruling your objection. Your
21 objection is that he was being asked to talk
22 about what it was like before he was there.
23 The question was, is it similar in the
24 picture as it is in the video.

25 MR. MARTIN: So I do have a further

1 objection.

2 THE COURT: And you may make it.

3 MR. MARTIN: Whether or not it's similar
4 to what's in the video, since he was not
5 present when the video was taken, is
6 ultimately going be a jury question, Your
7 Honor.

8 THE COURT: That objection is overruled.

9 BY MS. GOECKEL:

10 Q So you can answer the question.

11 As far as in the video and in the
12 photographs, was the driver-side window down or
13 at least partially down?

14 A Yes, ma'am.

15 Q Okay. And did you have a chance to walk
16 around the scene and look at the drag marks that
17 were on the ground?

18 A Yes, ma'am.

19 Q Did you have a chance to then view the
20 video of that same area where the drag marks
21 were?

22 A Yes, ma'am.

23 Q In that video could you determine
24 approximately how far out the flames on the
25 flamethrower were shooting?

1 A Yes, ma'am.

2 MR. MARTIN: Objection.

3 THE COURT: I'm going to have you-all
4 approach, that's fine.

5 (Begin sidebar conference:)

6 THE COURT: You may.

7 MR. MARTIN: Your Honor, we object. To
8 ask this witness who has not been proffered
9 as an expert to make determinations about
10 distance, and intents, and things that he
11 was not present for from watching a video
12 that he was not present for. He has --
13 there is nothing that has been proffered
14 so -- this is within the scope of this
15 officer's knowledge. And if he's a lay --
16 if he's a lay person, this is a question
17 where the jury is going to have to
18 determine.

19 THE COURT: State.

20 MS. GOECKEL: Yes, Your Honor. As part
21 of his investigation, he has to determine
22 whether or not there was a viable threat to
23 the victims at the time of this incident.
24 Viewing the surveillance video, the
25 Defendant's surveillance video, helps him --

1 is one of the things that helps him in
2 determining if there was a viable threat
3 towards the victims at the time. He is able
4 to look at the video, look at the drag marks
5 and determine how much or how far out those
6 flames were being shot to determine if there
7 was actually a viable threat to the victims.

8 MR. MARTIN: I'm sorry. His
9 determination of whether or not probable
10 cause exists --

11 MS. GOECKEL: Yes.

12 MR. MARTIN: -- is not a question of
13 element that needs to be established in this
14 proceeding. Once again, this is a question
15 of fact that this one's not an expert in.
16 And his investigation, whether or not he
17 comes to the conclusion that there was a
18 viable threat is not relevant.

19 MS. GOECKEL: I'm not going to ask if
20 there is a viable threat. I'm just -- my
21 question is just going around his
22 investigation and what investigation he did.
23 Those are what my questions are.

24 THE COURT: The question that was asked
25 was how far did you determine the flame

1 went.

2 MS. GOECKEL: Yes.

3 THE COURT: Okay. And why can he
4 testify to that?

5 MS. GOECKEL: So he's going to say,
6 based on looking at the drag marks on the
7 ground and looking at the surveillance
8 video, it -- to him, he is estimating that
9 was about 20 feet.

10 THE COURT: Okay. But tell me why he
11 can do that. Tell me why he can do that
12 over anybody else.

13 MS. GOECKEL: Because he can measure
14 from where the person was standing to how
15 far out the flame was.

16 THE COURT: Did he measure?

17 MS. GOECKEL: Not to my knowledge, no.

18 THE COURT: Did he measure the driveway?

19 MS. GOECKEL: No, he did not. This is
20 his estimation.

21 THE COURT: Okay. At this point, with
22 this predicate, I'm going to say that he
23 can't give a distance, okay. I'm not -- if
24 a different predicate is laid, I might say
25 that he can; but with the predicate that has

1 been laid, I'm sustaining the objection.

2 MS. GOECKEL: Okay.

3 THE COURT: Okay.

4 (Sidebar conference concluded.)

5 BY MS. GOECKEL:

6 Q You were not present during the actual
7 incident. Is that correct?

8 A Correct.

9 Q In the surveillance video, can you --
10 can that depict or tell you or have you feel the
11 heat coming from the flamethrower?

12 A No.

13 THE COURT: If you have an objection,
14 make it.

15 MR. MARTIN: Same objection. She's
16 asking beyond the scope and not relevant of
17 what his opinion is as to this matter.

18 THE COURT: Overruled. Overruled. You
19 may continue.

20 BY MS. GOECKEL:

21 Q So does the video depict or can you feel
22 from the video the heat coming from the
23 flamethrower?

24 A No.

25 Q Did you have a chance to witness or look

1 at or see the item that was in the Defendant's
2 hand during the incident? Did you see what he
3 was holding in his hand?

4 A The flamethrower.

5 Q And did he show you that item?

6 A I don't recall if he handed it to us or
7 how I saw it initially.

8 Q Do you know if that item was taken to
9 evidence?

10 A Yes, it was.

11 MS. GOECKEL: I'm sorry. May I approach
12 the clerk, Your Honor?

13 THE COURT: Sure.

14 MS. GOECKEL: And just for the purposes
15 of the record, I'm showing defense counsel
16 what's been marked as State's Exhibit C for
17 identification purposes.

18 May I approach the witness?

19 THE COURT: You may.

20 BY MS. GOECKEL:

21 Q Officer Perez, do you recognize State's
22 Exhibit C?

23 A Yes, ma'am.

24 Q What is State's Exhibit C?

25 A This is the flamethrower that was used

1 during the incident that I investigated on that
2 day.

3 Q And was this what the victims described
4 him holding?

5 A Yes, ma'am.

6 Q And is this what you took from the
7 Defendant's custody?

8 A Yes, ma'am.

9 Q All right. And is it in the same or
10 substantially similar condition as when you took
11 it the day of the investigation?

12 A Yes, ma'am.

13 Q Were you the person who entered this
14 into evidence?

15 A No, ma'am.

16 MS. GOECKEL: Your Honor, may we
17 approach?

18 THE COURT: You may.

19 (Begin sidebar conference:)

20 THE COURT: Before you bring that up
21 here, is the propane still attached to that
22 flamethrower?

23 MS. GOECKEL: Yes.

24 THE COURT: Has anything been done to
25 make sure it's not operable?

1 MS. GOECKEL: I don't know what -- the
2 only thing I know is that the pilot light is
3 not currently lit. Everything else is
4 intact.

5 THE COURT: Okay. Thank you.
6 You may bring up your issue.

7 MS. GOECKEL: At this point in time, I
8 just want the Court and Defense to be
9 aware -- and again, I'm so sorry for calling
10 you by your first name -- the Court and the
11 Defense to be aware that I am going to be
12 laying the predicate for the demonstrative
13 aid for the photos in the video at this
14 point in time.

15 THE COURT: You need to do that outside
16 the presence of the jury.

17 MS. GOECKEL: Correct. That's why I
18 want to bring it to the Court's --

19 THE COURT: So we'll do that.

20 MR. MARTIN: With this witness?

21 MS. GOECKEL: With this witness.

22 THE COURT: Okay. So thank you.

23 (Sidebar conference concluded.)

24 THE COURT: We're not taking this break
25 because we have been going too long, but

1 there are some things we have to do outside
2 of your presence. We're going to take a --
3 I'm guessing it's going to be about a
4 10-minute break, but I'm not exactly sure.

5 Okay. Thank you.

6 THE BAILIFF: All rise for the jury.

7 (The following proceedings were had
8 before the Court and out of the presence of
9 the Jury:)

10 THE COURT: Let the record reflect that
11 the jury has left the courtroom and I also
12 want the record to reflect the Defendant has
13 been here for the entire proceedings and is
14 dressed appropriately for court.

15 And with that, you may proffer whatever
16 testimony you wish to proffer regarding
17 demonstrative aids.

18 MS. GOECKEL: One moment, Your Honor.

19 (Counsel conferring.)

20 THE BAILIFF: Folks, you can be seated.
21 Thank you.

22 THE COURT: Sorry. Thank you.

23 **DIRECT EXAMINATION ON PROFFER**

24 BY MS. GOECKEL:

25 Q When you responded to the residence

1 where this incident occurred, what time of day
2 was it?

3 A It was daytime. I -- the exact time is
4 slipping my mind.

5 Q Did you write it in your report?

6 A Yes, I did.

7 Q And would the report help you recall
8 approximately what time you responded?

9 A Yes, ma'am.

10 MS. GOECKEL: May I approach, Your
11 Honor?

12 BY MS. GOECKEL:

13 Q So if you could, take a moment to review
14 your report. And when you're done, just look up.

15 Did that help refresh your recollection
16 as to what time you responded to the incident
17 location?

18 A Yes, ma'am.

19 Q What time was that?

20 A Approximately 1520.

21 Q Was it a sunny day? Was it raining?

22 A It was a sunny day.

23 Q So you could see pretty clearly?

24 A Yes, ma'am.

25 Q All right. As far as the scene itself

1 where the incident took place, was this on a
2 paved service or on an unpaved surface?

3 A Somewhat of, like, a gravelly paved
4 surface with the road, asphalt material.

5 Q Okay. And there was a surveillance
6 video in this case -- correct? -- that you
7 viewed, that we just viewed.

8 A Yes, ma'am.

9 Q As far as the quality of that
10 surveillance video, is it a fair and accurate
11 depiction of the heat that you would feel from
12 the flames of the flamethrower?

13 A As far as me --

14 Q Like, feeling the heat from it, could
15 you feel it from the video?

16 A From the video, no.

17 Q Okay. Could you hear the flamethrower
18 from the video?

19 A Yes.

20 Q All right. The video that we just
21 showed the jury.

22 THE COURT: My question is which video
23 are you referring to.

24 BY MS. GOECKEL:

25 Q So the video we just saw, the video we

1 just showed to the jury, could you hear the
2 flamethrower in that video?

3 A I could hear it from the video that he
4 was showing us.

5 Q So my question is the video that we just
6 watched, did it have sound?

7 A Yes.

8 Q No. Did the one we just watched have
9 sound?

10 A Right now, no, it did not.

11 Q So in that video that we just watched,
12 could you hear the flamethrower?

13 A No.

14 Q All right. So this has just been marked
15 for identification purposes as State's Exhibit D.

16 In State's Exhibit D, one of the items
17 on there is a video. In this video could you
18 please set up this particular scene, what we're
19 looking at in the video?

20 A So this is going to be on the back side
21 of the Gainesville Police Department in between
22 the administrative building, evidence property
23 building, and the gym. What we're looking at,
24 there is going to be the gym and then this is
25 going to be the Rails to Trail path.

1 Q Okay. And I know it's not in the view
2 of the camera, but if we were to turn around and
3 look the other direction, what building is right
4 there?

5 A It would be the Gainesville Police
6 Department.

7 Q And what specific department is right
8 there?

9 A The property and evidence department.

10 Q All right. And as far as the objects on
11 the middle -- in the middle of the video, what
12 objects are those?

13 A Okay. So there are sandbags that are
14 placed at five-foot increments.

15 Q Another item that's on State's Exhibit D
16 is a photograph. Is this photograph of the same
17 scene and area that we were just looking at as a
18 still shot of the video?

19 A Yes, it is.

20 Q On the ground here, what is it that
21 we're looking at?

22 A A tape measure showing the distances.

23 Q So how far of a distance is from the
24 tape measurer to the very last sandbag there?

25 A 25 feet total.

1 Q And is that how you know that each bag
2 are sitting about five feet apart?

3 A Correct.

4 Q And in this photograph that's also on
5 State's Exhibit D, what are we looking at here?

6 A I can't see from here, but I believe
7 this is the photograph that shows the total
8 distance of the 30 feet.

9 Q And what's marked at the bottom -- or
10 excuse me, what's marked at the 30 feet -- what's
11 at the 30 feet?

12 A The sandbag.

13 Q The sandbag, okay. And before we play
14 the video, what are we about to see in this
15 video?

16 A In this video you'll be seeing the
17 flamethrower and how it works.

18 Q How it operates?

19 A How it operates and the flame comes out.

20 Q Sorry. Last question: Can you hear it
21 in this video?

22 A Yes.

23 (Video played.)

24 Q And in that video, does he consistently
25 do it only one distance or are there varying

1 distance of the operation?

2 A Varies.

3 Q Okay. And approximately how far was the
4 furthest flame?

5 A I would say between 20, 25 feet.

6 Q And would that assist the jury in
7 understanding and -- A, the operation of the
8 flamethrower, as well as the same sound the
9 victims would have heard on that day?

10 A Yes, ma'am.

11 MS. GOECKEL: No further questions, Your
12 Honor.

13 THE COURT: Okay. Mr. Martin.

14 **CROSS-EXAMINATION ON PROFFER**

15 BY MR. MARTIN:

16 Q Good afternoon.

17 A Good afternoon, sir.

18 Q So that's not you on that video actually
19 shooting the flamethrower.

20 A No, sir.

21 Q All right. And so -- and you're not
22 actually depicted in that video. So are you
23 present?

24 A No, sir.

25 Q So you're not even there.

1 A No, sir.

2 Q All right. Okay. So you came to --
3 when were you showed this video?

4 A This was yesterday that I was shown the
5 video.

6 Q All right. So you didn't have anything
7 to do with producing this video.

8 A No, sir.

9 Q You didn't participate in the actual
10 functioning of the flamethrower in question.

11 A No, sir.

12 Q All right. So what you were told and, I
13 guess, from what you observed, this was by GPD.

14 A That was the fire chief.

15 Q No, no, no. The location of this
16 demonstration was behind GPD.

17 A Correct.

18 Q And this is -- I think you described it
19 as the rail -- part of the Rail Trail?

20 A Yes, sir, that's the Rails to Trails
21 that goes to Depot and it cuts through in between
22 the police department and the gym.

23 Q Right. So that's where people run and
24 walk.

25 A Yes, sir.

1 Q Not drive cars.

2 A Correct.

3 Q It's not a street.

4 A Correct.

5 Q And when you were present at the scene

6 of the -- well, when the flamethrower in question

7 here was alleged to be used, you weren't present

8 at all.

9 A No, sir.

10 Q All right. And so you don't know what

11 the wind speed was at that time.

12 A No, sir.

13 Q You don't know what the temperature was

14 at that time.

15 A No, sir.

16 Q All right. From personal knowledge, you

17 don't know what the angle of projection that was

18 used at the time.

19 A Just from what I saw in the video that

20 he showed me.

21 Q So no personal knowledge of it.

22 A Angle, do you mean, like --

23 Q Whether or not --

24 A -- 45 degree?

25 Q Whether or not he was pointing straight

1 up as we saw in this demonstration video or was
2 it pointing down. You don't have any personal
3 knowledge of which angle.

4 A Yes, sir, from the video that he showed
5 me.

6 Q Right. And you're saying that, from
7 what you saw, the angle that you viewed was the
8 same angle as what was in the video.

9 A I'm sorry. I'm having --

10 Q From what you saw --

11 A From this video?

12 Q What you saw --

13 A On this video?

14 Q -- on the demonstration video --

15 A Yes, sir.

16 Q -- you're sitting here saying that the
17 demonstration depicts the same angle as the
18 surveillance video you saw. Is that what you're
19 saying?

20 A No, sir.

21 Q So it's not depicting the same angle.

22 A I didn't say that it was or wasn't.

23 Q You don't have any opinion. Is that
24 what you're saying?

25 A About the angle?

1 Q Yes, sir.

2 A I mean, it -- he -- it was multiple
3 angles. At some point there was a straight angle
4 like the video that we just saw.

5 Q At some point, okay. So you have been
6 with Gainesville Police for 15 years.

7 A Going on 15 years, sir.

8 Q And you're not a physicist.

9 A No, sir.

10 Q Not a fireman.

11 A No, sir.

12 Q Not a fire marshal or anything of that
13 nature.

14 A No, sir.

15 Q Whether you can hear, for example, a
16 firearm discharge, if you can't hear it, does
17 that -- your lack of ability to actually hear the
18 firearm discharge, does that make it somehow less
19 or more dangerous?

