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IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA  
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA,

PLAINTIFF,

vs.

JOHN DOBBS,

DEFENDANT./

CASE NUMBER: 48-2006-CF-15201

DIVISION NUMBER: 16

VOLUME VI OF VI



COPY

TRIAL PROCEEDINGS

BEFORE

THE HONORABLE LISA T. MUNYON

In the Orange County Courthouse  
Courtroom 10D  
Orlando, Florida 32801  
March 1, 2007  
Rebecca Ruiz

**A P P E A R A N C E S:**

**KIM LASKOFF AND DEBORAH BARRA**

Assistant State Attorney  
415 North Orange Avenue  
Building B  
Orlando, Florida 32801  
On behalf of the State

**MELISSA VICKERS AND CATHERINE CHIEN**

Assistant Public Defender  
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Orlando, Florida 32801  
On behalf of the Defendant

- - -  
**P R O C E E D I N G S**

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2  
3       **THE COURT:** I think I notice an error in the  
4 verdict form.

5       **MS. VICKERS:** Correct.

6       **THE COURT:** I don't suppose you had your office  
7 e-mail these to me?

8       **MS. LASKOFF:** My secretary also indicated that you  
9 have two e-mails, so she might have sent initially some  
10 of them to the wrong -- you have it?

11       **THE COURT:** Yes, I have got something. Counsel, I  
12 have replacements for Counts II and III here.

13                               (Court was at ease.)

14       **THE COURT:** Counsel, just so you know, and you can  
15 discuss it with your client when he gets here.  
16 Ms. Vickers, I read the Disney case. I am not inclined  
17 to give the additional language requested by the State  
18 unless there is a stipulation of the parties.

19       **MS. VICKERS:** No, there will not be a stipulation  
20 so we don't need to address that any further.

21       **THE COURT:** I will address it on the record when  
22 the your client gets here.

23               Does anyone note any difficulties in the jury  
24 instructions because I had indicated I was going to  
25 give the jury copies and I tried to go over them

1 carefully and was here until six o'clock last night  
2 doing that.

3 **MS. LASKOFF:** I haven't looked at the brand new  
4 ones you just handed us, but there were some places  
5 where you had quote marks.

6 **THE COURT:** When they e-mail, they do that. Other  
7 than that, they don't come out that way when I print  
8 them.

9 **MS. LASKOFF:** Other than that, no.

10 **THE COURT:** I did note that I had forgotten to put  
11 Count V under shooting from a vehicle. So you will  
12 note that I added that to what I have given you this  
13 morning.

14 We are on the record on 2006-CF-105201. State of  
15 Florida versus John Dobbs. Record should reflect that  
16 counsel for each party is present as is the defendant  
17 as he has been throughout. I did receive a request for  
18 an additional language in the jury instructions from  
19 the State as with the defense. I have read the case  
20 that was provided by the State of Florida. I am not  
21 inclined to give the additional requested information  
22 or instruction unless the defendant is in agreement.

23 **MS. VICKERS:** We are not in agreement, Your Honor.

24 **THE COURT:** Then I will give the standard  
25 instruction on manslaughter without the addition of the

1 additional language.

2 **MS. VICKERS:** Thank you.

3 **THE COURT:** I have reviewed the verdict forms that  
4 have been provided. I have made an alteration to Count  
5 II and III to include or causing great bodily harm as  
6 charged in the information. Any objection to the  
7 verdict forms, State?

8 **MS. LASKOFF:** I don't know, and I know you the did  
9 the correction in the verbiage down here, in the title,  
10 however, in --

11 **THE COURT:** I just did aggravated battery.

12 **MS. LASKOFF:** Okay. That will work.

13 **THE COURT:** Any objection?

14 **MS. VICKERS:** No, Your Honor.

15 **THE COURT:** I have provided each of you with a  
16 copy of the final version of the jury instructions. I  
17 do have copies for each of the jurors when I am  
18 instructing them on the law applicable to this case.  
19 Any corrections additions or deletions to what I have  
20 provided from the State?

21 **MS. LASKOFF:** No, Your Honor.

22 **THE COURT:** From the defense?

23 **MS. VICKERS:** No, Your Honor.

24 **THE COURT:** Is there any reason -- I have also had  
25 the jury order lunch. I anticipate that they will

1 begin deliberating around lunch time or before lunch  
2 time and it is my intention to feed them so that they  
3 can deliberate through lunch. Any other matters we  
4 need to take up before the I bring the jury in and we  
5 begin closings?

6 **MS. LASKOFF:** I would ask once again that the  
7 Court inquire of Mr. Dobbs. I understand -- I heard  
8 him yesterday in that he may want to do closing himself  
9 and just address whether or not he's wanting counsel to  
10 proceed or what his wishes are.

11 **THE COURT:** I assume that since Mr. Dobbs has not  
12 asked that of me, that he doesn't desire to do that.  
13 Mr. Dobbs, is there anything that you want to tell me  
14 before I bring the jury in?

15 **THE DEFENDANT:** Not at this moment.

16 **THE COURT:** All right. Thank you. Let's bring  
17 the jury in.

18 (Jury enters the courtroom.)

19 **THE COURT:** Ladies and gentlemen, both the State  
20 and the defendant have now rested their cases. The  
21 attorneys now will present their final arguments.  
22 Please remember that what the attorneys say is not  
23 evidence. However, do listen closely to their  
24 arguments. They are intended to aid you in your  
25 understanding of the case.

1           Each side will have equal time, but the State is  
2 entitled to divide this time between an opening  
3 argument and a rebuttal argument after the defendant  
4 has spoken. Ms. Laskoff.

5           **MS. LASKOFF:** Thank you.

6           May it please the Court. Counsel. Members of the  
7 jury, you sat through testimony for three days on this  
8 case. At the outset of the case I told you that it  
9 would be proved beyond a reasonable doubt that this man  
10 on the night of October 25th, 2006 brutally stabbed a  
11 gentleman to death. He brutally slashed, diced, cut  
12 two other gentlemen, and in getting away from the  
13 scene, then he points a gun at a man, shoots it at him  
14 and continues to flee the scene.

15           On the night of October 25th, 2006 the defendant  
16 attacked William Troy. On the night of October 25th he  
17 attacked Andre Blanco. It is clear from the evidence  
18 that you have heard from his girlfriend Deanna  
19 Washington, from the defendant, from the three guys  
20 that lived, Andre Blanco, Anthony Riollano and  
21 Fransisco Blanco, as well as the two other gentlemen  
22 that worked at the club, Phillip Westfall and Justin  
23 Idle it all started inside the club.

24           You heard Deanna yesterday saying how William Troy  
25 was inside the club disrespecting her. She thought he

1 was being a smart aleck. She didn't like him sticking  
2 his nose in her conversation and it offended her. She  
3 also indicated to you she told her boyfriend she didn't  
4 like it. It made her angry and she thought he should  
5 to something about it.

6 Nothing happened right then. A couple minutes  
7 passes and it is quite clear then what happens. The  
8 defendant goes to his car. Deanna Washington gets in  
9 the passenger side. The defendant gets in his side as  
10 well. Then you have the dead victim, William Troy, his  
11 two friends that are stabbed, Fransisco and Andre and  
12 Anthony Riollano.

13 Again, you heard Deanna tell you she thinks it was  
14 Will. It might have been one of the other guys, but  
15 they were making fun of him. What do you-all need  
16 security to walk you out? You got any girls? They are  
17 making fun of them. They are not threatening the  
18 defendant's life at this point. They are not  
19 threatening the defendant's life at any point. What is  
20 threatened is his ego. His manhood.

21 You gonna let them get away with that? Aren't you  
22 gonna do something about that? That ain't right. The  
23 victims indicate the words are exchanged. Now, there's  
24 some -- it's not quite clear from the folks that come  
25 out on the scene whether or not the defendant had

1 initially driven by and parked his car, but the three  
2 guys are quite clear the defendant and his girlfriend  
3 are leaving. They are getting out of there. But when  
4 they heard the words, the defendant parks. He parks  
5 six spots away from the deceased victim and his  
6 friends. Defendant gets out of his car. He walks  
7 around and Andre Blanco is walking over. Defendant  
8 says he didn't think it was no big deal. He doesn't  
9 pay no mind to Deanna anyway. The fact that she was  
10 talking, if you remember he said that yesterday. So he  
11 gets out.

12 Suddenly there's a fist fight. Just for no  
13 reason. Mr. Blanco just punches him in the face for  
14 absolutely no reason. I ask that you use your common  
15 sense. That's not what happened. The evidence is  
16 contrary to what that claim is. In fact, what happened  
17 is the minute this man got out of the car, he had his  
18 knife in his hand. He came out. First contact he  
19 makes is with Andre Blanco. He is slashed. He is cut.  
20 He's down. He's spinning to the ground.

21 So gee, his friends see that this guy has just  
22 knocked him down to such a point he's over there. So  
23 Fransisco comes over, what's going on boom? Slash.  
24 Cuts him. Cuts his mouth. Will comes over. Oh, my  
25 God, the two friends are on the ground. This man is



1 attacking them, swinging violently. People are falling  
2 left and right.

3 Will comes over, gets stabbed in the heart, in the  
4 chest, gets stabbed again in the chest, gets stabbed in  
5 the abdomen, gets sliced in the arm. He falls to the  
6 ground. Anthony Riollano is able to come up behind the  
7 defendant. And if you remember, the defendant told you  
8 he couldn't stab him because he was behind him and he  
9 had him in the head. Yeah, he was punching him. He  
10 just sliced up two of his friends, and another, third  
11 one, is laying there unconscious who eventually dies.

12 The next thing that happens is he gets in the car  
13 with his girlfriend. As he's pulling out of the  
14 driveway, Ms. Washington corroborates this,  
15 Mr. Westfall indicates this, Mr. Holiday indicates  
16 this, he's pulling out. Deanna's window is open.  
17 Somebody is trying to get their license plate. People  
18 are screaming, we have just been stabbed. Someone else  
19 is screaming, he stabbed someone. Hanzel Holiday is  
20 trying to be a good samaritan and tries to stop this  
21 man. He is seeing people laying bloody all over the  
22 ground and this guy fleeing from the scene. So he  
23 tries to stop him.

24 The evidence has shown you he was not successful  
25 in stopping him at this point. They are just pulling

1 out the parking lot. They continue going down OBT for  
2 a short period and the defendant, again, he ain't gonna  
3 put up with this. Pulls up his 9 millimeter, points it  
4 directly at Mr. Holiday. His window is down. He pulls  
5 the trigger, shoots at him.

6 Upon seeing the gun, Mr. Holiday has the wit about  
7 him to slam on his brakes and pull off, pull away from  
8 the defendant's vehicle to avoid being shot and killed.  
9 Deanna tells you, the defendant pulled his gun out and  
10 pointed it at Mr. Holiday.

11 Now, you can believe that the defendant just  
12 coincidentally happened to be changing the magazine and  
13 pulling the bullets out of the gun for safety purposes  
14 when this gentleman drove up next to his car, but I  
15 submit to you that's not what happened. What happened  
16 is he pulled up the gun, he aimed it at Mr. Holiday and  
17 he shot that gun. It is clear from all of the  
18 testimony, from the evidence, the defense witnesses,  
19 he's guilty of second degree murder with a cold,  
20 depraved heart, reckless disregard for any life. He  
21 stabbed to death William Troy.

22 It is clear from the evidence that the defendant  
23 is also guilty of aggravated battery on both Andre  
24 Blanco and Fransisco Gotay. Both of them were cut so  
25 severely they needed staples. They needed stitches.

1 They have remaining scars. Mr. Blanco can't even use,  
2 or not Mr. Blanco, Mr. Gotay, his mouth. He still  
3 can't use it properly.

4 And Counts IV and V are clear as well, aggravated  
5 assault with a firearm against Mr. Holiday. The  
6 defendant with a firearm placed the victim,  
7 Mr. Holiday, in a well-founded fear that he was in  
8 imminent danger or imminent danger of death. Clearly  
9 someone's pointing a gun at you, shoots it, that's  
10 clear.

11 And then Count V, shooting from a vehicle at  
12 another, in the vicinity of another person within a  
13 thousand feet. Mr. Holiday was in a vehicle right next  
14 to him. The defendant shot the gun at him. And again,  
15 fortunately he did not make contact with that  
16 gentleman.

17 Now, you are going to have an opportunity to  
18 listen to defense counsel and they are going to argue  
19 their position to you. After that, I am, again, going  
20 to address you and explain to you further why, in fact,  
21 the defendant should be found guilty of every single  
22 count as he is charged.

23 **THE COURT:** Ms. Chien?

24 **MS. CHIEN:** Yes, Your Honor.

25 Members of the jury, late at night four men came

1 after one. They surrounded him. They punched him.  
2 They cut him and they beat him to the ground. This man  
3 had no choice but to defend himself and the life of his  
4 girlfriend.

5 This case isn't Thee Dollhouse. It's not about  
6 whether or not you like Mr. Dobbs or if you don't. So  
7 let's get to the real issue. The real issue in this  
8 case is was he defending himself that night. On the  
9 night of October 24, 2006, four men went and started to  
10 pick a fight with Mr. Dobbs. These four men were  
11 drunk. They were belligerent and they were unruly.  
12 These four men had been drinking all night.

13 They went to the Magic game. They drank. They  
14 went to the Diamond Club. They drank. They went to  
15 Cleo's. They drank. They went to Thee Dollhouse and  
16 they drank. They drank liquor, beer, champagne, shots  
17 of Patrone and vodka. Those three men that you saw  
18 testify, these were not the same men that were there  
19 that night. These men were drunk, and they used their  
20 words and their actions to show that they wanted to  
21 start a fight.

22 Let's talk about the words. Mr. Dobbs was walking  
23 to his car. And Justin Idle, a worker at Thee  
24 Dollhouse testified that he heard one of the four yell,  
25 you need security because you are an, excuse me, pussy.

1           These are fighting words. And they followed up their  
2           words with action. Justin Idle testified these at  
3           least three of the four men walked over. They were  
4           advancing to Mr. Dobbs. That is what he testified to.  
5           Three out of four were going after Mr. Dobbs, and  
6           Phillip Westfall testified that one of the four  
7           gentlemen walked thirty feet to Mr. Dobbs. And these  
8           men came after him with their fists. They came and  
9           they started punching.

10           Mr. Dobbs did not open up his knife in the  
11           beginning. Phillip Westfall, he testified that after  
12           Mr. Dobbs punched the first guy, there was no blood.  
13           And if he had used a knife at the first punch, there  
14           would have immediately been blood.

15           The second guy, Phillip Westfall, also testified  
16           that he saw the second punch and there was no blood on  
17           the second guy either. And, if he had used the knife  
18           immediately, there would have been blood. And these  
19           four men surrounded Mr. Dobbs. It came out in  
20           testimony from the State's own witnesses, Justin Idle,  
21           he took no part in this fight, that these four men  
22           surrounded Mr. Dobbs and they were taking shots at him.  
23           They were beating him.

24           Anthony Riollano admitted, yeah, he himself took  
25           three to four punches at the end. He beat him on the

1 back of the head and was holding onto him. No matter  
2 what, someone was gonna win that fight that night and  
3 someone was going to lose. It is just fortunate enough  
4 that Mr. Dobbs was able to defend himself because who  
5 knows what would have happened to Mr. Dobbs if he had  
6 not used a knife?

7 Now, let's talk about the burden of proof in this  
8 case. You know, the State, it is almost like they are  
9 doing a magic trick. They have your attention focused  
10 over here so you wouldn't focus your attention over  
11 here. Great magicians. They have you looking over  
12 here so you wouldn't see what they are doing with this  
13 hand, and they want you focused on John Dobbs'  
14 testimony. But the problem is, is that their burden of  
15 proof is proof beyond a reasonable doubt. They have  
16 the burden of proof. They must present to you evidence  
17 with their witnesses that they have proved this charge  
18 beyond every reasonable doubt.

19 And let's talk about reasonable doubt. This is  
20 the State's burden. If in your consideration of the  
21 issue of self-defense you have a reasonable doubt on  
22 the question of whether the defendant was justified in  
23 the use of deadly or non-deadly force, you find the  
24 defendant not guilty. This means the State has the  
25 burden of proving beyond every reasonable doubt that

1 this was not self-defense.

2 Let me repeat that. The State has the burden of  
3 proving beyond and to the exclusion of every reasonable  
4 doubt that this was not self-defense. In this case,  
5 the State has not met its burden. You're gonna get  
6 jury instructions and I am gonna go through some of  
7 them. There is going to be self-defense, excusable  
8 homicide and necessity. All of the facts are there  
9 because it was self-defense and he had the right to  
10 defend himself.

11 Justifiable homicide. The killing of a human  
12 being is justifiable homicide and lawful if it is  
13 necessarily done while resisting an attempt to murder  
14 or commit a felony upon the defendant. These men were  
15 trying to cause Mr. Dobbs great bodily harm. They were  
16 committing felony battery. They wanted to do him harm.  
17 And, in fact, they do do him harm. They cut him up.  
18 They beat him on the head.

19 And let's talk about the justification of using  
20 deadly and non-deadly force. This is what you are  
21 going to be looking at and deciding. Let's take a look  
22 at the first one. In deciding whether the defendant  
23 was justified in the use of non-deadly force, you must  
24 judge him by the circumstances by which he was  
25 surrounded at the time the force was used, the

1 circumstances.

2 Here are the circumstances. Four came after one.  
3 It was late at night, OBT, in a bad part of town, and  
4 these four men, four drunk men, four men who were  
5 making belligerent comments, who were unruly, who were  
6 trying to pick a fight with Mr. Dobbs, they came after  
7 him.

8 Justin Idle said that these three men were, at  
9 least three of the four were advancing and they were  
10 surrounding him and they were taking punches at him.  
11 And the danger facing the defendant need not have been  
12 actual to justify the use of non-deadly force. The  
13 appearance of danger must have been so real that a  
14 reasonably cautious and prudent person under the same  
15 circumstances would have believed that the danger could  
16 be avoided only through the use of that force.

17 They were beating him up. They were punching him.  
18 They have got him to the ground and the reason why we  
19 know that is because there's a splatter on his tires,  
20 on the car. And if you take a look at the pictures  
21 that he has from the knife, his knees are scraped. How  
22 did his knees get scraped? Because he was on the  
23 ground that night as these four men were surrounding  
24 him.

25 Some of the testimony that came in through the



1 State's own witnesses, okay, they are acting, like,  
2 they are coming in with a halo. We didn't start the  
3 fight. You know, we did a gentleman's fight, you know.  
4 The first one would go in. When that person was done,  
5 then the next person would come on in, and then when  
6 that person was done, then the third person would jump  
7 right in. And after the third person was done, then  
8 the fourth. We waited our turn to punch him, beat him  
9 and cut him.

10 That is not how men fight. They surrounded him.  
11 And this part is important. If John Dobbs was not  
12 engaged in an unlawful activity and was attacked in any  
13 place where he a right to be, he had no duty to  
14 retreat. He had the right to stand his ground and meet  
15 force with force, including deadly force if he thought  
16 it was necessary to prevent bodily harm to himself. He  
17 did not have an obligation to retreat.

18 The State in cross-examination or direct  
19 examination, umm, you know, did Mr. Dobbs -- you know,  
20 before these four gentlemen came, did they, umm, did  
21 you see him brandish a knife and say, hey, I have a  
22 weapon? He has no duty to announce that he's got a  
23 weapon to three men who are coming at him. There is  
24 nothing in the law that says, hey, before you come  
25 attack me, by the way, I have a weapon. No.