20 A Rephrase. I'm not sure I understand the
21 question.

22 Q The sound that a firearm makes or
23 doesn't make, does that make that firearm or
24 dangerous weapon more or less dangerous?

25 A It depends on the person.

1 Q How so?

2 A The person that would hear it. If they
3 were in fear of it or not, if they see it or not.

4 Q No, no. I'm talking about the danger
5 that's posed by the actual weapon. For example,
6 a knife doesn't make any noise, but it's still
7 dangerous. Correct?

8 A Yes, sir.

9 Q Let's say if there was a firearm that
10 had a silencer on it, it's still dangerous.

11 A Yes, sir. You can still hear it.

12 Q So that doesn't really impact the
13 dangerousness of it.

14 A You could still hear it. It's -- the
15 hearing --

16 Q Yes, sir. Yes, sir.

17 MR. MARTIN: Your Honor, I don't have
18 any other questions.

19 THE COURT: Thank you.

20 Was there any redirect?

21 MS. GOECKEL: Just briefly, Your Honor.

22 **REDIRECT EXAMINATION ON PROFFER**

23 BY MS. GOECKEL:

24 Q In the video that we just watched, the
25 one that occurred at GPD, you recognize that

1 setting. Correct?

2 A Yes.

3 Q You have been there multiple times.

4 A Yes, ma'am.

5 Q And on the video that we were just
6 watching, what was the weather like?

7 A It was a bit windy, clear day.

8 Q But sunny? Was it sunny or rainy?

9 A Sunny.

10 Q Was it also sunny on the day of the
11 incident?

12 A Yes.

13 THE COURT: All right. With that, I'll
14 hear argument from the State first.

15 MR. SLAVICHAK: Your Honor, Frank
16 Slavichak for the State.

17 The -- the State's perspective is that
18 the use of the demonstrative aid is -- the
19 purpose and use of the demonstrative aid is
20 to assist the jury's understanding of the
21 facts and circumstances of the object that
22 is being placed before them into evidence.
23 The object being placed before them into
24 evidence is the flamethrower. I don't know
25 that there was a specific objection to its

1 entering into evidence or that there is
2 going to be or will be --

3 THE COURT: You haven't tried to
4 introduce it into evidence.

5 MS. GOECKEL: We have not, no.

6 THE COURT: So there has been no
7 objection, but you haven't offered it into
8 evidence.

9 MR. SLAVICHAK: So the anticipation is
10 it was premarked. It was identified. The
11 State will move it into evidence prior to --

12 THE COURT: But if your point is they
13 didn't make an objection, that's because you
14 haven't offered it yet, for whatever reason.
15 I'm not criticizing the fact that you
16 haven't offered it yet, but you haven't.

17 MR. SLAVICHAK: So I'll rephrase my
18 argument, Your Honor.

19 THE COURT: Sure.

20 MR. SLAVICHAK: The State's use of the
21 demonstrative aid in the video, the video
22 demonstrative aid, will be to help support
23 the item that the State will be moving into
24 evidence, that being the flamethrower, or
25 we'll attempt to move into evidence since it

1 has been premarked and identified by the
2 witness.

3 THE COURT: Sure.

4 MR. SLAVICHAK: The State has a
5 good-faith belief that it will likely be
6 admitted into evidence based on --

7 THE COURT: I'm not doubting that it
8 will likely be admitted into evidence. Not
9 for sure, but likely.

10 MR. SLAVICHAK: That's why I phrased the
11 argument in that manner.

12 From the State's perspective -- and I'll
13 quote a couple cases. *Franklin v. State*,
14 First DCA, 2020, relevant evidence is
15 evidence to prove or disprove a material
16 fact. All relevant evidence is admissible
17 except as provided by law.

18 The Court previously referenced a prior
19 ruling on the use of a demonstration
20 relating to 90.403 over 401 argument or a
21 balancing test --

22 THE COURT: But, Mr. Slavichak, you're
23 quoting to me relevant evidence. You're not
24 offering this video in as evidence.

25 MR. SLAVICHAK: Correct.

1 THE COURT: You're offering this video
2 in as a demonstrative aid. And as a
3 demonstrative aid, it needs to assist the
4 jury in understanding some fact. What fact
5 does that video assist the jury in
6 understanding?

7 MR. SLAVICHAK: The use and distance and
8 fire that the object -- again, being the
9 flamethrower -- can produce. So that being
10 the flame and distance that the flamethrower
11 can produce, will produce, and did produce
12 during its normal operation.

13 THE COURT: Okay. So I understand the
14 can part. I think that video shows how far
15 it can.

16 How does the video show me what it did
17 produce on the night -- or the afternoon,
18 I'm sorry, of November 30th, 2021?

19 MR. SLAVICHAK: So from the State's
20 perspective, a lay witness, that being
21 Officer Perez, can express a opinion and can
22 express opinion testimony, Your Honor, under
23 90.701 related to distances based on general
24 observations of fact. It does not take
25 expert testimony -- or does not take expert

1 training or experience in a specific field
2 for him to relate facts based on his
3 observations on the date in question --

4 THE COURT: Okay. Two different things.
5 First of all, I never ruled that he had to
6 be an expert --

7 MR. SLAVICHAK: I didn't --

8 THE COURT: -- to say that.

9 My question to you is how does this
10 video show what the flamethrower did, which
11 was part of your argument, on November 30th,
12 2021?

13 MR. SLAVICHAK: Your Honor, I believe
14 that the tie-together is the foundation in
15 Officer Perez's testimony that I believe has
16 sufficiently been laid, is that, on the date
17 in question, he surveyed the surrounding
18 area. He took into account the facts in the
19 burn patterns, the observations he could
20 glean from the surveillance video, where the
21 Defendant -- he observed the Defendant at
22 the time of the triggering of the
23 flamethrower. And where the burn patterns
24 were observed on the ground. And based on
25 what he --

1 THE COURT: Let me stop you for a
2 second. He never said any of that.
3 Everything you just told me he did not say.

4 MR. SLAVICHAK: So --

5 THE COURT: So refer me to the specific
6 testimony where he said, "I looked at the
7 burn patterns and I could tell distances or
8 I knew where he was standing," any of that
9 testimony that I heard.

10 MR. SLAVICHAK: So I think that was
11 during the initial direct where an objection
12 was lodged. Ms. Goeckel was questioning
13 Officer Perez about whether he observed the
14 surveillance video, whether he could judge
15 distances, whether he walked the scene,
16 whether he --

17 THE COURT: That question was never
18 asked. The question of whether he walked
19 the scene or whether he did anything to
20 determine the distance was never asked.

21 What was asked is what is the distance
22 from what you see on the video of that
23 flamethrower. The same video that was shown
24 to the jury.

25 None of the questions about things he

1 did on the scene to help him make that
2 determination were asked. And no answers
3 were given to them, more importantly,
4 because they weren't asked.

5 MR. SLAVICHAK: Then, Your Honor, I
6 apologize. If there was a failure on that
7 initial predicate, then I can go through
8 those steps again if the Court will allow,
9 because that is -- that would be the proper
10 foundation that I think the State would be
11 establishing; that based on his review of
12 the surveillance video, his examination of
13 the triggering of the flamethrower, where
14 the Defendant was standing at the time of
15 the triggering, the burn patterns, where
16 they were located on the ground, his
17 training and experience, his being
18 specifically on scene the date of the
19 occasion, his knowledge and experience with
20 the size and distance of a average road, the
21 road specifically in question at that
22 location, his general knowledge of his own
23 height, and his ability to take his own
24 height and take that against the distance of
25 where the burn patterns ended versus where

1 the car door began, that he could come to
2 realistic or reasonable estimations of the
3 distance that the flames traveled from where
4 the Defendant were to where the flames
5 ended.

6 Now, based upon that --

7 THE COURT: Based upon that, your
8 assumption is that, if he laid that
9 predicate, he might be able to testify to
10 the distance that he sees on that video,
11 okay. So why do we need the surveillance
12 video?

13 MR. SLAVICHAK: Because the surveillance
14 video, Your Honor, is grainy --

15 THE COURT: And I said surveillance.
16 I'm sorry. I mean demonstration video, but
17 please continue.

18 MR. SLAVICHAK: Well, that's --

19 THE COURT: I don't mean the
20 surveillance video. I mean the
21 demonstration video. I misspoke.

22 The video that you are trying to get
23 used as a demonstrative aid, why do we need
24 it?

25 MR. SLAVICHAK: Sure, Your Honor.

1 Because I think those are -- that's the
2 important distinction. I think the --
3 arguably, the important thing, Your Honor,
4 to note is that the purpose of this
5 demonstrative aid is to assist the trier in
6 fact and present -- so this is a quote from
7 *Hayes v. State*, First DCA, 2022. The State
8 is entitled to present evidence and facts
9 which paint an accurate picture of the
10 events surrounding the crime charged.

11 Griffin v. State, 639 So.2d (sic).
12 There is not, from the State's perspective,
13 the -- I think the Court may have
14 referenced, and this is detailed within
15 *Hayes v. State*, there is not, arguably, from
16 the State's perspective, a unduly
17 prejudicial nature in showing this
18 demonstrative aid, because this
19 demonstrative aid is of higher quality,
20 better quality, and it can accurately depict
21 the distance that these flames can travel
22 because we have an actual measuring device.

23 So while the jury can weigh, arguably,
24 the testimony of the officer in his
25 estimations, they can rely upon the

1 demonstrative aid and the measuring tape as
2 it is laid out and determine whether or not
3 the device -- that being, again, if it is
4 moved into evidence properly, the
5 flamethrower -- projects a flame 20 to
6 25 feet.

7 From the State's perspective, that is
8 painting an accurate picture of the events
9 surrounding the crime charged. What we're
10 looking at in the surveillance video is
11 video on top of video. It is also redacted
12 video based on the Defense's motion, which
13 does not capture audio.

14 One of the testimony of the witnesses
15 was what triggered her actions in looking
16 and responding was specifically the sound
17 that the flamethrower makes. It was the
18 audible sound that the flamethrower makes
19 which triggered her to turn and look --

20 THE COURT: What witness was this?

21 MR. SLAVICHAK: Sure, Your Honor. That
22 was specifically Ms. Lennecia Stephens. She
23 specifically stated that what triggered --

24 THE COURT: Is she the person who was
25 not in the car?

1 MR. SLAVICHAK: Yes.

2 THE COURT: Thank you.

3 MR. SLAVICHAK: That's what specifically
4 triggered her response in turning around and
5 looking, was the audible triggering of the
6 flamethrower, and that's what focused her on
7 watching the Defendant firing the
8 flamethrower at the car, was the audible
9 sound that the flamethrower made.

10 We don't have an accurate -- from the
11 State's perspective, an accurate depiction
12 of the events when we are looking at a --
13 you know, I don't want to say static because
14 it's moving, it's a surveillance video, but
15 a static portrayal of the surveillance video
16 when itself, the iPad, is moving at
17 different angles and it's recording upon a
18 recording.

19 The State should -- the State's argument
20 is that it should be permitted to provide an
21 accurate portrayal of the events.

22 As it relates to -- again, just if the
23 Court would permit me briefly, as it relates
24 to a balancing test, I would suggest, Your
25 Honor, additional facts and case law from,

1 again, *Franklin v. State*. In that case
2 there were photographs demonstrating the
3 location, so that's photography, but it was
4 demonstrative, photography demonstrating
5 locations of firearms after -- demonstrating
6 location of firearms that law enforcement
7 found them in. But those photographs were
8 depicting where the firearms were located
9 after law enforcement placed them in that
10 location, meaning specifically, factually,
11 law enforcement collected the firearms, then
12 placed the firearms back where they had been
13 located, then photographed them, so
14 arguably, the demonstrative creation of the
15 evidence or the location of that evidence.

16 So I am equating that factual scenario
17 to the demonstrative aid that we're
18 representing here. The court found that
19 that was permissible. Again, there is no
20 misleading of the jury. There is no
21 needless presentation of cumulative
22 evidence. And there is not a substantial
23 outweigh of the danger of unfair prejudice.

24 Additionally, for that 90.403 over 401,
25 it's that the Court should be considering

1 whether there is an unfair inference to be
2 drawn that the State is, arguably,
3 attempting to appeal to some emotional
4 response, Your Honor. And I would argue
5 this demonstrative aid does not contain any
6 third-party victims. There are no -- the
7 State took steps to not include some type of
8 emotional draw such as mannequins or
9 something of that nature, which may impart a
10 negative connotation to the actions simply
11 of the triggering and distance that the
12 flamethrower projects.

13 THE COURT: Okay. Thank you.

14 I'm ready to rule.

15 There is a couple things going on here.
16 First of all, I don't have sufficient
17 evidence to tell me that -- how that is
18 being fired in the demonstration is the same
19 circumstances and situations as it was being
20 fired on the day of November 30th, 2021.
21 For instance, I don't know if humidity,
22 wind, temperature have any effect on how far
23 that flamethrower fires. I haven't been
24 provided any of that.

25 I have a witness here who was not

1 present here during the demonstration. And
2 I appreciate the fact that he's telling me
3 it's clear and it's sunny. And I, like the
4 jury, can determine those same factors from
5 the video. I don't believe I can determine
6 if it was windy.

7 I can tell you that if we had done a
8 live demonstration today, when I walked in
9 this morning, there were wind gusts. How
10 does that affect the flamethrower and the
11 distance? I don't know. Nobody has told
12 me.

13 So when I am making a finding that you
14 haven't proved that it's substantially
15 similar to the conditions at the time that
16 the flamethrower was fired, that is what I'm
17 basing it on.

18 As to the issue of sound, I don't
19 believe that the issue of sound is going to
20 assist the jury in this case. What you are
21 telling me is the issue of sound is the
22 reason why the non-victim -- she's not
23 listed as a victim -- turned around. That's
24 fine.

25 If there had been any testimony from the

1 victims that the sound of the flamethrower
2 put them in fear, I may have allowed the
3 sound portion of the demonstration to be
4 presented. But there was no evidence from
5 any one of the victims regarding sound of
6 the flamethrower.

7 So for all of those reasons, I am not
8 allowing the demonstrative aid to come -- to
9 be presented to the jury. I don't find that
10 it assists the jury in determining any facts
11 further than the video that we saw of a
12 flamethrower being shot in the direction of
13 the car. So that's the Court's ruling.

14 We can bring the jury back in. You
15 haven't finished your direct. You certainly
16 may finish your direct.

17 And is there anything further that needs
18 to be addressed prior to us bringing the
19 jury back in?

20 MR. MARTIN: Not from the Defense, Your
21 Honor.

22 MS. GOECKEL: Not from the State, Your
23 Honor.

24 THE COURT: Does anybody, Court staff or
25 any of the attorneys or parties, need a

1 brief break before I bring them back in?

2 MR. MARTIN: If I can go to the
3 restroom.

4 THE COURT: You can, but I want to talk
5 scheduling first.

6 So however long -- you tell me how much
7 longer you think the direct is going to go.

8 MS. GOECKEL: Oh, not much longer.

9 THE COURT: Okay. And there will be a
10 cross.

11 What is your plan for further witnesses.

12 MS. GOECKEL: There is only one more
13 witness after him. It's probably about five
14 minutes.

15 THE COURT: Okay. All right. And after
16 that you plan on resting.

17 MS. GOECKEL: Yes.

18 THE COURT: Okay. Mr. Martin, what I
19 plan on doing then is finishing this
20 witness, bringing in the next witness,
21 finishing that, breaking for lunch. And
22 then when we come back from lunch, you will
23 have the opportunity, if you wish, to
24 present a case.

25 MR. MARTIN: Yes, sir.

1 THE COURT: I take it that's something
2 you want to tell me after lunch.

3 MR. MARTIN: Yes, sir.

4 THE COURT: Which is fine. If the
5 answer is you're not presenting a case, then
6 at that time we're going to go over the jury
7 instructions and have our charge conference,
8 okay. So that's kind of my plan for the
9 rest of the morning.