1           They came at him. He had no duty to retreat. He  
2 had every right to be in the parking lot. These men  
3 were in the parking lot. He had a right to stand where  
4 he was. He had no duty to retreat. He was allowed to  
5 meet force with force.

6           Let's talk about excusable homicide. The killing  
7 of a human being is excusable and therefore lawful  
8 under any one of these two circumstances. When the  
9 killing is committed by accident and misfortune in  
10 doing any lawful act by lawful means with usual,  
11 ordinary caution and without any unlawful intent.

12           Mr. Dobbs was just swinging that knife. He said  
13 he opened the knife when he heard, get the girl. These  
14 were men who were coming after him. And when the  
15 killing occurs by accident, misfortune, in the heat of  
16 passion upon any sudden and sufficient provocation.  
17 The three were provoking Mr. Dobbs. It was actually  
18 four, but Justin Idle testified he saw at least three  
19 of the four coming to Mr. Dobbs, and the trail of blood  
20 that spans 55 feet across that parking lot is not -- it  
21 is evidence.

22           Now, you know, it has been the testimony by some  
23 of the State's witnesses who said they were there that  
24 night, who are friends with the deceased saying, no,  
25 you know, Mr. Dobbs, he got into his car and then he

1 parked six paces from us, and then all of a sudden he  
2 just popped out and started a fight. The problem is,  
3 that the State's own witnesses, the two workers at Thee  
4 Dollhouse, they never saw Mr. Dobbs move his car.

5 Justin Idle testified he was in that parking lot.  
6 If Mr. Dobbs had moved his car, he would have likely  
7 seen it. Those three men that came in are lying. The  
8 trail of blood for 55 feet speaks for itself. And one  
9 of the elements that the State has to prove for second  
10 degree murder, one of the elements is there was an  
11 unlawful killing of William Troy by an act imminently  
12 dangerous to another and demonstrating a deprived mind  
13 without regard for human life. And the definition of  
14 acts that are imminently dangerous and demonstrating a  
15 deprived mind, the State has to prove it is done from  
16 ill will, hatred, spite or an evil intent.

17 The medical examiner that testified, she testified  
18 that these wounds were straight. There was no twisting  
19 and turning of that knife which would have shown a  
20 depraved or an evil intent. And the ME also testified  
21 that there were no wounds on the back side. The State  
22 has not met its burden for second degree murder.

23 Do you remember in jury selection when Ms. Vickers  
24 asked you, you know, what do you need for a ham and  
25 cheese sandwich? You needed ham, you need the cheese

1 and you need the bread. That makes it a ham and cheese  
2 sandwich. And if the State has not proved one of those  
3 elements, they had not proved their case. And when you  
4 were asked in jury selection if the State has not met  
5 its burden of proof, proof beyond and to the exclusion  
6 of every reasonable doubt for all three, and even if  
7 there was, even if somebody died, your verdict must be  
8 not guilty.

9 Let's talk about Count II. Count II in this case  
10 is aggravated battery against Fransisco Gotay. This  
11 was clearly a case of Mr. Dobbs defending himself.  
12 Fransisco Gotay has admitted to drinking the entire  
13 night. He told you he was drinking the entire night.  
14 He had drinks at the Magic game, Cleo's, Diamonds and  
15 Thee Dollhouse. And he also said that Mr. Dobbs drove  
16 up to them. The trail of blood from the most  
17 northbound point to the most south point was 55 feet.

18 What he testified to is not true. And this is a  
19 man with two felony convictions. He was trying to  
20 minimize his role in this. And let's talk about Andre  
21 Blanco. Andre Blanco was the man who walked over to  
22 Mr. Dobbs. He was the first person to throw a punch.  
23 He was the one who started it. And this is a man who  
24 came to court and lied time and time again.

25 One of the things that you are going to do when

1           you go back and deliberate is you get to weigh the  
2           evidence. You get to judge the credibility of the  
3           witnesses that testified. And these are some of the  
4           factors that you are going to take into consideration.  
5           Did the witness seem to have an accurate memory? Was  
6           the witness honest and straightforward in answering the  
7           attorneys questions? Does the witness's testimony  
8           agree with the testimony and other evidence in the  
9           case? Did the witness at some other time make a  
10          statement that is inconsistent with the testimony he or  
11          she gave in court? And was it proved that the witness  
12          had been convicted of a crime?

13                 Andre Blanco took that stand, and when I asked  
14          him, have you ever been convicted of a felony, he said,  
15          three or four. Try six felony convictions. Six. And  
16          he got up here and he lied. And he didn't just lie  
17          about that. He lied about when I asked him how the  
18          fight started. How did the fight start? I don't know.

19                 Donald Swift came in and said Andre Blanco told  
20          him the fight started because Will was running his  
21          mouth. This is a person who probably feels responsible  
22          for what happened to his friend. He was lying. He had  
23          been drinking that night and he had no problems using  
24          his fist that night.

25                 And let's talk about the aggravated assault. This

1 is Count IV. Aggravated assault with a firearm. The  
2 testimony that Hanzel Holiday testified to was he used  
3 his F-150 truck and rammed it into Mr. Dobbs' car not  
4 once, but two times. And his intent, he stated, was to  
5 run him off the road. Mr. Dobbs doesn't know who  
6 Hanzel Holiday is. He doesn't know that this was a guy  
7 that worked at the other club. All he knows is that he  
8 had just gotten away from four men trying to attack  
9 him, and all of a sudden there is this big truck that  
10 is just ramming him one, two times. He thinks it is  
11 just one of the four trying to come after him and  
12 finish the job because when Mr. Dobbs saw a police car,  
13 he didn't try to get away from the police car. He was  
14 cooperative with the police. Officer Mercado took the  
15 stand and said, yes, Mr. Dobbs was cooperative. The  
16 officer asked Mr. Dobbs, do you have any weapons? Yes.  
17 Can I search your car? Yes. And he told them exactly  
18 where the knife was and where the gun was. He pulled  
19 over for the police because it was a police car and it  
20 was not one of the four men coming after him.

21 And Hanzel Holiday's testimony is just not  
22 believable. This is a man with four to five felony  
23 convictions. And on Count V, shooting from a vehicle,  
24 it is just not -- his version is just not consistent  
25 with any of the evidence that the State has. The GSR

1 is negative. The State didn't bring any casings to  
2 you. Hanzel Holiday testified he thought he heard two  
3 shots. That means there would have been two casings in  
4 Mr. Dobbs' car, and none of that was brought to you.

5 Amanda Johnson from FDLE testified it would have  
6 been impossible, impossible, to load that gun with ten  
7 rounds. It only holds a maximum of nine. The State in  
8 this case has the burden of proving beyond every  
9 reasonable doubt that Mr. Dobbs is guilty of the crimes  
10 that he's charged with. And what is reasonable doubt?  
11 A reasonable doubt is not a mere possible doubt, a  
12 speculative, imaginary or forced doubt. Such a doubt  
13 mustn't influence you to return a verdict of not guilty  
14 if you have an abiding conviction of guilt. On the  
15 other hand, if after considering, comparing, and  
16 weighing all of the evidence there is not an abiding  
17 conviction of guilt, or if you have a conviction, it is  
18 one which is not stable, but one which wavers and  
19 vacillates, then the charge has not been proven beyond  
20 and to the exclusion of every reasonable doubt and you  
21 must find him not guilty.

22 Now, reasonable doubt can come from the evidence,  
23 and it can come from the lack of evidence and the  
24 conflict of evidence. And what do we have in this  
25 case? We have a complete conflict in the evidence.

1 Here's the State's case. Who started the fight? Two  
2 of the State's witnesses don't know. Anthony Riollano  
3 says he didn't know. Fransisco Gotay says, you know,  
4 he just saw Andre Blanco walk over. Andre Blanco says  
5 Mr. Dobbs started it. Justin Idle says he just saw  
6 three men advancing to Mr. Dobbs.

7 Phillip Westfall says he saw one of the four walk  
8 thirty feet to Mr. Dobbs. What's another conflict in  
9 the evidence? Where did the fight take place? Did it  
10 take place as, let's say Andre Blanco said? By their  
11 car, because Mr. Dobbs drove up to them. Well, that's  
12 contradicted by any of the two witnesses, the  
13 independent witnesses, Justin Idle and Phillip  
14 Westfall.

15 It is contradicted by Deanna Washington and John  
16 Dobbs. But you know what? Blood evidence doesn't lie.  
17 That scene with all the blood splatter on that parking  
18 lot, it went 55 feet. Did the four come to one?  
19 That's even contradicted. Thee Dollhouse worker says  
20 yes, Ms. Washington, Mr. Dobbs say yes, and the  
21 evidence says yes.

22 You know, what was that fight like? I don't know.  
23 I wasn't there. We've got in the State's evidence a  
24 conflict in the evidence because their own five  
25 witnesses have five different versions as to what



1 happened. They have five different perceptions of how  
2 that fight went down and a perception is not the truth.

3 The State and only the State carries the burden of  
4 proof in this case. They had to prove to you beyond  
5 every reasonable doubt that this was not self-defense,  
6 and the story that they presented from three of the  
7 four men does not match. The two workers does not  
8 match. They don't match each other and they don't  
9 match the other three. And remember how I was talking  
10 about the State wants you to focus over here in they  
11 have the burden of proving with their evidence beyond  
12 every reasonable doubt which means there should not be  
13 any conflict in the evidence. And what they are  
14 presenting to you is a big jumble of contradictions.

15 Members of the jury, this isn't a case about a  
16 gun. And, in fact, that gun, if you believe the State  
17 and it belonged to Mr. Dobbs, you know what that shows?  
18 That shows that Mr. Dobbs was not trying to kill those  
19 people that night. If he had the gun, he would have  
20 used the deadliest form to defend himself that night.