10 I do plan on taking an hour and
11 15 minutes for lunch whenever we break and
12 then going forward as applicable. Okay?

13 All right. Thank you. If you bring --
14 sorry. How long do you need for a break?

15 MR. MARTIN: Oh, not that long, I just
16 need to run to the restroom.

17 THE COURT: That's fine. Let's come
18 back at 11:40 and we'll bring the jury back
19 in at that time.

20 Thank you.

21 THE BAILIFF: All rise. Court is in
22 recess until 11:40.

23 (Brief recess.)

24

25

1 (The following proceedings were had
2 before the Court and out of the presence of
3 the Jury:)

4 THE COURT: All right. It looks like
5 everybody is back. We'll come to order.

6 Are both sides ready for me to bring the
7 jury back in?

8 MR. MARTIN: Yes, sir.

9 MS. GOECKEL: Yes, Your Honor.

10 THE COURT: Would you do that, please.

11 THE BAILIFF: All rise for the jury.

12 (The following proceedings were had
13 before the Court and Jury:)

14 THE COURT: Thank you-all. Everybody
15 may be seated.

16 Before we continue with the direct
17 examination, I just want to give you some
18 scheduling notes. We plan on finishing with
19 this witness. I think we're going to bring
20 in another witness, and then we're going to
21 break for lunch. Okay?

22 And then after the break for lunch, we
23 may need an additional break, it just
24 depends on how things go. So if you're back
25 there a little bit longer for lunch than you

1 thought, that will be why. It won't be
2 because we're all in a restaurant having
3 fun. We'll be in here working. Okay? So
4 that's our plan for the rest of this short
5 morning/afternoon.

6 And you may continue.

7 MS. GOECKEL: Yes, Your Honor.

8 **DIRECT EXAMINATION CONTINUED**

9 BY MS. GOECKEL:

10 Q Are you familiar with this neighborhood?

11 A Yes, ma'am.

12 Q As far as the roads are in this
13 neighborhood, can you describe approximately how
14 wide they are?

15 A I would say the -- from one end to the
16 other is approximately 15 feet or so.

17 Q So once the Defendant stepped from his
18 driveway to the road, how much further would he
19 have to go before he actually reached the
20 victim's car?

21 A Maybe 10 or 15 feet.

22 Q Would you describe the neighborhood road
23 as more narrow or the same size as a regular road
24 that we would travel on?

25 A It's a little bit more narrow than most

1 roads.

2 Q Would it be difficult for two cars to
3 pass each other?

4 A They would be able to get by each other,
5 but not if there's another car parked on the
6 road.

7 MS. GOECKEL: Okay. No further
8 questions.

9 THE COURT: Okay. Any cross?

10 MR. MARTIN: Briefly.

11 **CROSS-EXAMINATION**

12 BY MR. MARTIN:

13 Q Good morning.

14 A Good morning, sir.

15 Q Just one kind of very straightforward
16 question here.

17 A Yes, sir.

18 Q As far as the incident that brings us
19 here today, the actual, I guess, projection of
20 that flamethrower over there, you don't have any
21 personal knowledge of the circumstances
22 surrounding that, in that you weren't there when
23 it happened?

24 A Correct.

25 MR. MARTIN: All right. Thank you.

1 THE COURT: Okay. Any redirect based on
2 that?

3 MS. GOECKEL: No, Your Honor.

4 THE COURT: Okay. May this witness be
5 excused or do you want him subject to
6 recall?

7 MS. GOECKEL: Subject to recall, Your
8 Honor.

9 THE COURT: Thank you.

10 Sir, thank you. What I'm going to ask
11 is make sure that the attorneys have your
12 phone number and be somewhere close that --
13 maybe within 10, 15 minutes, where if we
14 have to recall you, we can bring you back.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Thank you.

17 THE WITNESS: Thank you.

18 (Witness excused from stand.)

19 MS. GOECKEL: May I call the next
20 witness?

21 THE COURT: Yes, you may.

22 MS. GOECKEL: Officer Marcotte.

23 (Brief pause to retrieve witness.)

24 THE CLERK: Good morning.

25 Do you swear or affirm the evidence

1 you're about to give will be the truth, the
2 whole truth, and nothing but the truth?

3 OFFICER MARCOTTE: I do.

4 **OFFICER JACOB MARCOTTE,**
5 called as a witness by the State, produced and
6 duly sworn and responding "I do," was examined
7 and testified as follows:

8 **DIRECT EXAMINATION**

9 BY MS. GOECKEL:

10 Q Good morning.

11 A Morning.

12 Q Could you please state your first and
13 last name for the jury.

14 A Jacob Marcotte.

15 Q And where are you currently employed?

16 A Duval County Public School Police
17 Department.

18 Q How long have you been employed there?

19 A It's been about two years.

20 Q And what specific position do you hold
21 there?

22 A I'm a school safety officer.

23 Q Were you ever employed at the
24 Gainesville Police Department?

25 A Yes, correct.

1 Q Were you employed at the Gainesville
2 Police Department in November of 2021?

3 A Yes, correct.

4 Q And on November 30th of 2021, did you
5 respond to an investigation in the Duval
6 neighborhood?

7 A I believe so.

8 Q Did you have an opportunity to help or
9 assist in the investigation with Officer Perez?

10 A Yes.

11 Q Did you collect an item of evidence as a
12 part of that assistance?

13 A Yes.

14 Q What item of evidence did you collect?

15 A The flamethrower.

16 Q And what did you do with that item of
17 evidence?

18 A I submitted it to the evidence --
19 property and evidence room.

20 MS. GOECKEL: May I approach the clerk,
21 Your Honor?

22 THE COURT: Yes.

23 BY MS. GOECKEL:

24 Q I'm showing you what's been marked as
25 State's Exhibit C for identification. Do you

1 recognize State's Exhibit?

2 A Yes.

3 Q And what is this?

4 A This is the flamethrower that I
5 collected on the date.

6 Q Okay. And would this have your I.D.
7 attached to it? Is that how you know you
8 collected it?

9 A Yes, it should. If -- yeah.

10 Q If you'll go ahead and take a look at
11 the tags attached to it and tell me if you see
12 your I.D. on here.

13 A Yes.

14 Q And is this the same -- in the same or
15 substantially similar condition as when you
16 submitted it into evidence?

17 A From what I remember, yeah.

18 Q Nothing has changed from it?

19 A No, no, nothing.

20 MS. GOECKEL: At this time, Your Honor,
21 the State submits into evidence State's
22 Exhibit C.

23 THE COURT: Okay. Any objection?

24 MR. MARTIN: No, sir.

25 THE COURT: Okay. So that will come in

1 as Number 3.

2 (State's Exhibit Number 3 was received
3 in evidence.)

4 MS. GOECKEL: No further questions.

5 THE COURT: Cross?

6 MR. MARTIN: No questions.

7 THE COURT: May this witness be excused?

8 MS. GOECKEL: No, actually, subject to
9 recall, please.

10 THE COURT: Okay. So, sir, thank you.
11 You are -- you can leave now, make sure they
12 have your phone number and be about 10,
13 15 minutes away until the trial is over in
14 case we need to recall you.

15 THE WITNESS: Yes, Your Honor. Thank
16 you.

17 (Witness excused from stand.)

18 MS. GOECKEL: Your Honor, State rests.

19 THE COURT: Okay. So at this time we're
20 going to break for lunch. Okay? We're
21 going to send you back and we're going to
22 break until at least 1:00 o'clock. And as I
23 told you earlier, depending on what goes on,
24 we're going to work a little bit more right
25 now. It may be longer, just know that

1 that's a possibility, but at least until
2 1:00. So enjoy your lunch.

3 THE BAILIFF: All rise for the jury.

4 (The following proceedings were had
5 before the Court and out of the presence of
6 the Jury:)

7 THE COURT: Thank you. Please be
8 seated.

9 The State has announced rest. Does the
10 Defense have any motions?

11 MS. OSTERMAN-BURGESS: Yes, Your Honor.
12 At this time we make a motion for judgment
13 of acquittal based on the State having not
14 proven all four elements for a prima facie
15 case to go to jury to consider. I do have a
16 case here that refers to the intentional
17 acts to -- intentional threat being made by
18 a defendant includes that the threat be
19 directed to a person, not -- I would argue
20 that's not been mentioned by the State.

21 THE COURT: Okay. In a light most
22 favorable to the State, I do find that a
23 prima facie case has been made -- you may.

24 MS. OSTERMAN-BURGESS: I apologize.
25 That is *Summers vs. United States of*

1 *America*, by the Supreme Court of Florida,
2 355 So.3d 887, the year was 2022.

3 THE COURT: Thank you.

4 So I do find -- I do find in a light
5 most favorable to the State that evidence
6 has been presented where a jury can find
7 that each of the elements has been proven.
8 So I am denying the motion for judgment of
9 acquittal.

10 And with that, my plan is to break and
11 we'll come back at 1:00 o'clock. When we
12 come back at 1:00 o'clock, I'll ask you if
13 you wish to present a case. I'll have a
14 colloquy with the Defendant. So I will ask
15 that before 1:00 o'clock you have that
16 conversation with him.

17 MR. MARTIN: Yes, sir.

18 THE COURT: And then at 1:00 o'clock
19 we'll either do that, have a case from the
20 Defense or we'll find out that we won't, and
21 then we'll do our charge conference.

22 MR. MARTIN: Yes, sir.

23 THE COURT: All right. Anything further
24 from either side?

25 MS. GOECKEL: No, Your Honor. So be

1 back here at 1:00 p.m.?

2 THE COURT: Yes. Do you need a little
3 more time than that?

4 MS. GOECKEL: Like five more minutes.

5 THE COURT: Say 1:05. Does that work?

6 MS. GOECKEL: Yes.

7 THE COURT: Does that work for you?

8 MR. MARTIN: We're going to go out and
9 have the conversation with him now. So
10 perhaps 1:15 that we can come back.

11 THE COURT: Okay. I'm going to split
12 the difference and give you 1:10. Does that
13 work?

14 MR. MARTIN: Yes, sir. It does now,
15 Your Honor.

16 THE COURT: So we'll see you at 1:10,
17 and at that point we'll address those
18 issues.

19 We are adjourned until 1:10. Thank you.

20 (Luncheon recess.)

21 (The following proceedings were had
22 before the Court and out of the presence of
23 the Jury:)

24 THE COURT: Okay. So we are back on the
25 record. And the State has rested.

1 Does the Defense have a case to put on?

2 MR. MARTIN: It is my understanding that
3 Mr. Abrams does not wish to take the stand,
4 and we have no other witnesses.

5 THE COURT: Okay. Let me do a colloquy
6 with Mr. Abrams.

7 MR. ABRAMS: Do I need to stand up?

8 THE COURT: You don't. But you need to
9 raise your right hand.

10 Do you swear or affirm everything you're
11 going to tell me is the truth?

12 MR. ABRAMS: Yes, sir.

13 THE COURT: Thank you, sir.

14 Mr. Abrams, you've indicated to the
15 Court -- or your attorney has indicated to
16 the Court that you've elected to not testify
17 on your own behalf. Is that correct?

18 MR. ABRAMS: Yes, sir. That's correct.

19 THE COURT: And that is a decision that
20 you get to make. It's one of the few
21 decisions that you get to make and your
22 attorney does not get to make. Your
23 attorney can advise you, but it is your
24 decision.

25 So are you telling me that is your

1 decision not to testify?

2 MR. ABRAMS: That's correct. That's my
3 decision.

4 THE COURT: And you made this decision
5 after consultation with your attorneys?

6 MR. ABRAMS: That's correct.

7 THE COURT: Do you have any questions
8 for me whatsoever --

9 MR. ABRAMS: No, sir.

10 THE COURT: -- about your right to
11 testify?

12 MR. ABRAMS: No, sir. I'm good. I'm
13 okay with that.

14 THE COURT: Okay. All right. Great.

15 Any further colloquy suggested by either
16 side?

17 MR. MARTIN: No, sir.

18 MS. GOECKEL: Not from the State.

19 THE COURT: Okay. All right. So with
20 that, my plan is to go ahead and go over our
21 jury instructions now.

22 The State -- or the Defense, I'm sorry,
23 has rested. Did you rest? Did I
24 misunderstand.

25 MR. MARTIN: I did not formally rest,

1 but --

2 THE COURT: You said you're not
3 presenting any evidence.

4 MR. MARTIN: Do you want me to do that
5 in front of the jury?

6 THE COURT: We will. But I want to let
7 you at this time renew any motions that you
8 want to renew for appellate reasons.

9 MR. MARTIN: Yes, sir. We renew all
10 previous motions and objections including
11 the motion for judgment of acquittal.

12 THE COURT: Okay. And the Court's
13 ruling is the same, but I will let you
14 announce rest in front of the jury when we
15 come back.

16 Yes, sir, Mr. Slavichak.

17 MR. SLAVICHAK: Your Honor, Frank
18 Slavichak for the State.

19 At this time the State is going to
20 request a 15-minute recess. Some facts and
21 circumstances have just been brought to the
22 State's attention that, I believe, warrant
23 the State's request. I ask to explore the
24 information, and I don't think it's an undue
25 delay or burden on the Court.

1 THE COURT: Can you explore that while
2 we go through a charge conference with your
3 partner?

4 MR. SLAVICHAK: Are you comfortable --

5 MS. GOECKEL: Yes, I can do that.

6 MR. SLAVICHAK: Yes, Your Honor.

7 Ms. Goeckel will --

8 THE COURT: So why don't we do that.
9 You are certainly excused for however long
10 you need. And we'll be doing a charge
11 conference in that time. Okay?

12 MR. MARTIN: So we're going to pose the
13 instruction --

14 THE COURT: Correct, yes, sir. I have a
15 printed copy in front of me.

16 And, Ms. Goeckel, will you be able to
17 make any changes as we go through?

18 MS. GOECKEL: Yes, Your Honor.

19 THE COURT: So, Mr. Martin, let me know
20 when you have them available.

21 MR. MARTIN: Yes, sir.

22 MS. GOECKEL: Would you like me to
23 resend it to you?

24 MR. MARTIN: Yeah. I'm having trouble
25 with my email.

1 MS. OSTERMAN-BURGESS: Will you send it
2 to me, as well, please.

3 MS. GOECKEL: Yes.

4 THE COURT: Mr. Martin, do you have
5 access to a copy machine somewhere? I'm not
6 in this courthouse, so I don't know the
7 answer to that.

8 MR. MARTIN: At the office. I mean,
9 there's a copy -- I have it now.

10 THE COURT: Oh, you have it, okay.

11 All right. So let's start our charge
12 conference. Everybody is looking at the
13 proposed instructions provided by the State.

14 MS. GOECKEL: Yes, Your Honor. On the
15 first page I just want to point out that for
16 the final instructions, the jury
17 instructions will be the title page, and
18 I'll start the instructions on the second
19 page as it normally looks in most trials.

20 THE COURT: Okay. Understood.

21 As to the introduction to final
22 instructions and the statement of the
23 charge, does the Defense have any
24 objections?

25 MR. MARTIN: No, sir.

1 THE COURT: Thank you.

2 As to Count I, aggravated assault with a
3 deadly weapon, the italic "give if
4 applicable" sections will be removed. Other
5 than that, does the Defense have any
6 objection to the instructions as they
7 currently are found?

8 MR. MARTIN: No objection.

9 THE COURT: Okay. If that is the case
10 for Count I, I take it that's the case for
11 Count II and Count III, as well, but you can
12 correct me if I'm wrong.

13 MR. MARTIN: The only difference, and
14 I'm looking through it, and that would be to
15 change the name. Is that right?

16 THE COURT: I believe there is a change
17 of names. I believe I have N [REDACTED]
18 B [REDACTED] II has M [REDACTED] [REDACTED] -- I'm sorry,
19 II as [REDACTED] [REDACTED] III has Matlynn
20 E [REDACTED] and I has [REDACTED] [REDACTED]

21 MR. MARTIN: No objection, Your Honor.

22 THE COURT: So you're good through the
23 third count of aggravated assault with a
24 deadly weapon.

25 MR. MARTIN: Yes.

1 THE COURT: Thank you.

2 All right. The lesser included crimes
3 or attempts instruction, any objections to
4 that, Mr. Martin?

5 MR. MARTIN: No.

6 THE COURT: The improper exhibition of a
7 weapon instruction, any objection to that
8 being a lesser included crime or any
9 objection to the instruction itself?

10 MR. MARTIN: No, sir. I think it's
11 a category one.

12 THE COURT: Understood. So --

13 MR. MARTIN: So, no, sir.

14 THE COURT: No to both. Correct? You
15 agree it should be there and you don't have
16 anything you want to change in it.

17 MR. MARTIN: Yeah, I do not.

18 THE COURT: Okay.

19 MS. GOECKEL: Your Honor, I believe the
20 State just preemptively crossed out the
21 portion that dealt with a pocketknife, as
22 that's not the allegations in this one. May
23 I go ahead and remove that instruction from
24 the improper exhibition?

25 THE COURT: So you're talking about in

1 the definition of a weapon? Or what are you
2 talking --

3 MS. GOECKEL: Yes, sir.

4 MR. MARTIN: Okay.

5 MS. GOECKEL: I'm sorry. I thought we
6 were talking about improper exhibition of a
7 weapon. Are we not there yet?

8 THE COURT: We are. Which portion of
9 that instruction are you referring to?

10 MS. GOECKEL: Right after a weapon,
11 there is a conflict within the district
12 courts, that's talking about a pocketknife.
13 May I go ahead and remove that --

14 THE COURT: Everything that --
15 everything that is -- currently has a line
16 through it --

17 MS. GOECKEL: Yes.

18 THE COURT: -- you may remove unless
19 there is an objection by the Defense.

20 MS. GOECKEL: Yes, sir.

21 MR. MARTIN: No.

22 THE COURT: There is no objection.
23 Correct?

24 MR. MARTIN: No.

25 THE COURT: I'm correct. Right?

1 MR. MARTIN: You're -- yes, sir.

2 THE COURT: Thank you.

3 As for assault -- I'll ask these
4 questions separately. Mr. Martin, do you
5 agree assault should be a lesser included
6 crime for this -- for the charge of
7 aggravated assault?

8 MR. MARTIN: It should be.

9 THE COURT: And do you agree with the
10 language that has been provided for the
11 assault charge?

12 MR. MARTIN: Okay. Give me a second,
13 Your Honor.

14 THE COURT: Sure.

15 MR. MARTIN: I don't have a problem with
16 this, Your Honor.

17 THE COURT: So now I'm going to go to
18 plea of not guilty, reasonable doubt, and
19 burden of proof. Any objections to that
20 instruction? And you can take a minute to
21 review it again and then let me know.

22 MR. MARTIN: I'm fine, sir.

23 THE COURT: Okay. Now let's move to
24 weighing the evidence up through number 5.
25 Are there any objections to the instructions

1 as provided?

2 MR. MARTIN: No objection.

3 THE COURT: As to 6 through 10, I am
4 going to suggest that none of them are
5 applicable. I will hear from either side if
6 you do not agree.

7 MS. GOECKEL: The State agrees, Your
8 Honor.

9 MR. MARTIN: I don't think they apply,
10 Your Honor.

11 THE COURT: So 6 through 10, in addition
12 to the italics that were coming out, 6
13 through 10 will be removed.

14 That leaves us with whether the State --
15 the paragraph, whether the State has met its
16 burden of proof does not depend upon the
17 number of witnesses its called or upon the
18 number of exhibits it has offered, instead
19 upon the nature and quality of the evidence
20 presented.

21 Any objection to that language?

22 MR. MARTIN: I'm sorry. Where are you
23 at, Your Honor?

24 THE COURT: Under number 10, the
25 paragraph under number 10.

1 MR. MARTIN: Whether the State has met
2 the burden.

3 THE COURT: Yes, sir. Are you okay with
4 that paragraph?

5 MR. MARTIN: Yes.

6 THE COURT: Okay. Law enforcement
7 witnesses, that paragraph, are you okay with
8 that paragraph?

9 MR. MARTIN: Yes.

10 THE COURT: You are okay with the expert
11 witness paragraph being removed because we
12 didn't have any expert testimony.

13 MR. MARTIN: Right. I'm fine with that,
14 Your Honor.

15 THE COURT: Okay. And then I would also
16 take out what is currently highlighted
17 because, at the time it was made, we didn't
18 know whether the Defendant was going to
19 testify or not. So that, the Defendant in
20 this case has become a witness, would come
21 out. Correct, Mr. Martin?

22 MR. MARTIN: Yes, sir. I guess I got to
23 say tentative because I'm not quite sure of
24 what this new information is going to --

25 THE COURT: I have no idea and I'm

1 not -- since he decided not to share it with
2 me, I don't care until it comes up. So
3 right now we're going forward based on
4 everything that has occurred.

5 MR. MARTIN: Yeah, I'm fine with that
6 coming out, Your Honor.

7 THE COURT: Then witness talk to a
8 lawyer, the two paragraphs there, is
9 everybody okay with those remaining?

10 MS. GOECKEL: Yes, Your Honor.

11 THE COURT: I didn't hear.

12 MR. MARTIN: Yes.

13 THE COURT: I'm sorry. I didn't hear
14 you.

15 MR. MARTIN: Yes.

16 THE COURT: So with that, I'm going to
17 take -- or we're going to keep in and we
18 will un-highlight Defendant not testifying.

19 MS. GOECKEL: Yes, sir.

20 THE COURT: Agreed, Mr. Martin?

21 MR. MARTIN: Yes.

22 THE COURT: Are you requesting
23 Defendant's statements come in?

24 MR. MARTIN: As far as I can tell, I
25 don't believe there were any Defendant

1 statements.

2 THE COURT: I don't think there were.

3 MR. MARTIN: So tentatively, yeah, it's
4 fine if that comes out.

5 THE COURT: Okay. I think based on what
6 has occurred, Ms. Goeckel, you agree that
7 you didn't put in any evidence of the -- any
8 statements of the Defendant.

9 MS. GOECKEL: Correct.

10 THE COURT: So that will come out.

11 Rules for deliberation, one, the first
12 paragraph in 1 through 6, is everybody in
13 agreement that those should be read?

14 MS. GOECKEL: 1 through 6, Your Honor?

15 THE COURT: Yeah, let's just go 1
16 through 6, then we'll address the other two.

17 MS. GOECKEL: Yes, Your Honor.

18 MR. MARTIN: That's fine.

19 THE COURT: 7, I agree, and you tell me
20 if you disagree, that 7 should not come in
21 because we did not -- this isn't a civil
22 case and we did not permit the jury to write
23 questions to the witnesses nor did that
24 happen.

25 MR. MARTIN: Yes, sir.

1 THE COURT: Okay. 8, are we in
2 agreement that 8 should come in as written?

3 MR. MARTIN: Yes, sir.

4 MS. GOECKEL: So then 8 would become 7.

5 THE COURT: Correct. Thank you.

6 Cautionary instruction and instruction
7 for verdict, do you both agree that those
8 should come in?

9 MR. MARTIN: Yes, sir.

10 THE COURT: Okay.

11 MS. GOECKEL: Yes, Your Honor.

12 THE COURT: We'll get to the verdict
13 form in just a second.

14 Single defendant, multiple counts,
15 everybody is okay with that one?

16 MS. GOECKEL: Yes, Your Honor.

17 MR. MARTIN: Yes.

18 THE COURT: And submitting a case to a
19 jury. Is everybody okay with that one?

20 MS. GOECKEL: Yes, Your Honor.

21 MR. MARTIN: So although I think the
22 Court can probably clarify this, because it
23 has most of the exhibits, that's standard
24 language. Correct? Is that standard?

25 THE COURT: You're talking about

1 paragraph A?

2 MR. MARTIN: Yeah.

3 THE COURT: Most of the exhibits will be
4 sent to the jury room with you when you
5 begin to deliberate; however, audio or video
6 recordings will not. I will tell them that
7 the flamethrower will not be going back to
8 the jury room.

9 MS. GOECKEL: And I think Mr. Martin was
10 just -- I don't know what he was
11 specifically asking, but the State did amend
12 that because I think there was already some
13 talk about the flamethrower not going back
14 to the jury room.

15 THE COURT: Correct. So we're going to
16 add that language, Mr. Martin, if that is
17 acceptable to you.

18 MR. MARTIN: That's fine, yes, sir.

19 THE COURT: Let's refer to it by
20 exhibit. What exhibit was it, Number 3?

21 MS. GOECKEL: Yes. So how would you
22 like that to look, Your Honor?

23 THE COURT: So in addition, comma,
24 State's Exhibit Number 3, comma, referred to
25 as a flamethrower, comma, will not be going

1 back to the jury room with you.

2 Okay. Both sides in agreement with that
3 language?

4 MR. MARTIN: Yes, sir.

5 THE COURT: Okay.

6 MS. GOECKEL: So most of the exhibits
7 will be sent to the jury room with you --
8 with you when you begin to deliberate;
9 however, any audio or video recordings will
10 not. In addition, State's Exhibit 3, comma,
11 flamethrower, comma, will not be going back
12 to the jury room with you.

13 THE COURT: Is that acceptable,
14 Mr. Martin?

15 MR. MARTIN: Yes.

16 THE COURT: All right. May I see a copy
17 of the verdict form?

18 MS. GOECKEL: Just a moment, Your Honor.
19 I don't think one was prepared. If I could
20 have a moment, Your Honor.

21 THE COURT: Sure.

22 (Brief pause in proceedings.)

23 MS. GOECKEL: And then just directly to
24 your email, Your Honor?

25 THE COURT: No, to the printer.

1 MS. GOECKEL: I'm printing it. I'm
2 sorry. One moment.

3 I think there's one formatting thing I
4 need to change, but...

5 THE COURT: Okay. Thank you.

6 I'm going to look at it, then I'm going
7 to give it to you.

8 All right. I'm going to hand this to
9 Mr. Martin. I put in about 10 periods and
10 about 3 Ds --

11 MS. GOECKEL: Yes, Your Honor.

12 THE COURT: -- but my question, while
13 Mr. Martin is looking over that, the
14 important issue is do we need to tell them
15 to pick one as to each count?

16 MS. GOECKEL: Yes, Your Honor. I can
17 change that.

18 THE COURT: Mr. Martin, one change that
19 I suggested is that there needs to be, prior
20 to the charges, the language, it says choose
21 only one or make only one choice as to each
22 count.

23 MR. MARTIN: That's fine, Your Honor.

24 THE COURT: Okay. And do you have any
25 other objections to the verdict form? Now,

1 I will show you a completed verdict form
2 once the changes are made, but if there are
3 any general objections you have right now --

4 MR. MARTIN: No, sir.

5 THE COURT: Okay. All right. So,
6 Ms. Goeckel.

7 MS. GOECKEL: Yes, Your Honor. So what
8 I was doing while we were talking is -- and
9 I'll show Mr. Martin, as well -- as to
10 Count I, II, and III, right next in
11 parentheses and italicized, it says, choose
12 only one.

13 THE COURT: Okay.

14 MS. GOECKEL: Count III will start on
15 page 2, since we have two pages already,
16 just so it's not confusing.

17 THE COURT: Okay.

18 MS. GOECKEL: And I also put in page 1
19 of 2 and page 2 of 2, so we know there's two
20 pages, and I changed foreman to foreperson.

21 THE COURT: So can you -- if the Defense
22 is done with the verdict form -- if you're
23 not, that's fine, you can take more time
24 with it.

25 MR. MARTIN: Well, I think, ultimately,

1 we want to go ahead and review the final
2 one.

3 THE COURT: I know you do. I want her
4 to make the changes that I have on there,
5 which you're in agreement with, which are
6 just periods and Ds.

7 And so once you have made those changes,
8 once you have done the things that you just
9 announced that you are going to do, then we
10 can print a new verdict form for both sides
11 to look at.

12 MS. GOECKEL: Yes, Your Honor. I have
13 made the changes the Court indicated and I
14 also made the changes that I announced on
15 the record.

16 THE COURT: Okay. So if you could hand
17 me back that verdict form that I'm going to
18 tear up. Thank you. And the State would
19 print a new verdict form.

20 MS. GOECKEL: Yes, Your Honor.

21 THE COURT: And I have destroyed the old
22 one.

23 Okay. If you don't mind handing this to
24 Mr. Martin.

25 So, Mr. Martin, I believe that the

1 jury -- I'm sorry, the verdict form has all
2 the changes we just discussed.

3 Are you accepting of the jury form that
4 was -- or sorry, the verdict form that was
5 provided to you?

6 MR. MARTIN: Your Honor, I don't have
7 any objections to make.

8 THE COURT: So that is the verdict form
9 I will give to the jury.

10 All right. Ms. Goeckel.

11 MS. GOECKEL: Yes, Your Honor.

12 THE COURT: Have you sent the proposed
13 jury instructions over to your office to
14 print?

15 MS. GOECKEL: I have not. I wanted to
16 make sure that we were all on the same page
17 to do so before I did that.

18 THE COURT: We don't have any further
19 objections to the jury instructions from our
20 charge conference. Correct?

21 MR. MARTIN: Correct, Your Honor.

22 THE COURT: So I would ask that you make
23 14 copies in addition to whatever you need.

24 MS. GOECKEL: To what the State needs?

25 THE COURT: Correct. I have 8 here. I

1 have 9, 10, 11, 12, 13, 14. So 14 in
2 addition to what you want, okay. Okay?

3 MS. GOECKEL: Yes, Your Honor.

4 THE COURT: All right. With that, is
5 there any reason why we can't go to closing
6 arguments?

7 MS. GOECKEL: After the Defense rests,
8 Your Honor.

9 THE COURT: I'm going to have the
10 Defense announce rest. I mean, they've
11 already done it here, but I will have them
12 announce it in front of the jury. Once that
13 occurs, is there any reason why we can't go
14 to closing argument?

15 MS. GOECKEL: I don't believe so. If we
16 can just have time to kind of get the
17 monitor set up a little bit for the State's
18 closing.

19 THE COURT: You may. And let me ask you
20 this: How long do you need for your
21 closing? I'll go State first, Defense
22 second.

23 MS. GOECKEL: An hour total.

24 THE COURT: Is that acceptable,
25 Mr. Martin?

1 MR. MARTIN: Yes, sir.

2 THE COURT: Would either of you like a
3 statement from the Court as you get to a
4 certain time. I'll start with the State.
5 Do you want one in your first closing?

6 MS. GOECKEL: Not in my first, Your
7 Honor.

8 THE COURT: In your second what do you
9 want to be told?

10 MS. GOECKEL: 10 minutes, please.

11 THE COURT: When you have 10 minutes
12 left, you want me to just let you know that?

13 MS. GOECKEL: Yes, Your Honor.

14 THE COURT: Okay. Mr. Martin, do you
15 wish to have anything, any kind of notice
16 during your closing?

17 MR. MARTIN: Yes, sir. 10 minutes is
18 fine.

19 THE COURT: That's great.

20 Okay. All right. Anything further we
21 need to address other than allow the State
22 to -- to prepare the monitor?

23 MS. GOECKEL: No.

24 MR. SLAVICHAK: No, Your Honor. With
25 Defense having announced rest, with the

1 Court's permission, may I excuse witnesses
2 that were being held?

3 THE COURT: You certainly may. You may
4 excuse witnesses.

5 And so I'm going to give you-all
6 five minutes to excuse witnesses and set up
7 your monitors. And then we'll bring the
8 jury back in. I will read them 2.7, the
9 closing argument instruction. Then we'll go
10 into closing arguments. And then we'll go
11 into our reading of the jury instructions.
12 Okay?

13 All right. So we'll be at ease for
14 five minutes.

15 (Brief recess.)