21 I am not gonna have another opportunity to talk to  
22 you. So I just want to go ahead and thank you for your  
23 time and your attention, and the time that you're gonna  
24 spend deliberating. The State in this case, they have  
25 not met their burden of proof. And that burden of

1 proof is proof beyond every reasonable doubt. And if  
2 there's a conflict in the evidence, that is reasonable  
3 doubt. And there are conflicts in the evidence and  
4 they are handing it to you with five different versions  
5 where testimony is not supported by evidence.

6 The State has not met its burden in this case and  
7 we are asking you to follow the law and find Mr. Dobbs  
8 not guilty on all charges.

9 **THE COURT:** Ms. Laskoff?

10 **MS. LASKOFF:** Thank you, Your Honor. Let's talk  
11 about the State's burden of beyond a reasonable doubt.  
12 Okay? Here we go. I am gonna bring your attention to  
13 the part that says what a reasonable doubt is not.  
14 It's not a mere doubt. It's not a possible doubt.  
15 It's not a speculative doubt. It's not an imaginary or  
16 a forced doubt. And such a doubt mustn't influence you  
17 to return a verdict of not guilty if you have an  
18 abiding conviction of guilt.

19 Therefore, possibly he didn't do it, no, I still  
20 met my burden. You speculating he didn't do it, I have  
21 still met my burden. You are imagining he didn't do  
22 it? I still met my burden. And if you are forcing  
23 some sort of situation that could have possibly  
24 happened, I still met my burden.

25 Okay? And in regard to magic tricks and focusing

1 your attention from one thing to another, that's kind  
2 of what the defense was doing, because they are trying  
3 to draw your attention away from what the big picture  
4 is. And let me show you what the pig picture is, and  
5 there's no conflict in the evidence in this regard.  
6 None.

7 This man stabbed this man to death. He died  
8 because he stabbed him with a knife. There's no  
9 conflict in that evidence. Secondly, Andre Blanco the  
10 first man to be cut up by the defendant, he got cut  
11 with a knife by the defendant. He got cut on the right  
12 side of his face where he needed stitches and staples.  
13 He got cut on the left side of his face where he needed  
14 stitches and staples. He got put cut on his arm.  
15 Staples in there. He got cut on his chest. He needed  
16 staples. And again, on his arm.

17 How did he get cut? There's no conflict in the  
18 evidence. This guy right here, he cut him with a  
19 knife. Unfortunately, I don't have any pictures to  
20 show you of Fransisco Gotay, because if you remember  
21 the very pregnant crime scene tech that testified, she  
22 said he was getting medical treatment at the time, but  
23 you heard Fransisco Gotay say it too. There is no  
24 conflict in the evidence that this man is the one that  
25 cut him, sliced him up. But I guess we should excuse

1           it because he didn't use his gun.  Fortunately they  
2           didn't get shot, right?  That's not what we are here  
3           about.

4           There's also no conflict in the evidence about the  
5           amount of time that William Troy was stabbed.  Defense  
6           was talking about oh, okay, the stabs were straight on.  
7           He must have been defending himself.  Well, it is the  
8           State's position he was holding the knife like this.  
9           If you look at Mr. Troy, he stabbed him four and a half  
10          inches deep on one side of his chest.  Look at this  
11          blade.  He stabbed him three and a half inches deep  
12          with this blade on the other side of his chest.  He  
13          pierced his heart, his lung, his diaphragm.  And then  
14          there's yet another one in his abdomen, another three  
15          and a half inches.  If that's not a depraved heart, if  
16          that's not ill will, if that's not spite, I don't know  
17          what is.

18          Let's talk about these blood spatters.  You have  
19          the diaphragm that the crime scene tech collected.  
20          Okay?  And on it she indicates to you that some of the  
21          spots are pieces of evidence that were collected and  
22          the other ones are indication of blood.  This is the  
23          victim's car.  And the defendant's car is somewhere  
24          over here.  If you look carefully, there's blood  
25          everywhere, not a simple little trail just to the

1 defendant's car as defense counsel has indicated to  
2 you. Okay?

3 You were also told that obviously the three guys  
4 that were friends with the guy who died were lying.  
5 They weren't lying. And who cares if they were drunk?  
6 Who cares if they were drinking? Who cares if they  
7 were convicted of felonies? Does that give him a right  
8 to stab them, to come out of the car and attack them  
9 with a knife because he's pissed off? It doesn't.  
10 It's not justifiable. It's not necessary.

11 The only thing he was finding it necessary to  
12 protect was his ego. It is the State's position that  
13 it wasn't the five witnesses that miraculously got  
14 together and they lied and came up with this fabulous  
15 story. There's some conflicts in testimony.  
16 Somebody's purse gets snatched out in the hallway and  
17 12 people see it, you are going to get 12 versions of  
18 what happened. But the ultimate truth is somebody's  
19 purse got snatched, and by whom. Don't focus on their  
20 magic tricks and pay attention to what's not important.  
21 What is important is he killed him. He wasn't  
22 justified. It wasn't self-defense. He got out of that  
23 car. He was mad. He was fired up and he attacked  
24 them. Boom, off the bat.

25 It started in the club, it built up. He was mad.

1 And if you remember Justin Idle, he also testified that  
2 he heard the defendant when the group of guys was  
3 talking to him and yelling over at him. He yelled  
4 back, the defendant. I don't need no one to get my  
5 back. He's gonna take care of himself. He did. And I  
6 guess you shouldn't believe either that he killed this  
7 guy and it wasn't self-defense because when he was  
8 surrounded by the cops, he cooperated.

9 Well, he fled the scene. He had a cell phone.  
10 Deanna told you that. Neither one of them called 911.  
11 They didn't seek refuge from anyone. They didn't go to  
12 any safe area because he knew he murdered someone and  
13 he knew he was wrong. And to say that simply because  
14 there should not be any conflict in the evidence, you  
15 know what, if these guys, these victims are such good  
16 liars, don't you think that they'd get their stories  
17 perfectly straight and there wouldn't be any conflict  
18 about things that really didn't matter?

19 You remember in jury selection I told you, this is  
20 real life. This isn't C.S.I. This isn't Law And  
21 Order. It's not a neat little package. They haven't  
22 rehearsed. They haven't gotten together and they  
23 haven't gotten their stories straight, but they know  
24 what happened and what counted. They know this guy got  
25 out of his car and attacked them with a knife, one

1 after another, after another. It wasn't a group  
2 ambush. None of the witnesses, none of the five  
3 witnesses said that. When the three gentlemen that  
4 were involved or the two gentlemen that worked at the  
5 club indicated that -- and actually, if you recall,  
6 Justin Idle, the gentleman that worked at the club, he  
7 told him three separate times before the fight started,  
8 leave the parking lot. Leave the parking lot. Leave  
9 the parking lot. Three times. And he didn't do it.

10 He could have left. He should have left. If only  
11 he would have left, William Troy wouldn't be dead and  
12 the two other gentlemen wouldn't be stabbed, brutally.  
13 Yeah, they are mouthing off. But that doesn't justify  
14 killing someone. Nor does that justify stabbing  
15 someone.

16 You don't bring a knife to a fist fight. Okay?  
17 And if he was really so scared for his life, wouldn't  
18 you not display it visibly so everybody saw it? Back  
19 off! I got a knife. You come near me I am gonna cut  
20 you! None of the victims saw a knife. None of the  
21 independent witnesses saw a knife until the end. And I  
22 can't remember if it was Mr. Westfall or Mr. Idle, but  
23 one of them said he saw something shiny in the  
24 defendant's hand, and it was obvious it was a sharp  
25 object by the way we saw the victims injuries.

1           Now, I wanted to talk about the GSR and whether or  
2 not he stuck the gun out and shot it at Mr. Holiday.  
3 Okay? You remember what Mr. Radcliffe, the FDLE expert  
4 said about the gunshot residue. He said his findings  
5 meant he either didn't shoot the gun, and that's why  
6 they are negative, or he could have still shot the gun  
7 and it was negative. Because when he shot the gun out  
8 the window, the powder didn't have time to land on his  
9 hand. Or, because six and a half hours transpired  
10 between the incident and the actual shooting. Or, this  
11 is a 9-millimeter, okay, it is a semiautomatic and if  
12 you remember, he was indicating that the revolvers  
13 dispel more ammunition.

14           Yeah, he had no GSR on his hand. Doesn't really  
15 mean he did. Doesn't really mean he didn't. And I  
16 guess we are supposed to believe that Mr. Holiday is  
17 lying the other victims are too. And I want you to  
18 take the fact that all the State witnesses are  
19 obviously lying from a man who took the stand and he  
20 says a gun basically magically plopped into his lap.  
21 Come on. That's absurd. He's lying.

22           I also want to bring to your attention what the  
23 woman said talking about the DNA, the blood evidence  
24 and the knife. Okay? The majority of the blood was  
25 from William Troy. Well, obviously because it was



1           shoved into his body four times, deeply. Okay? She  
2           also indicated that Andre Blanco, Fransisco Gotay and  
3           the defendant could not be excluded as contributors in  
4           this. Okay? And why do you care? You care because it  
5           is the State's position this cut on the defendant's arm  
6           was caused by his own knife as he's wildly stabbing it  
7           and swinging it and cutting everyone else. Okay?

8                     Look at the pictures. Defendant is right handed.  
9           He tells you that. The cuts are on his left arm.  
10          Common sense tells us he cut himself.

11                    Now, we talked about self-defense, and that's what  
12          this is. He's done these things. Was he defending  
13          himself? No. Under the legal standards, he was not.  
14          Okay? It was not a justifiable homicide. Okay? It's  
15          not justified when you instigate a fight. You get out  
16          of your own car and because you are mad, you are  
17          yielding a knife and you attack someone. Okay? It's  
18          not. It simply is not.

19                    They are outside of the car. He's not resisting  
20          an attempt to murder or commit a felony on him. Come  
21          on. The only time they start to engage in a brawl is  
22          after he starts to stab and cut all of them. It is  
23          absurd. Okay?