16 (The following proceedings were had
17 before the Court and out of the presence of
18 the Jury:)

19 THE COURT: Any reason why I shouldn't
20 bring the jury in at this time?

21 MS. GOECKEL: No, Your Honor.

22 MR. MARTIN: No, sir.

23 THE COURT: Okay. So I'll bring them
24 in. I'll ask you if you have an
25 announcement. You can announce rest. I'll

1 read 2.7, then we'll go into closing
2 arguments.

3 Okay. Yes, if you could bring the jury
4 in, please.

5 THE BAILIFF: All rise for the jury.

6 (The following proceedings were had
7 before the Court and Jury:)

8 THE COURT: Please be seated. All
9 right. Thank you-all.

10 Does the Defense have an announcement?

11 MR. MARTIN: Yes, Your Honor. At this
12 time the Defense would announce rest.

13 THE COURT: Okay. Thank you.

14 So with that, I'm going to read you an
15 instruction. Both the State and the
16 Defense -- let me try to make sure I can see
17 everybody. Both the State and the Defense
18 have now rested their case. The attorneys
19 now will present their final arguments.
20 Please remember that what the attorneys say
21 is not evidence or your instruction on the
22 law. However, do listen closely to their
23 arguments. They are intended to aid you in
24 understanding -- to aid you in understanding
25 the case. Each side will have equal time,

1 but the State is entitled to divide this
2 time between an opening argument and a
3 rebuttal argument after the Defense has
4 given its closing argument.

5 And with that, State may proceed.

6 MS. GOECKEL: Thank you, Your Honor.

7 Good afternoon.

8 In just a few moments, you will have a
9 chance to finally deliberate and decide
10 whether or not the State has met its burden
11 in this case and whether or not the
12 Defendant is guilty beyond a reasonable
13 doubt of committing three acts of aggravated
14 assault with a deadly weapon: One towards

15 M [REDACTED] [REDACTED] one towards [REDACTED]
16 [REDACTED], and one towards [REDACTED] S [REDACTED]

17 So we talked a little bit about in jury
18 selection how is the State supposed to prove
19 this case. We talked about evidence, the
20 type of evidence that you would see in a
21 criminal case.

22 In this specific case, you not only had
23 testimony evidence from the three
24 individuals in the car, you had additional
25 testimony evidence from Lennecia Stephens

1 who was outside the car. You have a
2 surveillance video to view. You have the
3 photographs from the scene that were put
4 into evidence. And you also have the
5 flamethrower itself. And looking at all
6 these things together, leads to one -- one
7 result; and that is that the Defendant is
8 guilty beyond a reasonable doubt.

9 In the beginning of the trial, I read to
10 you the instructions -- or the elements that
11 the State has to prove beyond a reasonable
12 doubt when it comes to an aggravated assault
13 with a deadly weapon. And you'll actually
14 have the packet in your hand and jury
15 instructions in your hand when you have a
16 chance to deliberate. And it will have it
17 all written out for you. But let's go over
18 them again.

19 The first element is that the Defendant
20 intentionally and unlawfully threatened
21 either by word or act to do violence to the
22 three individuals: A [REDACTED] S [REDACTED],
23 N [REDACTED] B [REDACTED], and M [REDACTED] E [REDACTED].
24 And at the time the Defendant appeared to
25 have the ability to carry out the threat.

1 The third element is the act of the
2 Defendant created in the mind of each
3 individual, each individual girl, a
4 well-founded fear that the violence was
5 about to take place.

6 And finally, fourth, the assault was
7 made with a deadly weapon.

8 So I want to look at those elements each
9 individually for a moment and talk about
10 each -- how the State has proven all four
11 elements beyond a reasonable doubt. The
12 first one, like I said, is the Defendant
13 intentionally and unlawfully threatened
14 either by word or act to do violence to
15 these three individuals. So we talked a
16 little bit about, in jury selection, how the
17 State can prove that there was an
18 intentional and unlawful threat by words or
19 by actions.

20 In this case, you haven't heard any
21 words from the Defendant. You have only
22 seen and heard about  ons. And his
23 actions spoke loudly that day. His actions
24 showed his intent was to threaten those
25 three individuals in the car. He got the

1 end result that he wanted. All three of
2 them scattered away. All three of them were
3 scared for their life. All three of them
4 were scared that they were either going to
5 have great body injury or potentially blow
6 up in the car.

7 You heard the testimony of the three
8 individuals in the car, and I'm going to
9 first talk about Ms. B[REDACTED], because she had
10 the best vantage point, right. She
11 described she is the front seat passenger
12 and that when they first pull up, she sees
13 the Defendant outside on his porch. And
14 then she sees the Defendant outside in his
15 yard with the flamethrower.

16 She says that she sees him using it,
17 that he's spraying it, and that he comes
18 closer to them. And this is what she sees
19 in his hand. And he's spraying it first in
20 his yard, in his driveway, as she described.
21 She always described him moving closer to
22 the vehicle still spraying it on the ground.
23 You saw the drag marks in the photographs.
24 Exactly as how she described, standing in
25 his driveway, just spraying it around.

1 She said, "At first I wasn't really that
2 concerned, but I was watching him, I was
3 paying attention, at the same time still
4 carrying on the conversation with the two
5 other girls in the car." And then she
6 noticed that he got closer. And then she
7 noticed that they were no longer being
8 sprayed just on the ground. They were being
9 sprayed and thrown towards the car. And how
10 did she know they were being thrown towards
11 the car, she said, "I felt the heat."

12 Now, keep in mind, yes, this window is
13 down. But she's not on this side of the
14 car. She's on the other side of the car.
15 So she can feel the heat not just through
16 the window, but on the other side of the
17 car.

18 All those indicate that he was
19 intentionally pointing this weapon, this
20 deadly weapon, towards the car intending to
21 scare them, intending to threaten them.

22 At the time he had the apparent ability
23 to do so. That's a simple one. He's got
24 the thing in his hands. He's using it.
25 He's igniting it. You see the surveillance

1 video, he's igniting it. It's in use. He
2 has the ability to actually carry out this
3 threat.

4 And the act of the Defendant created in
5 the mind of each individual girl, A [REDACTED]
6 S [REDACTED], N [REDACTED] B [REDACTED], and M [REDACTED]
7 E [REDACTED], the well-founded fear that the
8 violence was about to take place.

9 What did you hear each girl talk about?
10 The heat. A [REDACTED] S [REDACTED] said, "I thought
11 the car already was on fire."

12 And they all described how they got out
13 on the opposite side of the vehicle.
14 M [REDACTED] E [REDACTED] and A [REDACTED] B [REDACTED] (sic) could
15 feel the heat on this side, and they were
16 not exiting on that side of the car.

17 And then finally, the assault was made
18 with a deadly weapon. We talked a little
19 about what a deadly weapon is in jury
20 selection. A deadly weapon is any object
21 that will likely cause death or great bodily
22 harm.

23 I really don't think this is where
24 you're going to spend your deliberation on,
25 if this is a deadly weapon.

1 I think the evidence is pretty clear
2 that this weapon can cause death or great
3 bodily harm, right. Throws flames out,
4 throws out pretty far, pretty magnified from
5 this thing. So it's not really something
6 that I think that your deliberation is going
7 to come from.

8 Really, what I think your deliberations
9 are going to settle on is element number
10 one. And so that's where my focus was on,
11 is whether or not the Defendant
12 intentionally and unlawfully threatened
13 either by word or act to do violence to
14 these three individuals.

15 In the jury instructions, like I said
16 earlier in jury -- excuse me, in voir dire,
17 is that the State has to prove this beyond a
18 reasonable doubt. And you're going to get a
19 definition on what is reasonable doubt. And
20 the first -- one of the sentences in that
21 instruction says: Proof beyond a reasonable
22 doubt does not mean proof beyond all doubt,
23 right. There is a difference between a
24 reasonable doubt and all possible doubt.
25 And you-all agreed that there is a

1 difference, and that the State's burden is
2 beyond a reasonable doubt, not all possible
3 doubt.

4 A reasonable doubt is not a mere
5 possible doubt, a speculative doubt, an
6 imaginary, or forced doubt.

7 If you are trying to find a reason why
8 this guy is not guilty, then you're doubting
9 your reason. That's not reasonable doubt.

10 When considering about the testimony of
11 the four individuals that you heard that
12 were there at the scene, think about
13 Lennecia Stephens, right. She wasn't in the
14 car. She was actually walking away from the
15 car as she testified to. So she didn't feel
16 the heat like the other three testified to.

17 What she did say, what did bring her
18 attention to what was happening was the
19 sound. The sound of this thing shooting out
20 flames at the car where her cousins were in.
21 That's what drew her attention to the
22 Defendant. When she turned around, she saw
23 him directing those flames towards that car,
24 consistent with the other testimony in the
25 case and the surveillance video in this

1 case, as well.

2 Now, included in your jury instructions
3 are what's called lesser included offenses.
4 And the best way to describe this is kind of
5 like Russian nesting dolls, you know how
6 each one fits in each one -- in the next
7 one. That's the best way to explain lesser
8 included offenses.

9 So we have the overall offense, which is
10 aggravated assault with a deadly weapon.
11 And then within that, if you decide that one
12 or multiple of those elements were not met,
13 then you decide if something else is more
14 appropriate.

15 And one of those charges -- or excuse
16 me, one of those options is improper
17 exhibition of a weapon. And I'm going to
18 read that to you. But in my argument, it
19 does not apply here. But it is an
20 instruction you're going to get, so I want
21 to address it.

22 The first element to the lesser included
23 offense of improper exhibition of a weapon
24 is that the Defendant had or carried a
25 weapon, the Defendant exhibited the weapon

1 in a rude, careless, angry, or threatening
2 manner, and he did so in the presence of one
3 or more persons.

4 Now, not only did the State prove this,
5 but we've also proved the charges as they
6 are, aggravated assault with a deadly
7 weapon.

8 And the biggest difference between this
9 lesser included offense and what he's been
10 charged with is the exhibition part, right.
11 This one doesn't include the specific
12 target, the specific vehicle. It's just
13 saying he's waving it around.

14 That's not what we have here. He
15 doesn't come out and just wave it around
16 without discharging it. He comes out and he
17 discharges it, but not just discharges it,
18 he focuses on his target, he focuses it on
19 the vehicle. It's not just going which way.
20 It has a specific intent and a specific
21 purpose; so therefore, that's why the
22 improper exhibition is not the appropriate
23 charge here. The appropriate charge here is
24 aggravated assault with a deadly weapon.

25 And the second lesser included offense

1 for you to consider is assault. The only
2 difference there is you decide this is not a
3 deadly weapon. Like I said, I don't think
4 that's something that you're going to have a
5 hard time deciding. It's pretty obvious, in
6 my opinion, that that is a deadly weapon.

7 So you not only heard the testimony of
8 the three individuals in the car and the
9 testimony of Lennecia Stephens outside of
10 the car, you also saw a surveillance video.

11 (Video played.)

12 And in that surveillance video, that is
13 consistent with each of the girls'
14 testimonies, because if you remember what
15 Ms. B█████ said, she's sitting in the
16 passenger seat, but as she described to you,
17 it wasn't she was watching him out of the
18 corner of her eye; she said she turned her
19 head, which would make sense because, if
20 he's standing where -- obviously where he's
21 standing here, then her vantage point would
22 be better if her head is completely turned.
23 And how is she able to describe to you
24 exactly what happens here other than she saw
25 it herself? She turned and watched him as

1 he was doing this.

2 The other point is that Ms. E [REDACTED], she
3 described to you she did not see him, but
4 she felt the heat. Again, that's consistent
5 with her statement based on where he's
6 staying -- or excuse me, standing while he's
7 spraying the flamethrower, she described
8 that her back would have been to him and she
9 would have been leaned back. So she would
10 not have an opportunity to see him until she
11 had to lean up and turn and look. And by
12 that point in time, she describes he's
13 already pointing in the direction -- a
14 different direction, which you saw on the
15 video.

16 And then finally, Ms. S [REDACTED], same
17 thing, if she's having a conversation with
18 Ms. B [REDACTED] or even the person in the back
19 seat, her attention is going to be turned
20 the opposite way of the Defendant. And so
21 her perspective is, again, "I felt the heat.
22 I didn't know to look until I felt the
23 heat."

24 So consistent with everything that you
25 just saw in that surveillance video. And

1 more importantly, in that surveillance
2 video, you see him continue to walk towards
3 the car as Ms. B[REDACTED] described. You see him
4 not just pointing it on the ground, but now
5 starting to get closer and closer and
6 pointing it towards the car where those
7 girls described the heat that they felt.

8 His intended purpose as he's walking
9 towards the car is to intentionally and
10 unlawfully threaten these individuals.
11 There is no other purpose here. Why is he
12 walking -- why is he continuing to walk
13 closer and closer to the car? His purpose
14 is to scare them, is to threaten them. And
15 he got exactly what he was looking for. You
16 see them flee out of the car just as each
17 one of them had described.

18 So just as each individual witness
19 explained to you, just as you saw in the
20 surveillance video, just as you saw in the
21 photographs and in the exhibit itself, this
22 was a deadly weapon. The intention of
23 the -- the actions of the Defendant here
24 were clear, that he was intending to
25 unlawfully threaten each individual in those

1 cars. He knew they were sitting there.
2 They all described -- or excuse me,
3 Ms. [REDACTED] nd Ms. [REDACTED] both described
4 that he was sitting on the porch when they
5 pulled up. So he knew they were in the car.
6 Nothing had changed in those few minutes it
7 took him to walk over there with the
8 flamethrower.

9 His only intention was to scare them,
10 was to threaten them, to do violence to
11 their individual persons. And so because of
12 that, he is guilty as charged, he's guilty
13 of all three counts of aggravated assault
14 with a deadly weapon.

15 MR. MARTIN: May it please the Court?

16 THE COURT: Yes, sir.

17 MR. MARTIN: We don't know why he was
18 walking towards the car. We don't know what
19 was in his mind. We don't know what purpose
20 was served by him, as you heard from them,
21 blowing that flamethrower. But what we do
22 know is that you cannot presume that he's
23 guilty based on the evidence of one of those
24 four elements, or two of those four
25 elements, or three of those four elements.

1 The State has to prove beyond and to the
2 exclusion of any reasonable doubt that he
3 committed each and every necessary act that
4 will comprise the charge of aggravated
5 assault with a deadly weapon. If they just
6 miss one, just one, the case has not been
7 proved. And it doesn't matter whether or
8 not you go, you know what, that probably was
9 not the best idea, to have a flamethrower in
10 a residential neighborhood. It's probably
11 not the best idea to have it out there in
12 the middle of the road.

13 But it doesn't necessarily or absolutely
14 or prove certainly not beyond a reasonable
15 doubt that he intended to target, threaten
16 those three teenagers. And you have to come
17 to that conclusion based on the evidence
18 here. Not your personal inclination or
19 feelings.

20 I mean, we heard a lot of that today
21 from the young ladies. "I felt like." "I
22 felt this way." "I felt that way." There
23 is nothing wrong with that on how they felt.
24 I don't have any argument to say that they
25 shouldn't have been afraid.

1 You know, I think it's to some extent
2 natural that when you see -- if you are
3 walking in this room and if a snake kind of
4 crawled across your toes here, for you to
5 kind of get out your seat. You wouldn't
6 necessarily take the time to check and see,
7 oh, wait a minute, that's not a coral snake;
8 that's a king snake. You wouldn't take that
9 time. You would just jump and get out the
10 way. That's what the girls did. They
11 jumped and got out the way.

12 But one of the things that is the beauty
13 of this system of justice here is that we're
14 encouraged to take a deep breath. We're
15 encouraged to slow down and examine the
16 evidence for what it shows and, more
17 importantly, for what it doesn't show.
18 That's why they call it deliberation, for
19 you to think carefully and critically about
20 the evidence.

21 And so to presume that he knew that the
22 girls weren't in the vehicle, well, let's
23 examine that. So we have the testimony from
24 all three young ladies who said that they
25 drove up and they parked the car. I think

1 it was pretty consistent that the engine
2 wasn't on.

3 There was a little discrepancy. One
4 young lady said the music was on, but it
5 wasn't very loud. Another young lady said
6 the music wasn't on at all. Why is that
7 important? Because music coming from the
8 car might give somebody some indication that
9 somebody was in there. But was there any
10 definitive answer one way or the other? No.
11 There was some conflict between them.

12 Let's talk about the windows. You saw
13 the photographs yourself. The windows in
14 the back seat absolutely were up. You can
15 look -- examine the photograph yourself and
16 see if you're able to see through those
17 windows. I will submit to you, no, you
18 can't.

19 The window that was down in the
20 photograph, it wasn't all the way down. It
21 wasn't halfway down. It was a quarter way
22 down.

23 Is it unreasonable that on a series of
24 cars that had been there for a few minutes,
25 that a person might not be aware that

1 somebody was in the vehicle? Is that just
2 out of the realm of possibility? If we were
3 sitting here and saying that my client is
4 not guilty because the martians have landed
5 on University Avenue and took him away so he
6 was on Mars when this happened, would that
7 be unreasonable? Yes.

8 Is the fact that in a car where the
9 engine was off, most of the windows were up,
10 that maybe he didn't see the people in
11 there? Is that just crazy? Is it
12 impossible?

13 The position of where the girls were
14 sitting in the car, so you heard
15 Ms. S██████████, and the only person who could
16 have been in the passenger -- in the driver
17 seat where the window was open, she wasn't
18 paying attention to him. In fact, she says
19 she never saw him. Now, she felt the heat.
20 But she didn't say, "I turned around and I
21 looked at him and I looked him in the eye.
22 I saw the grimace in his face. I saw the
23 anger blaze in his eyes and he was pointing
24 at me," the act. Saying anything, like "I'm
25 going to get you," "You need to do this,"

1 "You need to do that." None of that
2 happened. At least, there was no evidence
3 of that.

4 Everyone else was on the passenger --
5 either in the back seat where the windows
6 was up or in the passenger side, which if
7 you look at that photograph again, you can
8 look and see is it possible he didn't see
9 that young lady sitting there on the
10 driver's passenger seat?

11 But you ask yourself the question, well,
12 why did he have a flamethrower? I mean, who
13 does that? Apparently, a lot of people.
14 They sell them. This is not homemade. He
15 purchased it. It says Coleman Outdoor
16 Company Butane Mix. There's a warning on
17 it. This is not something he crafted.

18 So is this a weapon, or a tool, a toy,
19 one of those things that men going through a
20 midlife crisis might buy, is it? Is that
21 out there in the realm of possibility? Is
22 it something to where he just likes the way
23 the jets of fire come out?

24 Regardless of who is over here, there is
25 just nothing to do with those young ladies.

1 It's all about "I think it's fun." Is that
2 no way that could happen? Is it that, okay,
3 I know it has a warning on that label, and I
4 know it shoots fire, fire is dangerous. Is
5 it a decision in his hand, well, I'm not
6 going to do it on the grass near somebody's
7 home where it could catch fire to the grass,
8 in my yard, I'm not going to go in someone
9 else's yard and shoot it off.

10 Maybe out the choices that I have, maybe
11 there are better choices not to do it at
12 all, but since I purchased it, I'm going to
13 shoot it out, maybe the best place --

14 MS. GOECKEL: Objection, facts not in
15 evidence, Your Honor.

16 THE COURT: Please approach.

17 (Begin sidebar conference:)

18 THE COURT: Argument.

19 MS. GOECKEL: Yes. The argument is he's
20 essentially acting as if the Defendant has
21 testified in here. None of these witnesses
22 have testified that he has used it in his
23 yard, that he's doing it for fun. That
24 didn't come out in the State's case in chief
25 or in any way through evidence. And so

1 he's --

2 THE COURT: I think --

3 MS. GOECKEL: So he's putting --
4 basically, he's putting on the Defendant's
5 testimony without him having to testify.

6 THE COURT: You may respond.

7 MR. MARTIN: I think these are
8 reasonable inferences from the facts that
9 are presented. They showed a video of the
10 burn marks in his -- on the yard and in
11 the -- and in the street, all the witnesses.

12 THE COURT: Did they show burn marks in
13 the yard or on the driveway?

14 MR. MARTIN: They didn't, and that's
15 what I'm saying. They showed in the
16 driveway and street. So that's what I'm
17 arguing.

18 THE COURT: Here is what I'm going to
19 sustain. What you were doing at the end is
20 speaking in the first person. "Maybe I
21 should do this, maybe I" --

22 MR. MARTIN: Okay.

23 THE COURT: And to that extent, it is as
24 if you are saying the Defendant said this.
25 So I'm going to sustain it as to the way you

1 were making your argument, that you can't --
2 you can't do that because your client didn't
3 testify.

4 As to reasonable inferences, you may --
5 you may argue reasonable inferences, but not
6 in the first person. Understood? Anybody
7 have a question about the ruling?

8 MS. GOECKEL: No, Your Honor.

9 THE COURT: Okay. Thank you.

10 (Sidebar conference concluded.)

11 MR. MARTIN: Is it unreasonable, given
12 the surrounding circumstances of the facts
13 that were presented here today that the best
14 place to shoot this thing off was in the
15 middle of the street? Is it unreasonable
16 that maybe that was somehow relaxing,
17 therapeutical -- therapeutic? Is that
18 unreasonable?

19 I mean, quite frankly, along that fear
20 that we all have for fire, you know there is
21 also a primordial, just basic human
22 fascination with fire. That goes back to
23 the beginning of our existence.

24 So is it unreasonable that there might
25 be some simple enjoyment from using that

1 type of tool that is unrelated, unconnected,
2 have absolutely nothing to do with
3 threatening anyone, particularly when we
4 don't have evidence that he was aware, at
5 the time that he was blowing the
6 flamethrower, that anybody was in the car.

7 Now, in jury selection we talked about
8 weighing the evidence. So you had the three
9 young ladies who were there. They talked
10 about where they were at. But they can't
11 speak to what was going on in his mind. Law
12 enforcement officers who were there, all
13 after the fact, they can't speak to what was
14 going on in Mr. Abrams' mind. And quite
15 frankly, they don't have any personal
16 knowledge as to what actually transpired
17 that day.

18 What we have left here is evidence of
19 what might be considered a less-than-prudent
20 action. Evidence that at best, even if you
21 get this far, that the flamethrower was
22 displayed in a rude and reckless manner,
23 perhaps. And that regardless of whether or
24 not Mr. Abrams knew that there was somebody
25 in the vehicle, that it was in the presence

1 of someone else.

2 That's not aggravated assault with a
3 deadly weapon. And you can examine the jury
4 instructions. You will see -- look at your
5 choices, and you will see what I just
6 described was not an aggravated assault with
7 a deadly weapon.

8 Now, you can get reasonable doubt from
9 the evidence, look at that video. Look at
10 the scarring on the asphalt. And you're
11 right, it was heat. It burned the asphalt.
12 It got burnt what was directed, where the
13 flame was directed to.

14 Then look at the photograph of the
15 vehicle. Any scarring on that? Any burn
16 mark? Did the paint even get scorched a
17 little bit? Conflict in the evidence.
18 Regardless, no judgment, this was four years
19 ago, the teenagers were afraid. But either
20 I was paying attention to him, I wasn't
21 paying attention to him, the music was on or
22 it wasn't, there is some conflict there as
23 to whether or not there was any clue that
24 was sent out that would reasonably indicate
25 that, hey, there is somebody in the car.

1 And you can say, well, they pulled up
2 and he saw that. We don't know he saw that.
3 We know he was outside at some point.
4 Whether or not he was paying any attention
5 to them we don't know. Just like
6 Ms. S██████████ wasn't paying attention as
7 Mr. Abrams supposedly had been moving
8 forward, she didn't even pay attention
9 because there was just no necessity on her
10 behalf until she noticed, hey, there is a
11 problem.

12 So we just cannot presume, or impute, or
13 guess that was going on. You can't guess,
14 ladies and gentlemen.

15 The lack of evidence. Other than, hey,
16 this looks really bad, there simply isn't
17 any other evidence to say this is an
18 aggravated assault with a deadly weapon.
19 Fire is hot, it is certainly dangerous, but
20 the question is was he using it as a weapon.
21 Did he aim that weapon at somebody in
22 particular. And there simply is not any
23 evidence of that.

24 Now, we can be -- all human beings, we
25 can be shocked and awe and disagree as a

1 juror. You-all took an oath to look at the
2 evidence and make a deliberative decision on
3 that evidence. And it can't be something
4 that, well, you know, I'm really not sure.
5 I think, you know, it just seems to me that
6 he should have known.

7 But unless they have established that
8 there is a conviction, an abiding
9 conviction, of guilt, that not only were the
10 alleged victims in fear, but that that was
11 his specific -- that was his intent, to put
12 them in fear. And if that just kind of goes
13 back and forth and "I'm not sure" and "I
14 kind of feel that way," that's just not
15 enough.

16 Ladies and gentlemen, I am by no means
17 unsympathetic to the way those young ladies
18 felt that day. But based on the evidence
19 and the evidence alone that was presented
20 here today, it's completely insufficient to
21 find him guilty of aggravated assault with a
22 deadly weapon. And I'm confident that
23 you're going to come to that conclusion.
24 Thank you.

25 MS. GOECKEL: So Defense counsel just

1 came up and said, "We don't know why he did
2 this," right. Well, we do know why. And
3 how is it that we know the why? It's
4 through his actions.

5 That's why it's important to point out
6 that -- that the way the State can prove
7 this case and the way the State does prove
8 this case beyond a reasonable doubt is by
9 the Defendant's actions. The threat can be
10 communicated by words, by actions, or by
11 both. In this particular case, it's the
12 Defendant's actions that tell us the why.

13 So let's talk about his intent. Now,
14 when it comes to intent, I would argue that
15 the more an act is done, the less likely
16 it's -- it's innocently done, right. So we
17 heard that he started off in his driveway,
18 sure, blowing it around. You heard
19 Ms. B  tell you that "I saw him doing
20 that." At that point in time, she was
21 watching him, but she didn't really feel any
22 threat.

23 Then he continues to blow it as he's
24 walking towards the car. And then when that
25 didn't get his reaction, he throws it up in

1 the air towards the car as he's closer now.
2 And you see that on the surveillance video.

3 And then he gets his intended reaction.
4 Then he gets his threat across. And they
5 all flee out of the car.

6 The examples that Defense counsel just
7 stated of why he could be using this
8 flamethrower in the middle of a day, let's
9 see, it's 2:00, 2:30 when kids get out, kids
10 are around the neighborhood, is to blow off
11 steam, is to use a toy.

12 Ladies and gentlemen, there has been no
13 evidence to show that in this case. That is
14 pure speculation. That is not a reasonable
15 doubt. That is the opposite of a reasonable
16 doubt. It specifically has that instruction
17 in the jury instructions. A reasonable
18 doubt is not a mere possible doubt, a
19 speculative doubt, an imaginary doubt, or a
20 forced doubt. All those examples that he
21 gave were exactly those things. None of the
22 examples he gave were a reasonable doubt.

23 He wants to say that this case is just
24 shock and awe because of the type of
25 instrument or weapon that he was using.

1 Defense counsel argued that it would be
2 similar to a snake sliding around and you
3 guys are all scared.

4 However, the flamethrower didn't just
5 come outside and sit on the ground. In
6 fact, he didn't just come outside and hold
7 it to his side and walk around or even point
8 it not discharging it and walking around.
9 He discharged the flamethrower.

10 And if you -- you cannot argue that he
11 did not know there were people in those
12 cars. Because there is no cars to the back.
13 There's no cars to the front. He walks from
14 his house to his driveway directly towards
15 the car. There would be no other way to
16 prove that he did not know that there was
17 someone in those cars.

18 He watched the car drive up. You heard
19 Ms. [REDACTED] and Ms. [REDACTED] both say he was
20 outside at the time. So he just happens to
21 take the path from his front door to his
22 driveway to directly towards the car because
23 he was blowing off steam? Does that make
24 sense?

25 The only thing that makes sense and is

1 consistent with the evidence in this case is
2 that he directly took the path from his
3 front door, where he was sitting on his
4 porch, to his driveway, to the vehicle to
5 threaten them, to get the reaction that he
6 wanted.

7 Defense counsel wants to argue that
8 there is a conflict in the evidence. I
9 would argue there's not. They all say that
10 they felt the heat and had some perspective
11 of the Defendant using his flamethrower.
12 Whether or not the music was on is not an
13 element we would have to prove. And quite
14 frankly, three years ago, that's not
15 something that is maybe seared in their
16 memory.

17 What is seared in their memory is the
18 heat they felt coming from that flamethrower
19 because it was no longer just in his
20 driveway. It was no longer being used away
21 from the vehicle. It was now being used
22 directly towards the vehicle.

23 He's not going to spray towards an empty
24 car for fun, to blow off steam. That
25 doesn't make sense and is not consistent

1 with the facts and evidence in this case.

2 And again, the actions of the Defendant
3 are enough to prove this case beyond a
4 reasonable doubt. You're not going to hear
5 that it's a requirement that we prove that
6 there was an interaction between any of the
7 victims and the Defendant. You're not going
8 to hear there was a requirement that there
9 was -- that he gave them a grimacing look or
10 he said, "I'm going to kill you" or
11 something like that. That's not one of the
12 elements. That's not something the State
13 has to prove beyond a reasonable doubt.

14 Another instruction that I just want to
15 quickly point out is as far as the fear or
16 the threat that each individual victim felt.
17 And the instruction specifically says, if
18 the circumstances were such as to an
19 ordinary -- excuse me, as to ordinarily
20 induce a well-founded fear in the mind of a
21 reasonable person, then the victims may be
22 found to be in fear. Actual fear on the
23 part of the victims need not be shown.

24 Now, we have actual fear, right. Each
25 one of them said they were scared, they were

1 afraid. But not only that, if the
2 circumstances were such as to ordinarily
3 induce a well-founded fear, then we've
4 proven that charge, as well, right.

5 If someone is walking up to your -- to
6 the car, and they're in the car, a
7 reasonable person in that scenario would
8 fear -- or excuse me, would have that fear
9 and would feel that threat.

10 Now, once again, I showed you the
11 surveillance video in my first closing and
12 it's there and you will have an opportunity
13 to view it if you choose to. You just need
14 to let the bailiff know, and we can cue it
15 up, and you can play it as many times as you
16 want.

17 The surveillance video is consistent
18 with each of the individual testimonies that
19 you heard today.

20 And again, it's consistent with the law;
21 it's consistent with the evidence; it's
22 consistent that the Defendant is guilty on
23 all three counts, on all three individuals
24 who were sitting in that car. He is guilty
25 of aggravated assault on each one of those

1 people because he intended the act, he
2 intended to continually walk towards that
3 car as he is pointing those flames towards
4 that car.

5 And because he intentionally did so,
6 intentionally and unlawfully did so, he has
7 committed the crime beyond a reasonable
8 doubt. And he's committed those crimes of
9 aggravated assault with a deadly weapon.
10 And you should find him guilty on each
11 individual count for each individual person.

12 THE COURT: We're going to take a
13 five-minute comfort break, then you're going
14 to come back and I'm going to read you the
15 instructions. Okay?

16 Thank you.

17 THE BAILIFF: All rise for the jury.

18 (The following proceedings were had
19 before the Court and out of the presence of
20 the Jury:)

21 THE COURT: You may.

22 Thank you.

23 And while Defense is reviewing these,
24 would you mind moving the --

25 MR. SLAVICHAK: Oh, yes.

1 THE COURT: -- screen? Thank you.

2 THE BAILIFF: Folks, you can be seated.

3 Appreciate it.

4 THE COURT: Yes. Sorry.

5 Is there anybody from either side who
6 disputes that our alternates are Ms. Khalsa,
7 and Mr. Nettle, which are Numbers 44 and 54?