24                    Now, the appearance of danger must have been so  
25          real that a reasonably cautious, prudent person under

1 the same circumstances would have believed that the  
2 danger could be avoided only through the use of that  
3 force, and based upon appearances, he has to believe  
4 the danger was real. You are telling me some guys are  
5 walking over to his car, he thinks he's gonna die so he  
6 has to jump out of his car and attack them with a  
7 knife? No. That's not what we are talking about here.  
8 That's not the kind of society we live in. That's not  
9 what that's meaning.

10 Yeah, he has a right. He doesn't have to run or  
11 retreat. And he has the right to stand his ground and  
12 meet force with force, including deadly force. Okay?  
13 There is one guy when he gets out of his car. Okay?  
14 He's in his car when they walk over. He could have  
15 left multiple times. He didn't.

16 He gets out of the car and attacks the first guy  
17 with a knife. It's not excusable what he did. Okay?  
18 It wasn't an accident. It wasn't misfortune. He  
19 wasn't doing a lawful act. He intentionally got out of  
20 the car with the knife and attacked them one by one by  
21 one. And again, it's not an accident and it's not a  
22 misfortune. Okay? It was an intentional act upon the  
23 defendant.

24 Now, in regard to weighing the evidence, did the  
25 witness seem to have an opportunity to see and know the

1 things about which he testified. Okay. Did they have  
2 an accurate memory? And this is where you need to  
3 weigh your credibility of all of the separate  
4 witnesses. Okay? And I want to point out to you that  
5 all of these apply to the defendant's testimony. Okay?  
6 As well, did they have an accurate memory.

7 Let's talk about Deanna Washington, the  
8 defendant's own witness. I asked her about the gun.  
9 Did you see a gun? No. Did you see him hide the gun?  
10 No. Oh, but do you remember making a statement to the  
11 police right after it happened? Yes. Okay. Can you  
12 look at it? Okay. Well, let me ask you this again,  
13 did you see a gun, did he have a gun? Oh, yes, I did,  
14 and yes, I saw him hide it. Okay.

15 Come on. She's trying to protect the defendant.  
16 And when confronted directly with something and she  
17 can't do it, she's called out on it. Okay? But then  
18 the defendant doesn't want you to believe certain parts  
19 of her testimony either, about, you know, she wasn't  
20 egging me on. She wasn't mad. It wasn't bothering her  
21 what these guys were saying. Okay. And that goes sort  
22 of to the answering the attorneys questions straight.  
23 And does the testimony agree with the testimony and the  
24 evidence in the case? Okay. And it is the State's  
25 position that all of our evidence clearly does. It

1 agrees where it matters.

2 Did the witness at some other time make a  
3 statement inconsistent with the testimony he or she  
4 gave in court? Ms. Washington did. Okay? And was it  
5 proved the defendant has been convicted of a crime?  
6 Yeah. So State witnesses were convicted felons. The  
7 defendant is a convicted felon too. Okay? There is no  
8 possible, speculative, imaginary or forced way this guy  
9 didn't get out of his car and commit murder and  
10 aggravated battery and shoot at Mr. Holiday. There  
11 simply is not.

12 Now, let me talk to you about this. It is obvious  
13 the defendant knew he did something wrong. He jumped  
14 in his car and he left. He wasn't trying to escape the  
15 danger. The danger had stopped because he stabbed them  
16 and there was no attack. There were other people in  
17 the parking lot. He was getting out of there to escape  
18 and flee the scene.

19 He hid the gun in the back of his car. And you  
20 heard him testify that he tried to wipe his prints off,  
21 and he didn't want the gun connected to him because  
22 there might be a body on it. I think that's what he  
23 said. He didn't want that gun connected to him. Okay?

24 Now, he was scared for the girlfriend. She was  
25 jumping on the guys attacking him. She said that.

1           Okay? And that would be very noble if, in fact, that  
2           was what he was doing, but it's not. He had already  
3           started attacking the men. And when one would come  
4           over to protect his other friend and see why he was  
5           falling on the floor from the defendant's attack, she  
6           gets out of the car and she tells you she jumps on  
7           their back and she starts to engage in the fight.

8           Yes, you heard Anthony Riollano come in and tell  
9           you he pulled her off of one of the guy's backs. He  
10          was actually concerned. Okay? You also heard Mr. Idle  
11          say, the independent witness, say nobody attacked the  
12          girl. It is the State's position that that's a magic  
13          trick. You don't need to think about that. That's the  
14          wrong way to focus your attention because that's not  
15          what happened.

16          She became involved. They took her out of the  
17          fight and did physically remove her by pulling her off  
18          of one of the guy's backs that she was punching. Okay?

19          Now, you heard the defendant, the defendant  
20          testify -- and I am almost finished. I just want to  
21          bring out some testimony that he stated that kind of  
22          draws a full picture of everything. He tells you,  
23          yeah, I always carry a knife. I have a pocket knife.  
24          It is a protective thing. He said -- and he's actually  
25          blaming the fact that William Troy died on the fact

1 that Anthony Riollano got involved in the fight because  
2 of the way that everybody was moved. If you remember  
3 he goes, it was Anthony Riollano's fault that William  
4 Troy died. Think of the absurdity of that. Okay?

5 He also tells you he doesn't pay no attention to  
6 Deanna. He doesn't listen to her. She wasn't egging  
7 him on. That's completely contradictory to what Deanna  
8 says. Okay? And I just think this whole veracity is  
9 shown when he says the gun just magically appeared in  
10 his lap. That's just absurd. Okay?

11 Guns don't just magically materialize. He did  
12 these things. It wasn't self-defense. Okay? He could  
13 have left. He should have left and he didn't. He got  
14 out of the car with a knife in his hand and immediately  
15 attacked the guys. Okay? And then the next one would  
16 come -- not in a gentleman fight. No, in a manner to  
17 see what in the world is going on with my friend. Why  
18 are they falling down and being attacked. Okay.

19 Now, it's not self-defense. It simply is not.  
20 And I implore you to look at the evidence and you are  
21 going to have a ton of jury instructions to read  
22 through. Okay? He was ticked off from the outset.  
23 William Troy disrespected his girl in the club. Okay?  
24 More verbal exchange happened outside the club. He's  
25 had it. He defends his ego. He defends his honor.

1 He's not defending his life. He needs to be found  
2 guilty of every single count because he is guilty of  
3 committing every single offense. They were not  
4 justified. He was not defending himself and they are  
5 not excusable. Nor were they necessary to any manner  
6 whatsoever. Thank you.

7 **THE COURT:** Ladies and gentlemen, I suspect it's  
8 going to take me half an hour to 45 minutes to read the  
9 jury instructions to you. I suppose you probably want  
10 a break at this point. Am I right?

11 **A JUROR:** Yeah.

12 **THE COURT:** Okay. 15 minutes sufficient? I will  
13 give you a 15 minute break. Do not discuss the case  
14 amongst yourselves. Do not let anyone discuss it with  
15 you. When you come back, I will read the jury  
16 instructions to you and then you will retire to begin  
17 your deliberations. We have already faxed your lunch  
18 order off to the deli and it should be arriving, I  
19 hope, at 11:45. That's the time I asked them to have  
20 it here. With that being said, leave your pads and  
21 pens on the chairs. They'll be there when you return,  
22 and I will see you back in 15 minutes.

23 (Jury exits the courtroom.)

24 **THE COURT:** Counsel, it is my intention to give  
25 the jury these copies of the jury instructions. I will

1 file the original. Once the trial is concluded the  
2 jurors copies will be destroyed because they may  
3 contain their notes. Any objection to that?

4 **MS. VICKERS:** No.

5 **MS. LASKOFF:** No, ma'am.

6 **THE COURT:** All right. Very well, we will be in  
7 recess for 15 minutes.

8 (Whereupon a short recess was taken.)

9 **THE COURT:** Are we ready?

10 **MS. LASKOFF:** State's ready, Your Honor.

11 **THE COURT:** Let's bring the jury in.

12 (Jury enters the courtroom.)

13 **THE COURT:** You may be seated. Members of the  
14 jury, I thank you for your attention during this trial.  
15 Please pay attention to the instructions I am about to  
16 give you. You have been given a verbatim copy of the  
17 instructions I am about to give you.

18 John Dobbs, the defendant in this case has been  
19 accused of the crimes of second degree murder with a  
20 weapon, two counts of aggravated battery with a deadly  
21 weapon or causing great bodily harm, aggravated assault  
22 with a firearm and shooting from a vehicle.

23 In this case, John Dobbs is accused of second  
24 degree murder. Second degree murder includes the crime  
25 of manslaughter, both of which are unlawful. A killing



1 that is excusable or was committed by the use of  
2 justifiable deadly force is lawful. If you find  
3 William Troy was killed by John Dobbs, you will then  
4 consider the circumstances surrounding the killing in  
5 deciding if the killing was second degree murder or was  
6 manslaughter or whether the killing was excusable or  
7 resulted from justifiable use of deadly force.

8 The killing of a human being is justifiable  
9 homicide and lawful if necessarily done while resisting  
10 an attempt to murder or commit a felony upon the  
11 defendant or to commit a felony in any dwelling house  
12 in which the defendant was at the time of the killing.

13 The killing of a human being is excusable and  
14 therefore lawful under anyone of the following two  
15 circumstances. One, when the killing is committed by  
16 accident and misfortune, in doing any lawful act by  
17 lawful means with usual ordinary caution and without  
18 any unlawful intent, or two, when the killing occurs by  
19 accident and misfortune in the heat of passion upon any  
20 sudden and sufficient provocation.

21 I now instruct you on the circumstances that must  
22 be proved before John Dobbs may be found guilty of  
23 second degree murder or any lesser included crime.

24 To prove the crime of second degree murder, the  
25 State must prove the following three elements beyond a

1 reasonable doubt. One, William Troy is dead. Two, the  
2 death was caused by the criminal act of John Dobbs.  
3 Three, there was an unlawful killing of William Troy by  
4 an act imminently dangerous to another and  
5 demonstrating a depraved mind without regard for human  
6 life.