8 MS. GOECKEL: Yes, Your Honor, that's
9 the information the State has.

10 THE COURT: Sorry, sir?

11 MR. MARTIN: What was the other one,
12 Your Honor?

13 THE COURT: Ms. Khalsa, 44, and
14 Mr. Nettle, Number 54.

15 MR. MARTIN: Can I approach?

16 THE COURT: You may.

17 MR. MARTIN: For some reason, I don't
18 have my chart.

19 THE COURT: So --

20 MR. MARTIN: I thought you had the --

21 THE COURT: I have my sheet. You can
22 look at it, yeah.

23 MR. MARTIN: So you agree with that?

24 MS. GOECKEL: Yeah, that's what I have.

25 MR. MARTIN: Okay.

1 THE COURT: I can read through those for
2 you after number six if you would like.

3 Sorry. Didn't mean to throw that at
4 you.

5 Mr. Martin, for what it's worth,
6 Number 41 I had, Borcyk, taken for cause.
7 This was before we got to the sixth. Then
8 the first juror that we attempted as an
9 alternate was 42, Mantel. And the State
10 struck.

11 MS. GOECKEL: Correct.

12 THE COURT: You guys agreed on Khalsa.
13 Defense struck Staley. Defense struck
14 Evans. Moses had been removed for cause
15 prior. And you both agreed on Nettle.

16 MR. MARTIN: Yes, sir, that's my
17 recollection.

18 THE COURT: Okay.

19 Okay. Mr. Martin, do you need any more
20 time to look through the jury instructions
21 that were just brought in?

22 MR. MARTIN: If I could just have one
23 moment.

24 THE COURT: You may.

25 MR. MARTIN: Your Honor, I'm fine with

1 it.

2 THE COURT: Okay. So with the Defense
3 saying they're fine with the jury
4 instructions, what I'm going to do -- all
5 right. I have the verdict form in front of
6 me. And I have the jury instructions in
7 front of me. I am going to ask that the
8 jury be brought back in. And we will begin
9 jury instructions.

10 THE BAILIFF: Yes, sir.

11 All rise for the jury.

12 (The following proceedings were had
13 before the Court and Jury:)

14 THE COURT: Everyone please be seated.

15 Members of the jury, I thank you for
16 your attention during this trial. Please
17 pay attention to the instructions I'm about
18 to give you.

19 And we are going to hand you a copy of
20 those instructions. You will be able to
21 take these to deliberate. The only thing I
22 ask is that, while I'm reading them, you
23 don't turn pages ahead; that you stay on the
24 same page that I'm reading. Okay?

25 Does everybody have a copy?

1 Okay. Great.

2 Andre Abrams, Senior, the Defendant in
3 this case, has been accused of the crime of
4 aggravated assault with a deadly weapon.
5 There are three counts.

6 Aggravated assault with a deadly weapon,
7 to prove the crime of aggravated assault
8 with a deadly weapon, the State must prove
9 the following four elements beyond a
10 reasonable doubt. The first three elements
11 define assault. Andre Abrams, Senior,
12 intentionally and unlawfully threatened
13 either by word or act to do violence to
14 A [REDACTED] S [REDACTED]. At the time Andre Abrams,
15 Senior, appeared to have the ability to
16 carry out the threat. The act of Andre
17 Abrams, Senior, created in the mind of A [REDACTED]
18 S [REDACTED] a well-founded fear that the
19 violence was about to take place. The
20 assault was made with a deadly weapon. If
21 the circumstances were such as to ordinarily
22 induce a well-founded fear in the mind of a
23 reasonable person, then A [REDACTED] S [REDACTED] may
24 be found to have been in fear, and actual
25 fear on the part of A [REDACTED] S [REDACTED] need not

1 be shown.

2 A deadly weapon is any object that will
3 likely cause death or great bodily harm if
4 used or threatened to be used in the
5 ordinary and usual manner contemplated by
6 its design and construction. An object not
7 designed to inflict bodily harm may
8 nonetheless be a deadly weapon if it was
9 used or threatened to be used in manner
10 likely to cause death or great bodily harm.

11 Great bodily harm means great as
12 distinguished from slight, trivial, minor,
13 or moderate harm, and does not include mere
14 bruises.

15 It is not necessary for the State to
16 prove the Defendant had intent to kill.

17 Count II is also aggravated assault with
18 a deadly weapon. To prove the crime of
19 aggravated assault with a deadly weapon, the
20 State must prove the following four elements
21 beyond a reasonable doubt. The first three
22 define assault. Andre Abrams, Senior,
23 intentionally and unlawfully -- and
24 unlawfully threatened either by word or act
25 to do violence to N [REDACTED] [REDACTED]. That

1 was Count I. Count II -- I'm sorry, element
2 one.

3 Element two, at the time Andre Abrams,
4 Senior, appeared to have the ability to
5 carry out the threat.

6 Element three, the act of Andre Abrams,
7 Senior, created in the mind of N [REDACTED]
8 B [REDACTED] a well-founded fear that violence was
9 about to take place.

10 Element four, the assault was made with
11 a deadly weapon.

12 If the circumstances were such as to
13 ordinarily induce a well-founded fear in the
14 mind of a reasonable person, then N [REDACTED]
15 B [REDACTED] may be found to have been in fear, and
16 actual fear on the part of N [REDACTED] B [REDACTED]
17 need not be shown.

18 A deadly weapon is an object that will
19 likely cause death or great bodily harm if
20 used or threatened to be used in the
21 ordinary and usual manner contemplated by
22 its design and construction. An object not
23 designed to inflict bodily harm may
24 nonetheless be a deadly weapon if it was
25 used or threatened to be used in a manner

1 likely to cause death or great bodily harm.

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

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

8 Count III, also aggravated assault with
9 a deadly weapon. To prove the crime of
10 aggravated assault with a deadly weapon, the
11 State must prove the following four elements
12 beyond a reasonable doubt. The first three
13 elements define assault. Number one, Andre
14 Abrams, Senior, intentionally and unlawfully
15 threatened either by word or act to do
16 violence to  E .

17 Element two, at the time Andre Abrams,
18 Senior, appeared to have the ability to
19 carry out the threat.

20 Element three, the act of Andre Abrams,
21 Senior, created in the mind of 
22 E  a well-founded fear that violence
23 was about to take place.

24 Element four, the assault was made with
25 a deadly weapon.

1 If the circumstances were such as to
2 ordinarily induce a well-founded fear in the
3 mind of a reasonable person, then M [REDACTED]
4 E [REDACTED] may be found to have been in fear,
5 and actual fear on the part of M [REDACTED]
6 E [REDACTED] need not be shown.

7 A deadly weapon is any object that will
8 likely cause death or great bodily harm if
9 used or threatened to be used in the
10 ordinary and usual manner contemplated by
11 its design and construction. An object not
12 designed to inflict bodily harm may
13 nonetheless be a deadly weapon, if it was
14 used or threatened to be used in a manner
15 likely to cause death or great bodily harm.

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

20 It is not necessary for the State to
21 prove the Defendant had an intent to kill.

22 When there are lesser included crimes or
23 attempts. In considering the evidence, you
24 should consider the possibility that,
25 although the evidence may not convince you

1 that the Defendant committed the main crime
2 of which he is accused, there may be
3 evidence that he committed other acts that
4 would constitute a lesser included crime or
5 crimes. Therefore, if you decide that the
6 main accusation has not been proved beyond a
7 reasonable doubt, you will next need to
8 decide if the Defendant is guilty of any
9 lesser included crimes.

10 The lesser included crimes indicated in
11 the definition of aggravated assault with a
12 deadly weapon are improper exhibition of a
13 weapon and assault.

14 Improper exhibition of a weapon. To
15 prove the crime of improper exhibition of a
16 weapon, the State must prove the following
17 three elements beyond a reasonable doubt:
18 Number one, Andre Abrams, Senior, had or
19 carried a weapon; number two, Andre Abrams,
20 Senior, exhibited the weapon in a rude,
21 careless, angry, or threatening manner;
22 number three, he did so in the presence of
23 one or more persons.

24 A weapon is any dirk, knife, metallic
25 knuckles, slungshot, billie, tear gas gun,

1 chemical weapon, or device, or any other
2 deadly weapon except a firearm or a common
3 pocketknife, plastic knife, or blunt-bladed
4 table knife.

5 A deadly weapon is any object other than
6 a firearm that will likely cause death or
7 great bodily harm if used in the ordinary
8 and usual manner contemplated by its design
9 and construction.

10 An object not designed to inflict bodily
11 harm may nonetheless be a deadly weapon if
12 it was used, threatened to be used, or
13 intended to be used in manner likely to
14 cause death or great bodily harm.

15 Great bodily harm means great as
16 distinguished from slight, trivial, minor,
17 or moderate harm, and does not include mere
18 bruises.

19 Assault. To prove the crime of assault,
20 the State must prove the following three
21 elements beyond a reasonable doubt: Andre
22 Abrams, Senior, intentionally and unlawfully
23 threatened either by word or act to do
24 violence to A [REDACTED] S [REDACTED] N [REDACTED]
25 B [REDACTED], or M [REDACTED] E [REDACTED] At the time

1 Andre Abrams, Senior, appeared to have the
2 ability to carry out the threat. The act of
3 Andre Abrams, Senior, created in the mind of
4 A [REDACTED] S [REDACTED], N [REDACTED] a B [REDACTED] or
5 M [REDACTED] E [REDACTED] a well-founded fear that
6 violence was about to take place.

7 Plea of not guilty, reasonable doubt,
8 and burden of proof. The Defendant has
9 entered a plea of not guilty. This means
10 you must presume or believe the Defendant is
11 innocent. The presumption stays with the
12 Defendant as to each material allegation in
13 the information through each stage of the
14 trial unless it has been overcome by the
15 evidence to the exclusion of and beyond a
16 reasonable doubt. To overcome the
17 Defendant's presumption of evidence the
18 State has the burden of proving the crime
19 with which the Defendant was charged was
20 committed and the Defendant is the person
21 who committed the crime. The Defendant is
22 not required to present evidence or prove
23 anything.

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

1 Proof beyond a reasonable doubt does not
2 mean proof beyond all doubt. A reasonable
3 doubt is not a mere possible doubt, a
4 speculative, imaginary, or forced doubt.
5 Such a doubt must not influence you to
6 return a verdict of not guilty if you have
7 an abiding conviction of guilt.

8 On the other hand, if after carefully
9 considering, comparing, and weighing all the
10 evidence, there is not an abiding conviction
11 of guilt or, if having a conviction, it is
12 one which is not stable, but one which
13 wavers and vacillates, then the charge is
14 not proved beyond every reasonable doubt and
15 you must find the Defendant not guilty
16 because the doubt is reasonable.

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

20 A reasonable doubt as to the guilt of
21 the Defendant may arise from the evidence,
22 conflict in the evidence or lack of
23 evidence.

24 If you have a reasonable doubt, you
25 should find the Defendant not guilty. If

1 you have no reasonable doubt, you should
2 find the Defendant guilty.

3 Weighing the evidence. It is up to you
4 to decide which evidence is reliable. You
5 should use your common sense in deciding
6 which is the best evidence and which
7 evidence should be relied upon in
8 considering your verdict. You may find some
9 of the evidence not reliable or less
10 reliable than other evidence. You should
11 consider how the witnesses acted, as well as
12 what they said.

13 Some things you should consider are did
14 the witness seem to have an opportunity to
15 see and know the things about which the
16 witness testified; did the witness seem to
17 have an accurate memory; was the witness
18 honest and straightforward in answering the
19 attorneys' questions; did the witness have
20 some interest in how the case should be
21 decided; did the witness's testimony agree
22 with the other testimony and the other
23 evidence in the case.

24 Whether the State has met its burden of
25 proof does not depend upon the number of

1 witnesses it has called or upon the number
2 of exhibits it has offered, but instead upon
3 the nature and quality of the evidence
4 presented.

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

10 Witness talk to a lawyer. It's entirely
11 proper for a lawyer to talk to a witness
12 about what testimony the witness would give
13 if called to the courtroom. The witness
14 should not be discredited by talking to a
15 lawyer about his or her testimony.

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

21 Defendant not testifying. The
22 Constitution requires the State to prove its
23 accusations against the Defendant. It is
24 not necessary for the Defendant to disprove
25 anything, nor is the Defendant required to

1 prove his innocence. It is up to the State
2 to prove the Defendant's guilt by evidence.

3 The Defendant exercised a fundamental
4 right by choosing not to be a witness in
5 this case. You must not view this as an
6 admission of guilt or be influenced in any
7 way by his decision. No juror should ever
8 be concerned that the Defendant did or did
9 not take the witness stand to give testimony
10 in the case.

11 Rules for deliberation. There are some
12 general rules that apply to your discussion.
13 You must follow these rules in order to
14 return a lawful verdict.

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

22 The case must be decided only upon the
23 evidence that you have heard from the
24 testimony of the witnesses and have seen in
25 the form of exhibits in evidence and these

1 instructions.

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

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

8 Your duty is to determine if the
9 Defendant has proven -- has been proven
10 guilty or not in accord with the law. It is
11 the judge's job to determine a proper
12 sentence if the Defendant is found guilty.

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

16 Your verdict should not be influenced by
17 feeling of prejudice, bias, or sympathy.
18 Your verdict must be based on the evidence
19 and on the law contained in these
20 instructions.

21 Cautionary instruction. Deciding a
22 verdict is exclusively your job. I cannot
23 participate in that decision in any way.
24 Please disregard anything I may have said or
25 done that makes you think I preferred one

1 verdict over another.

2 Verdict. You may find the Defendant
3 guilty as charged, or guilty of such lesser
4 included crime as the evidence may justify,
5 or not guilty. If you return a verdict of
6 guilty, it should be for the highest offense
7 on the verdict form for each count that has
8 been proven beyond a reasonable doubt. If
9 you find that no offense has been proven
10 beyond a reasonable doubt, then, of course,
11 your verdict must be not guilty.

12 The verdict must be unanimous; that is,
13 all of you must agree to the same verdict.
14 Only one verdict may be returned as to each
15 crime charged. The verdict must be in
16 writing. And for your convenience the
17 necessary form of verdict has been prepared
18 for you. It is as follows.

19 And I have the verdict form right here.

20 It says, we, the jury, find as follows
21 as to the Defendant, Andre Abrams, Senior,
22 in this case. As to Count I, choose only
23 one. Number one, the Defendant is guilty of
24 aggravated assault with a deadly weapon as
25 charged in Count I of the information.

1 Number two, the Defendant is guilty of the
2 lesser included charge of improper
3 exhibition of a weapon. Number three, the
4 Defendant is guilty of the lesser included
5 charge of assault. Number four, the
6 Defendant is not guilty.

7 As to Count II and as to Count III are
8 exactly the same.

9 Then it says, so say we all this 6th day
10 of March, 2025, at Gainesville, Alachua
11 County, Florida. And it has a space for the
12 foreperson to sign.

13 A separate crime is charged in each
14 count of the information. And although they
15 have been tried together, each crime and the
16 evidence applicable to it must be considered
17 separately and a separate verdict returned
18 as to each. A finding of guilty or not
19 guilty as to one crime must not affect your
20 verdicts as to the other crimes charged.

21 In just a few moments you will be taken
22 to the jury room by the bailiff. The first
23 thing you should do is elect a foreperson
24 who will preside over your deliberations.
25 The foreperson should see to it that your

1 discussions are carried on in an organized
2 way and that everyone has a fair chance to
3 be heard. It is also the foreperson's job
4 to sign and date the back of the verdict
5 form when all of you have agreed on a
6 verdict, and to bring the verdict form back
7 to the courtroom when you return.

8 During deliberations jurors must
9 communicate only about the case -- I'm
10 sorry.

11 During deliberations jurors must
12 communicate about the case only with one
13 another and only when all jurors are present
14 in the jury room. If a juror goes to the
15 restroom, the deliberations should stop
16 until the juror returns.