7 An act includes a series of related actions  
8 arising from, and performed pursuant to a single design  
9 or purpose. An act is imminently dangerous to another  
10 and demonstrating a depraved mind if it is an act or  
11 series of acts that, one, a person of ordinary judgment  
12 would know is reasonably certainly to kill or do  
13 serious bodily injury to another, and two, is done from  
14 ill will, hatred, spite or an evil intent, and three,  
15 is of such a nature that the act itself indicates an  
16 indifference to human life.

17 In order to convict of second degree murder, it is  
18 not necessary for the State to prove the defendant had  
19 an intent to cause death. To prove the crime of  
20 manslaughter, the lesser included offense of Count I,  
21 the State must prove the following two elements beyond  
22 a reasonable doubt. One, William Troy is dead. Two,  
23 John Dobbs intentionally caused the death of William  
24 Troy or the death of William Troy was caused by the  
25 culpable negligence of John Dobbs.

1           However, the defendant cannot be guilty of  
2 manslaughter if the killing was either justifiable or  
3 excusable homicide as I have previously explained those  
4 terms.

5           I will now define culpable negligence for you.  
6 Each of us has a duty to act reasonably toward others.  
7 If there is a violation of that duty without any  
8 conscious intention to harm, the violation is  
9 negligence. But culpable negligence is more than a  
10 failure to use ordinary care toward others. In order  
11 for negligence to be culpable, it must be gross and  
12 flagrant. Culpable negligence is a course of conduct  
13 showing reckless disregard of human life or the safety  
14 of persons exposed to its dangerous affects or such a  
15 entire want of care as to raise a presumption of a  
16 conscious indifference to consequences or which shows  
17 wantonness or recklessness or a grossly careless  
18 disregard of the safety and welfare of the public or  
19 such an indifference to the rights of others as is  
20 equivalent to an intentional violation of such rights.

21           The negligent act or omission must have been  
22 committed with an utter disregard for the safety of  
23 others. Culpable negligence is consciously doing an  
24 act or following a course of conduct that the defendant  
25 must have known or reasonably should have known was

1           likely to cause death or great bodily harm. In order  
2           to convict of manslaughter by intentional act, it is  
3           not necessary for the State to prove that the defendant  
4           had a premeditated intent to cause death.

5           To prove the crime of aggravated battery as  
6           charged in Count II, the State must prove the following  
7           two elements beyond a reasonable doubt. One, John  
8           Dobbs intentionally touched or struck Fransisco Gotay  
9           against his will or intentionally caused bodily harm to  
10          Fransisco Gotay. Two, John Dobbs in committing the  
11          battery, A, intentionally or knowingly caused great  
12          bodily harm, permanent disability or permanent  
13          disfigurement to Fransisco Gotay, or B, used a deadly  
14          weapon.

15          A weapon is a deadly weapon if it is used or  
16          threatened to be used in a way likely to produce death  
17          or great bodily harm. To prove the crime of aggravated  
18          party as charged in Count III, the State must prove the  
19          following two elements beyond a reasonable doubt. The  
20          first element is the definition of battery. One, John  
21          Dobbs intentionally touched or struck Andre Blanco  
22          against his will, or intentionally caused bodily harm  
23          to Andre Blanco.

24          Two, John Dobbs in committing the battery, A,  
25          intentionally or knowingly caused great bodily harm,

1 permanent disability or permanent disfigurement to  
2 Andre Blanco, or B, used a deadly weapon.

3 A weapon is a deadly weapon if it is used or  
4 threatened to be used in a way likely to produce death  
5 or great bodily harm.

6 To prove the crime of aggravated assault as proved  
7 in Count IV, the State must prove the following four  
8 elements beyond a reasonable doubt. The first three  
9 elements define assault. One, John Dobbs intentionally  
10 and unlawfully threatened either by word or act to do  
11 violence to Hanzel Holiday. Two, at the time the  
12 defendant appeared to have the ability to carry out the  
13 threat. Three, the act of the defendant created in the  
14 mind of the victim a well-founded fear that the  
15 violence was about to take place. Four, the assault  
16 was made with a firearm.

17 A firearm is legally defined as any weapon,  
18 including a starter gun, which will, is designed to, or  
19 may readily be converted to expel a projectile by the  
20 action of an explosive or the frame or receiver of any  
21 such weapon. It is not necessary for the State to  
22 prove that the defendant had an intent to kill.

23 To prove the crime of shooting from a vehicle as  
24 charged in Count V, the State must prove the following  
25 two elements beyond a reasonable doubt. One, John

1 Dobbs was the occupant of a vehicle. Two, John Dobbs  
2 knowingly and willfully discharged a firearm from the  
3 vehicle within one thousand feet of any person.

4 Knowingly means with full knowledge and  
5 intentionally. Willfully means intentionally and  
6 purposely.

7 A firearm is legally defined as any weapon,  
8 including a starter gun which will, is designed to, or  
9 may readily be converted to expel a projectile by the  
10 action of an explosive or the frame or receiver of any  
11 such weapon.

12 It is a defense to this charge that the defendant  
13 was lawfully defending life for property, or performing  
14 official duties requiring the discharge of a firearm.

15 Self-defense as to Count I. The law of  
16 self-defense is set forth in two different  
17 instructions. Justifiable use of deadly force and  
18 justifiable use of non-deadly force. Depending upon  
19 the force used. If you find that force was used, you  
20 must determine whether that force was likely or not  
21 likely to cause death or great bodily harm. If you  
22 find that any force used was likely to cause death or  
23 great bodily harm, then you shall use the instruction  
24 titled justifiable use of deadly force. If you find  
25 that any force used was not likely to cause death or

1 great bodily harm, then you shall use the instruction  
2 titled justifiable use of non-deadly force.

3 An issue in this case is whether the defendant  
4 acted in self-defense. It is a defense to the offense  
5 with which John Dobbs is charged if the death of  
6 William Troy resulted from the justifiable use of  
7 deadly force. Deadly force means force likely to cause  
8 death or great bodily harm.

9 The use of deadly force is justifiable only if the  
10 defendant reasonably believes that the force is  
11 necessary to prevent imminent death or great bodily  
12 harm to the defendant while resisting one, another's  
13 attempt to murder the defendant, or two, any attempt to  
14 commit felony battery upon the defendant.

15 Felony battery is the actual touching or striking  
16 of someone against their will and causing great bodily  
17 harm. Persons are justified in using deadly force if  
18 they reasonably believe that such force is necessary to  
19 prevent one, imminent death or great bodily harm to  
20 themselves or another, or two, the imminent commission  
21 of felony battery against themselves or another.

22 However, the use of deadly force is not  
23 justifiable if you find the defendant initially  
24 provoked the use of force against himself, unless A,  
25 the force asserted toward the defendant was so great,

1           that the defendant reasonably believed that the  
2           defendant was in imminent danger of death or great  
3           bodily harm and had exhausted every reasonable means to  
4           escape the danger other than using deadly force on  
5           William Troy. B, in good faith, the defendant withdrew  
6           from physical contact with William Troy and indicated  
7           clearly to William Troy that the defendant wanted to  
8           withdraw and stop the use of deadly force, but William  
9           Troy continued or resumed the use of force in deciding  
10          whether the defendant was justified in using the use of  
11          deadly force.

12                 You must judge the defendant by the circumstances  
13                 by which the defendant was surrounded at the time the  
14                 force was used. The danger facing the defendant need  
15                 not have been actual, however, to justify the use of  
16                 deadly force, the appearance of danger must have been  
17                 so real, that a reasonably cautious and prudent person  
18                 under the same circumstances would have believed that  
19                 the danger could be avoided only through the use of  
20                 that force. Based upon appearances, the defendant must  
21                 have actually believed that the danger was real.

22                 If the defendant was not engaged in an unlawful  
23                 activity, and was attacked in any place where the  
24                 defendant had a right to be, the defendant had no duty  
25                 to retreat, and had the right to stand his or her



1 ground and meet force with force including deadly force  
2 if the defendant reasonably believed that it was  
3 necessary to do so to prevent death or great bodily  
4 harm to himself or herself or another or to prevent the  
5 commission of a forcible felony.

6 In considering the issue of self-defense, you may  
7 take into account the relative physical abilities and  
8 capacities of the defendant and William Troy.

9 If in your consideration of the issue of  
10 self-defense you have a reasonable doubt on the  
11 question of whether the defendant was justified in the  
12 use of deadly force, you should find the defendant not  
13 guilty.

14 However, if from the evidence, you are convinced  
15 the that the defendant was not justified in the use of  
16 deadly force, you should find the defendant guilty if  
17 all of the elements of the charge have been proved.

18 An issue in this case is whether the defendant  
19 acted in self-defense. It is a defense to the offense  
20 with which John Dobbs is charged if the death of  
21 William Troy resulted from the justifiable use of  
22 non-deadly force.

23 Non-deadly force means force not likely to cause  
24 death or great bodily harm.

25 John Dobbs would be justified in using non-deadly

1 force against William Troy if the following two facts  
2 are proved. One, the defendant must have reasonably  
3 believed that such conduct was necessary to defend  
4 himself, herself or another against William Troy's  
5 imminent use of unlawful force against the defendant or  
6 another person. Two, the use of unlawful force by  
7 William Troy must have appeared to the defendant to be  
8 ready to take place.

9 If the defendant was not engaged in an unlawful  
10 activity and was attacked in any place where the  
11 defendant had a right to be, the defendant had no duty  
12 to retreat and had the right to stand his or her ground  
13 and meet force with force, including deadly force, if  
14 the defendant reasonably believed that it was necessary  
15 to do so, to prevent death or great bodily harm to  
16 himself, herself or another, or to prevent the  
17 commission of a forcible felony.

18 A person does not have a duty to retreat if the  
19 person is in a place where the person has a right to  
20 be. The use of non-deadly force is not justifiable if  
21 you find that the defendant initially provoked the use  
22 of force against himself unless, A, the force asserted  
23 toward the defendant was so great that the defendant  
24 reasonably believed that he was in imminent danger of  
25 death or great bodily harm, and had exhausted every

1 reasonable means to escape the danger other than using  
2 non-deadly force on William Troy.

3 B, in good faith the defendant withdrew from  
4 physical contact with William Troy and indicated  
5 clearly to William Troy that the defendant wanted to  
6 withdraw and stop the use of non-deadly force, but  
7 William Troy continued or resumed the use of force.

8 In deciding whether the defendant was justified in  
9 the use of non-deadly force, you must judge the  
10 defendant by the circumstances by which the defendant  
11 was surround at the time the force was used. The  
12 danger facing the defendant need not have been actual;  
13 however, to justify the use of non-deadly force, the  
14 appearance of danger must have been so real that a  
15 reasonably cautious and prudent person under the same  
16 circumstances would have believed that the danger could  
17 be avoided only through the use of that force. Based  
18 upon appearances, the defendant must have actually  
19 believed that the danger was real.

20 In considering the issue of self-defense, you may  
21 take into account the relative physical ability and  
22 capacities of the defendant and the victim. If in your  
23 consideration of the issue of self-defense, you have a  
24 reasonable doubt on the question of whether the  
25 defendant was justified in the use of non-deadly force,

1 you should find the defendant not guilty. However, if  
2 from the evidence you are not convinced -- let me start  
3 over on that paragraph.

4 However, if from the evidence you are convinced  
5 that the defendant was not justified in the use of  
6 non-deadly force, then you should find the defendant  
7 guilty if all of the elements of the charge have been  
8 proved.

9 An issue in this case is whether John Dobbs acted  
10 out of necessity in committing the crime of second  
11 degree murder or manslaughter. It is a defense to  
12 second degree murder and manslaughter if the defendant  
13 acted out of necessity. In order to find the defendant  
14 committed second degree murder or manslaughter out of  
15 necessity, you must find the following six elements.  
16 One, the defendant reasonably believed a danger existed  
17 which was not intentionally caused by the defendant.  
18 Two, the danger threatened significant harm to the  
19 defendant or a third person. Three, the threatened  
20 harm must have been real, imminent and impending.  
21 Four, the defendant had no reasonable means to  
22 avoid the danger except by committing second degree  
23 murder or manslaughter. Five, the second degree murder  
24 or manslaughter must have been committed out of  
25 necessity to avoid the danger. Six, the harm that the

1 defendant avoided must have outweighed the harm caused  
2 by committing second degree murder or manslaughter.

3 Imminent and impending means the danger is about  
4 to take place and cannot be avoided by using other  
5 means. A threat of future harm is not sufficient to  
6 prove this defense, nor can the defendant use the  
7 defense of necessity if the defendant committed the  
8 crime after the danger from the threatened harm had  
9 passed.

10 The reasonableness of the defendant's belief that  
11 a danger existed should be examined in the light of all  
12 of the evidence.

13 In deciding whether it was necessary for the  
14 defendant to commit second degree murder or  
15 manslaughter, you must judge the defendant by the  
16 circumstances by which the defendant was surrounded at  
17 the time the crime was committed. The danger facing  
18 the defendant need not have been actual. However, to  
19 justify the commission of second degree murder or  
20 manslaughter, the appearance of the danger must have  
21 been so real, that a reasonably cautious and prudent  
22 person under the same circumstances, would have  
23 believed that the danger could be avoided only by  
24 committing second degree murder or manslaughter. Based  
25 upon appearances, the defendant must have actually

1 believed that the danger was real.

2 If you find from the evidence that the defendant  
3 committed second degree murder or manslaughter out of  
4 necessity, you should find the defendant not guilty.

5 However, if you find that the defendant did not  
6 commit second degree murder or manslaughter out of  
7 necessity, you should find the defendant guilty if all  
8 of the elements of the charge have been proved.

9 Self-defense as to Count II. The law of  
10 self-defense is set forth in two different  
11 instructions, justifiable use of deadly force, and  
12 justifiable use of non-deadly force, depending upon the  
13 force used. If you find that force was used you must  
14 determine whether that force was likely or not likely  
15 to cause death or great bodily harm. If you find that  
16 any force used was likely to cause death or great  
17 bodily harm, then you shall use the instruction titled  
18 justifiable use of deadly force. If you find that any  
19 force used was not likely to cause death or great  
20 bodily harm, then you shall use the instruction titled  
21 justifiable use of non-deadly force.

22 An issue in this case is whether the defendant  
23 acted in self-defense. It is a defense to the offense  
24 with which John Dobbs was charged if the injury to  
25 Fransisco Gotay resulted from the justifiable use of

1 deadly force. Deadly force means force likely to cause  
2 death or great bodily harm. The use of deadly force is  
3 justifiable only if the defendant reasonably believes  
4 that the force is necessary to prevent imminent death  
5 or great bodily harm to the defendant while resisting  
6 another's attempt to murder the defendant, or two, any  
7 attempt to commit felony battery upon the defendant.

8 Felony battery is the actual touching or striking  
9 of someone against their will and causing great bodily  
10 harm. Persons are justified in using deadly force if  
11 they reasonably believe that such force is necessary to  
12 prevent, one, imminent death or great bodily harm to  
13 themselves or another. Or two, the imminent commission  
14 of felony battery against themselves or another.

15 However, the use of deadly force is not  
16 justifiable if you find the defendant initially  
17 provoked the use of force against himself unless A, the  
18 force asserted toward the defendant was so great that  
19 the defendant reasonably believed that the defendant  
20 was in imminent danger of death or great bodily harm  
21 and had exhausted every reasonable means to escape the  
22 danger other than using deadly force on Fransisco  
23 Gotay. B, in good faith the defendant withdrew from  
24 physical contact with Fransisco Gotay and indicated  
25 clearly to Fransisco Gotay that the defendant wanted to

1 withdraw and stop the use of deadly force, which  
2 Fransisco Gotay continued or resumed the use of force.

3 In deciding whether the defendant was justified in  
4 the use of deadly force, you must judge the defendant  
5 by the circumstances by which the defendant was  
6 surrounded at the time the force was used. The danger  
7 facing the defendant need not have been actual, however  
8 to justify the use of deadly force, the appearance of  
9 danger must have been so real, that a reasonably  
10 cautious and prudent person under the same  
11 circumstances would have believed that the danger could  
12 be avoided only through the use of that force. Based  
13 upon appearances, the defendant must have actually  
14 believed that the danger was real.

15 If the defendant was not engaged in an unlawful  
16 activity and was attacked in any place where the  
17 defendant had a right to be, the defendant had no duty  
18 to retreat, and had the right to stand his or her  
19 ground and meet force with force, including deadly  
20 force. If the defendant reasonably believed that it  
21 was necessary to do so to prevent death or great bodily  
22 harm to himself or herself or another or to prevent the  
23 commission of a forcible felony.

24 In considering the issue of self-defense, you may  
25 take into account the relative physical abilities and



1 capacities of the defendant and Fransisco Gotay. If in  
2 your consideration of the issue of self-defense, you  
3 have a reasonable doubt on the question of whether the  
4 defendant was justified in the use of deadly force, you  
5 should find the defendant not guilty.

6 However, if from the evidence you are not  
7 convinced that the defendant was not justified in the  
8 use of deadly force, you should find the defendant  
9 guilty if all the elements of the charge have been  
10 proved.

11 An issue in this case is whether the defendant  
12 acted in self-defense. It is a defense to the offense  
13 with which John Dobbs is charged if the injury to  
14 Fransisco Gotay resulted from the justifiable use of  
15 non-deadly force. Non-deadly force, means force not  
16 likely to cause death or great bodily harm.

17 John Dobbs would be justified in using non-deadly  
18 force against Fransisco Gotay if the following two  
19 facts are proved. One, the defendant must have  
20 reasonably believed that such conduct was necessary to  
21 defend himself herself or another against Fransisco  
22 Gotay's imminent use of unlawful force against the  
23 defendant or another person. Two, the use of unlawful  
24 force by Fransisco Gotay must have appeared to the  
25 defendant to be ready to take place.

1           If the defendant was not engaged in an unlawful  
2 activity and was attacked in any place where the  
3 defendant had a right to be, the defendant had no duty  
4 to retreat and had the right to stand his or her ground  
5 and meet force with force including deadly force if the  
6 defendant reasonably believed that it was necessary do  
7 so to prevent death or great bodily harm to himself or  
8 herself or another, or to prevent the commission of a  
9 forcible felony.

10           A person does not have a duty to retreat if the  
11 person is in a place where the person has a right to  
12 be. The use of non-deadly force is not justifiable if  
13 you find the defendant initially provoked the use of  
14 force against himself unless A, the force asserted  
15 toward the defendant was so great that the defendant  
16 reasonably believed that he was in imminent danger of  
17 death or great bodily harm and had exhausted every  
18 reasonable means to escape the danger other than using  
19 non-deadly force on Fransisco Gotay.

20           B, in good faith the defendant withdrew from  
21 physical contact with Fransisco Gotay and indicated  
22 clearly to Francisco Gotay that the defendant wanted to  
23 withdraw and stop the use of non-deadly force, but  
24 Fransisco Gotay continued or resumed the use of force.

25           In deciding whether the defendant was justified in

1 the use of non-deadly force, you must judge the  
2 defendant by the circumstances by which the defendant  
3 was surrounded at the time the force was used. The  
4 danger facing the defendant need not have been actual.  
5 However, to justify the use of non-deadly force, the  
6 appearance of danger must have been so real, that a  
7 reasonably cautious and prudent person under the same  
8 circumstances would have believed that the danger could  
9 be avoided only through the use of that force. Based  
10 upon appearances, the defendant must have actually  
11 believed that the danger was real.