17 You are not to communicate with any
18 person outside the jury about this case.
19 Until you have reached a verdict, you must
20 not talk about this case in person or
21 through the telephone, writing, or
22 electronic device communication such as
23 blog, Twitter, email, text message, or any
24 other means. Do not contact anyone to
25 assist you during the deliberations.

1 These communication rules apply until I
2 discharge you at the end of the case. If
3 you become aware of any violation of these
4 instructions or any other instruction I have
5 given in this case, you must tell me by
6 giving a note to the bailiff. Okay?

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

11 If you have any questions, I will talk
12 with the attorneys before I answer. So it
13 may take some time. You may continue your
14 deliberations while you wait for my answer.
15 I will answer any questions, if I can, in
16 writing or orally here in open court.

17 During the trial items were received
18 into evidence as exhibits. You may examine
19 whatever exhibits you think will help you in
20 your deliberations. Most of these exhibits
21 will be sent to the jury room with you when
22 you begin to deliberate; however, any audio
23 or video recordings will not.

24 In addition, State's Exhibit 3, the
25 flamethrower, will not be going back to the

1 jury room with you.

2 If you wish to review any items in
3 evidence not sent back with you, please make
4 that request in writing, and arrangements
5 can be made for you to review it in the
6 courtroom.

7 I am going to remind you that our
8 bailiff is going to collect your phones and
9 any tablets, or smart watches, or anything
10 like that for while you deliberate.

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

21 Has the Court given the instructions it
22 advised counsel it would give?

23 MS. GOECKEL: Yes, Your Honor.

24 MR. MARTIN: Yes, sir.

25 THE COURT: Are there any objections to

1 the instructions as given by the Court which
2 are not already of record?

3 MS. GOECKEL: No, Your Honor.

4 MR. MARTIN: No, Your Honor.

5 THE COURT: Thank you.

6 At this time I do have to announce that
7 as to Ms. Khalsa and Mr. Nettle, it is the
8 duty of this Court to release you from
9 further service. Because of the order your
10 names were drawn, you have been seated as
11 alternate jurors. It was necessary that we
12 have you serve in this case in case one or
13 two of the other jurors were unable to
14 complete their service. Fortunately,
15 everybody looks healthy and everybody seems
16 to be able to complete the trial. And it
17 will not be necessary for you to serve with
18 us any longer.

19 Although I cannot let you go into the
20 jury room with the jury, you are welcome to
21 remain here in the courtroom if you wish to
22 hear the verdict or you may return -- or we
23 will call you and let you know what that
24 verdict is if you wish. You just have to
25 let us know. Okay?

1 Now, I want to tell you that this system
2 doesn't work without alternate jurors. So I
3 want to really thank you for your time. I
4 know it's disappointing that you don't get
5 to go back to deliberate. But I really
6 appreciate your time and your attentiveness.

7 At this time the two alternate jurors
8 may return to the jury pool room and -- I'm
9 sorry, to the jury deliberation room if you
10 have any items back there.

11 Do either of you have items back there?
12 Yes, you may go at this time.

13 And I'm going to ask that you leave your
14 notes on your chair -- or, no, you're going
15 to hand them to the bailiff, that's
16 perfectly fine.

17 THE BAILIFF: Rise for the alternates.

18 THE COURT: Thank you.

19 (Alternates excused.)

20 THE COURT: I'm going to hand you the
21 verdict form. And is State's 1A and B in
22 that box?

23 THE BAILIFF: Yes, sir.

24 THE COURT: Okay. So we have put
25 together the evidence that goes back with

1 you and the verdict form. And those will be
2 delivered to you in the jury room.

3 Everybody may be seated, please.

4 As soon as the verdict form is signed,
5 knock on the door and advise the bailiff
6 that you have a verdict. He will see to it
7 that all court personnel are present before
8 he returns you to the courtroom.

9 The jury may now deliberate.

10 THE BAILIFF: All rise for the jury.

11 Folks, bring everything with you this
12 time.

13 (The following proceedings were had
14 before the Court and out of the presence of
15 the Jury:)

16 THE COURT: Now that we are outside --
17 everybody may be seated.

18 Now that we are outside the presence of
19 the jury, are there any other matters which
20 require our attention at this time?

21 MS. GOECKEL: Not from the State, Your
22 Honor.

23 MR. MARTIN: No, sir, none from the
24 Defense.

25 THE COURT: So if you-all could leave

1 phone numbers with Madam Clerk and you may
2 go about your business within close
3 proximity to the courthouse. And if
4 something happens, a question or a verdict,
5 we will call you and bring you back.

6 When I say you-all, obviously, I mean
7 our attorneys. And I'm going to leave it on
8 the attorney to get the Defendant back here,
9 as well. Okay?

10 MS. GOECKEL: Yes, Your Honor.

11 THE COURT: All right. Thank you. We
12 are in recess.

13 (Deliberation recess.)

14 (The following proceedings were had
15 before the Court and out of the presence of
16 the Jury:)

17 THE COURT: I haven't told anybody what
18 the question is yet, but the State
19 anticipated what it would be.

20 So the question is this: We would like
21 to review the video footage again.

22 So my intention is to bring the jurors
23 back in, read the question back to them, and
24 tell them they may review the video footage,
25 and to have the State play it for them.

1 Any objection to any of that?

2 MR. MARTIN: No, sir.

3 MS. GOECKEL: No, Your Honor.

4 THE COURT: Okay. When he tells you
5 he's ready, we can bring them back in.

6 MR. SLAVICHAK: Whenever the Court is...

7 THE COURT: Thank you. Please bring the
8 jury in.

9 THE BAILIFF: Yes, sir.

10 All rise for the jury.

11 (The following proceedings were had
12 before the Court and Jury:)

13 THE COURT: Thank you-all.

14 I have a question that the bailiff
15 handed me. I'm going to read it. It says:
16 We would like to review the video footage
17 again.

18 I have talked to the attorneys, and that
19 is perfectly acceptable, so we're going to
20 play it for you now. Okay?

21 MR. SLAVICHAK: May it please the Court?

22 THE COURT: It may. You may play.

23 (Video played.)

24 THE COURT: We played you the video
25 footage, okay. Are you-all ready to go back

1 to deliberate?

2 THE JUROR: Can we see it one more time
3 through, please.

4 THE COURT: Any objection from either
5 side to playing the video again?

6 MR. MARTIN: They want to see it again?

7 THE COURT: Yes, sir.

8 MR. MARTIN: No, I don't have a problem
9 with that.

10 MR. SLAVICHAK: Nothing from the State.

11 THE COURT: Then you may play it again.
12 (Video played.)

13 THE COURT: Are you ready to go back to
14 deliberate?

15 JUROR #27: Yes, sir.

16 THE COURT: Let the record reflect
17 everybody is saying yes. And you may.

18 THE BAILIFF: All rise for the jury.

19 (The following proceedings were had
20 before the Court and out of the presence of
21 the Jury:)

22 THE COURT: We will be in recess.

23 (Deliberation recess.)

24 (The following proceedings were had
25 before the Court and Jury:)

1 THE COURT: You may be seated.

2 My understanding is you-all have reached
3 a verdict.

4 JUROR #27: We have.

5 THE COURT: Okay. Do you have a verdict
6 form?

7 JUROR #27: We do.

8 THE COURT: Okay. I'll ask the clerk to
9 publish the verdict.

10 THE CLERK: Yes, Your Honor.

11 In the Circuit Court of the Eighth
12 Judicial Circuit, in and for Alachua County,
13 Florida, Case Number 2021-CF-3691-A, *State*
14 *of Florida, as plaintiff, vs. Andre Abrams,*
15 *Senior, Defendant,* verdict: We, the jury,
16 finds as follows as to Defendant, Andre
17 Abrams, Senior, in this case: As to
18 Count I, the Defendant is guilty of the
19 lesser included charge of improper
20 exhibition of a firearm or weapon. As to
21 Count II, the Defendant is guilty of a
22 lesser included charge of improper
23 exhibition of a weapon. As to Count III,
24 the Defendant is guilty of the lesser
25 included charge of improper exhibition of a

1 weapon.

2 So say we all this 6th day of March,
3 2025, in Gainesville, Alachua County,
4 Florida, by Angela Harrington as foreperson.

5 THE COURT: Thank you.

6 Please be seated.

7 Would either side like the jury polled?

8 MS. GOECKEL: Not from the state, Your
9 Honor.

10 MR. MARTIN: No.

11 THE COURT: Thank you.

12 MR. MARTIN: I'm sorry, Your Honor. I
13 should, yes, sir.

14 THE COURT: Okay. All right. So what
15 I'm going to ask is I'm going to go down to
16 each one of you, and ask you if this is your
17 verdict. And you're going to have to help
18 me because you switched spots from when we
19 picked the jury. I'm going to just read it
20 so I might be out of order.

21 Mr. Weiner, is this your verdict?

22 JUROR #04: Yes, Your Honor.

23 THE COURT: Mr. Tomlin, is this your
24 verdict?

25 JUROR #10: Yes, sir.

1 THE COURT: Mr. Mangan, is this your
2 verdict?

3 JUROR #18: Yes, Your Honor.

4 THE COURT: Ms. Harrington, is this your
5 verdict?

6 JUROR #27: Yes, sir.

7 THE COURT: Ms. Jordan, is this your
8 verdict?

9 JUROR #62: Yes, Your Honor.

10 THE COURT: Mr. Oliva, is this your
11 verdict?

12 JUROR #40: Yes, Your Honor.

13 THE COURT: Okay. Thank you.

14 Any further requests?

15 MR. MARTIN: No, sir.

16 THE COURT: All right. So ladies and
17 gentlemen, I wish to thank you for your time
18 and consideration of this case. I also wish
19 to advise you of some very special
20 privileges enjoyed by jurors.

21 No juror can ever be required to talk
22 about the discussions that occurred in the
23 jury room except by court order. For many
24 centuries our society has relied upon juries
25 for consideration of difficult cases. We

1 have recognized for hundreds of years that a
2 jury's deliberations, discussions, and votes
3 should remain their private affairs as long
4 as they wish it. Therefore, the law gives
5 you a unique privilege not to speak about
6 the jury's work. Although you are at
7 liberty to speak with anyone about your
8 deliberations, you are also at liberty to
9 refuse to speak to anyone.

10 A request to discuss either your verdict
11 or your deliberations may come from those
12 who are simply curious, from those who might
13 seek to find fault with you, from the media,
14 from the attorneys, or elsewhere. It will
15 be up to you to decide whether to preserve
16 your privacy as a juror.

17 I want to thank you-all for your hard
18 work. And our system doesn't work unless
19 you're here doing the work that you have
20 done this week. So you have my thanks.

21 And with that, you are discharged.

22 THE BAILIFF: All rise for the jury.

23 (The following proceedings were had
24 before the Court and out of the presence of
25 the Jury:)

1 THE COURT: Thank you, everybody.

2 Please be seated.

3 Mr. Martin.

4 MR. MARTIN: Yes, sir.

5 THE COURT: What is your request
6 regarding sentencing?

7 MR. MARTIN: Your Honor, I would ask the
8 Court to defer sentencing for a period of
9 one to two weeks. There is some mitigation
10 that we would like to argue.

11 We would also ask the Court to allow him
12 to remain at large until that sentencing
13 date.

14 I will highlight that this case has been
15 pending while he was in Division V and there
16 have not been any other incidences. He's
17 always appeared in court.

18 THE COURT: Thank you.

19 State.

20 MS. GOECKEL: Yes, Your Honor. We're
21 prepared for sentencing today. We would
22 also request for the Defendant to be taken
23 into custody. He's now been found guilty on
24 three counts of improper exhibition of a
25 dangerous weapon.

1 THE COURT: Okay. How long are you
2 asking for, Mr. Martin?

3 MR. MARTIN: Actually, one to two weeks,
4 depending on the Court's schedule.

5 THE COURT: I'm looking at the schedule.
6 Just bear with me, please.

7 THE CLERK: (Inaudible.)

8 THE COURT: Thank you.

9 I would rather do it now if I can, but
10 the problem is my calendar is jam packed the
11 next few weeks.

12 How long do you believe, Mr. Martin, you
13 would need for a sentencing hearing?

14 MR. MARTIN: Seeing that it's -- he's
15 been convicted of a misdemeanor, probably no
16 more than 45 minutes.

17 THE COURT: Okay. And, State, do you
18 think you need more time than that or --

19 MS. GOECKEL: I would need 15 minutes.

20 MR. MARTIN: And the reason, I think we
21 do have witnesses that --

22 THE COURT: I understand.

23 All right. So I am willing to do it
24 next Friday, the 14th, during my lunch
25 break.

1 MR. MARTIN: So that would be noon. Is
2 that fair?

3 THE COURT: Yes, sir.

4 MR. MARTIN: I have a child hearsay
5 hearing, but that's in the morning. So if
6 it's noon, that's fine.

7 THE COURT: Okay. Ms. Goeckel.

8 MS. GOECKEL: I am out of the office
9 that afternoon unless -- if I can find
10 coverage.

11 THE COURT: I don't mind coming in early
12 that day. Does that work for you?

13 MS. GOECKEL: That works for me.

14 THE COURT: Mr. Martin, what time is
15 your hearing?

16 MR. MARTIN: 9:00 o'clock.

17 THE COURT: Would you-all be willing to
18 do it at 8:00 o'clock on the 14th?

19 MR. MARTIN: Oh, yeah.

20 MS. GOECKEL: I'm fine with that.

21 THE COURT: And Mr. Martin is fine with
22 that. I'll let you consult with your
23 client.

24 All right. So here is what I'm going to
25 do. I am going to schedule a sentencing

1 hearing for the 14th at 8:00 a.m. And I am
2 going to not remand you, sir, based on the
3 fact that you have been out for almost four
4 years and we haven't had a problem.

5 MR. ABRAMS: Yes, sir.

6 THE COURT: The worst thing you can do
7 right now is get in trouble between now and
8 your sentencing date. Understood?

9 MR. ABRAMS: Yes, sir.

10 THE COURT: All right. So I am going to
11 ask that he sign a notice to be back here at
12 8:00 o'clock on the 14th.

13 THE CLERK: I don't have a courtroom,
14 unless you want this courtroom.

15 THE COURT: Since we're so early, I
16 think I get to pick, so I will say this one.
17 And if they need me to switch it, I will
18 switch it. But we'll put it in here. I
19 don't think Judge Kreider will have a
20 problem with that.

21 THE BAILIFF: I would anticipate 8:10 by
22 the time we open the doors and get everybody
23 in, just so you're aware. It won't be right
24 at 8:00 o'clock.

25 THE COURT: Okay.

1 THE BAILIFF: We can try to do our best
2 and get them in and up here by 8:00.

3 THE COURT: Okay. But, sir, you need to
4 be here by 8:00 and any witnesses you have
5 need to be here by 8:00. I have a hearing
6 at 9:00, so we're going to start as close to
7 8:00 as we can.

8 MR. ABRAMS: Okay. Yes, sir.

9 THE COURT: And my hearing is in the
10 other courthouse.

11 Okay. Anything further from either
12 side?

13 MS. GOECKEL: No, Your Honor.

14 THE COURT: Thank you-all. We are
15 adjourned until next Friday at 8:00 a.m.

16 THE BAILIFF: All rise. Court is
17 adjourned.

18 (Proceedings adjourned at 4:49 p.m.)

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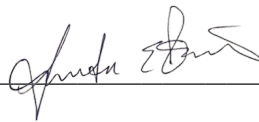
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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF CLAY

I, Amanda E. Robinson, Registered
Professional Reporter, Certified Realtime
Captioner, do hereby certify that I was
authorized to and did report the foregoing
proceedings; and that the transcript, pages 1
through 255, is a true record of my stenographic
notes.

DATED this 16th day of May, 2025.

A handwritten signature in cursive script, appearing to read "Amanda E. Robinson", is written over a horizontal line.

Amanda E. Robinson,
Registered Professional Reporter,
Certified Realtime Captioner