12 In considering the issue of self-defense, you may  
13 take into account the relative physical abilities and  
14 capacities of the defendant and the victim. If in your  
15 consideration of the issue of self-defense you have a  
16 reasonable doubt on the question of whether the  
17 defendant was justified in the use of non-deadly force,  
18 you should find the defendant not guilty.

19 However, if, from the evidence, you are convinced  
20 that the defendant was not justified in the use of  
21 non-deadly force, then you should find the defendant  
22 guilty if all of the elements of the charge have been  
23 proved.

24 An issue in this case is whether John Dobbs acted  
25 out of necessity in committing the crime of aggravated

1 battery in Count II. It is a defense to aggravated  
2 battery if the defendant acted out of necessity. In  
3 order to find the defendant committed the aggravated  
4 battery out of necessity, you must find the following  
5 six elements.

6 One, the defendant reasonably believed a danger  
7 existed which was not intentionally caused by the  
8 defendant. Two, the danger threatened significant harm  
9 to the defendant or a third person. The threatened  
10 harm must have been real, imminent and impending.  
11 Four, the defendant had no reasonable means to avoid  
12 the danger except by committing aggravated battery.  
13 Five, the aggravated battery must have been committed  
14 out of necessity to avoid the danger. Six, the harm  
15 that the defendant avoided must have outweighed the  
16 harm caused by committing the aggravated battery.

17 Imminent and impending means the danger is about  
18 to take place and cannot be avoided by using other  
19 means, a. Threat of future harm is not sufficient to  
20 prove this defense nor can the defendant use the  
21 defense of necessity if the defendant committed the  
22 crime after the danger from the threatened harm had  
23 passed.

24 The reasonableness of the defendant's belief that  
25 a danger existed should be examined in the light of all

1 of the evidence.

2 In deciding whether it is necessary for the  
3 defendant to commit aggravated battery, you must judge  
4 the defendant by the circumstances by which the  
5 defendant was surrounded at the time the crime was  
6 committed.

7 The danger facing the defendant need not have been  
8 actual, however, to justify the commission of  
9 aggravated battery, the appearance of the danger must  
10 have been so real, that a reasonably cautious and  
11 prudent person under the same circumstances would have  
12 believed that the danger could be avoided only by  
13 committing aggravated battery. Based upon appearances,  
14 the defendant must have actually believed that the  
15 danger was real.

16 If you find from the evidence that the defendant  
17 committed the aggravated battery out of necessity, you  
18 should find the defendant not guilty. If you find that  
19 the defendant did not commit aggravated battery out of  
20 necessity, you should find the defendant guilty if all  
21 of the elements of the charge have been proved.

22 Self-defense as to Count III, the law of  
23 self-defense is set forth in two different  
24 instructions. Justifiable use of deadly force and  
25 justifiable use of non-deadly force depending upon the

1 force used. If you find that force was used, you must  
2 determine whether that force was likely or not likely  
3 to cause death or great bodily harm. If you find that  
4 any force used was likely to cause death or great  
5 bodily harm, then you shall use the instruction titled  
6 justifiable use of deadly force. If you find that any  
7 force used was not likely to cause death or great  
8 bodily harm, then you shall use the instruction titled  
9 justifiable use of none deadly force.

10 An issue in this case is whether the defendant  
11 acted in self-defense. It is a defense to the offense  
12 with which John Dobbs is charged if the injury to Andre  
13 Blanco resulted from the justifiable use of deadly  
14 force.

15 Deadly force means force likely to cause death or  
16 great bodily harm. The use of deadly force is  
17 justifiable only if the defendant reasonably believes  
18 that the force is necessary to prevent imminent death  
19 or great bodily harm to the defendant while resisting  
20 one, another's attempt to murder the defendant. Or  
21 two, any attempt to commit felony battery upon the  
22 defendant.

23 Felony battery is the actual touching or striking  
24 of someone against their will and causing great bodily  
25 harm. Persons are justified in using deadly force if

1           they reasonably believe that such force is necessary to  
2           prevent imminent death or great bodily harm to  
3           themselves or another, or, the imminent commission of  
4           felony battery against themselves or another. However,  
5           the use of deadly force is not justifiable if you find  
6           the defendant initially provoked the use of force  
7           against himself unless A, the force asserted towards  
8           the defendant was so great that the defendant  
9           reasonably believed that the defendant was in imminent  
10          danger of death or great bodily harm and had exhausted  
11          every reasonable means to escape the danger, other than  
12          using deadly force on Andre Blanco, or B, if in good  
13          faith, the defendant withdrew from physical contact  
14          with Andre Blanco and indicated clearly to Andre Blanco  
15          that the defendant wanted to withdraw and stop the use  
16          of deadly force, but Andre Blanco continued or resumed  
17          the use of force.

18                 In deciding whether the defendant was justified in  
19          the use of deadly force, you must judge the defendant  
20          by the circumstances by which the defendant was  
21          surrounded at the time the force was used. The danger  
22          facing the defendant need not have been actual,  
23          however, to justify the use of deadly force, the  
24          appearance of danger must have been so real that a  
25          reasonably cautious and prudent person under the same

1           circumstances would have believed that the danger could  
2           have been avoided only through the use of that force.  
3           Based upon appearances, the defendant must have  
4           actually believed that the danger was real.

5           If the defendant was not engaged in an unlawful  
6           activity and was attacked in any place where the  
7           defendant had a right to be, the defendant had no duty  
8           to retreat and had the right to stand his or her ground  
9           and meet force with force, including deadly force, if  
10          the defendant reasonably believed that it was necessary  
11          to do so to prevent death or great bodily harm to  
12          himself, herself or another, or to prevent the  
13          commission of a forcible felony.

14          In considering the issue of self-defense, you may  
15          take into account the relative physical ability and  
16          capacities of the defendant and Andre Blanco. If, in  
17          your consideration of the issue of self-defense, you  
18          have a reasonable doubt on the question of whether the  
19          defendant was justified in the use of deadly force, you  
20          should find the defendant not guilty. However, if from  
21          the evidence you are convinced that the defendant was  
22          not justified in the use of deadly force, you should  
23          find the defendant guilty of the elements if all of the  
24          elements of the charge have been proved.

25          An issue in this case is whether the defendant



1 acted in self-defense. It is a defense to the offense  
2 with which John Dobbs is charged if the injury to Andre  
3 Blanco resulted from the justifiable use of non-deadly  
4 force.

5 Non-deadly force means force not likely to cause  
6 death or great bodily harm. John Dobbs would be  
7 justified in using non-deadly force answer Andre Blanco  
8 if the following two facts are proved: One, the  
9 defendant must have reasonably believed that such  
10 conduct was necessary to defend himself or herself or  
11 another against Andre Blanco's imminent use of unlawful  
12 force against the defendant or another person. Two,  
13 the use of unlawful force by Andre Blanco must have  
14 appeared to the defendant to be ready to take place.

15 If the defendant was not engaged in an unlawful  
16 activity and was attacked in any place where the  
17 defendant had a right to be, the defendant had no duty  
18 to retreat and had the right to stand his or her ground  
19 and meet force with force, including deadly force, if  
20 the defendant reasonably believed that it was necessary  
21 to do so to prevent death or great bodily harm to  
22 himself or herself or another, or to prevent the  
23 commission of a forcible felony.

24 A person does not have a duty to retreat if the  
25 person is in a place where the person has a right to

1 be. The use of non-deadly force is not justifiable if  
2 you find that the defendant initially provoked the use  
3 of force against himself, unless A, the force asserted  
4 towards the defendant was so great that the defendant  
5 reasonably believed that he was in imminent danger of  
6 death or great bodily harm, and had exhausted every  
7 reasonable means to escape the danger other than using  
8 non-deadly force on Andre Blanco.

9 B, in good faith, the defendant withdrew from  
10 physical contact with Andre Blanco and indicated  
11 clearly to Andre Blanco that the defendant wanted to  
12 withdraw and stop the use of non-deadly force, but  
13 Andre Blanco continued or resumed the use of force.

14 In deciding whether the defendant was justified in  
15 the use of non-deadly force, you must judge the  
16 defendant by the circumstances by which the defendant  
17 was surrounded at the time the force was used. The  
18 danger facing the defendant need not have been actual,  
19 however, to justify the use of non-deadly force, the  
20 appearance must have been so real that a reasonably  
21 cautious and prudent person under the same  
22 circumstances would have believed that the danger could  
23 be avoided only through the use of that force. Based  
24 upon appearances, the defendant must have actually  
25 believed that the danger was real.

1           In considering the issue of self-defense, you must  
2 take into the account the relative physical capacities  
3 of the defendant and the victim.

4           If in your consideration of the issue of  
5 self-defense you have a reasonable doubt on the  
6 question of whether the defendant was justified in the  
7 use of non deadly force, you should find the defendant  
8 not guilty.

9           However, if from the evidence you are convinced  
10 that the defendant was not justified in the use of  
11 non-deadly force, you should find the defendant guilty  
12 if all of the elements of the charge have been proved.

13           An issue in this case is whether John Dobbs acted  
14 out of necessity in committing the crime of aggravated  
15 battery is charged in Count III. It is a defense to  
16 the aggravated battery if the defendant acted out of  
17 necessity. In order to find the defendant committed  
18 the aggravated battery out of necessity, you must find  
19 the following six elements:

20           One, the defendant reasonably believed a danger  
21 existed which was not intentionally caused by the  
22 defendant. Two, the danger threatened significant harm  
23 to the defendant or a third person. Three, the  
24 threatened harm must have been real, imminent and  
25 impending. Four, the defendant had no reasonable means

1 to avoid the danger except by committing aggravated  
2 battery. Five, the aggravated battery must have been  
3 committed out of necessity to avoid the danger. Six,  
4 the harm that the defendant avoided must outweigh the  
5 harm caused by committing the aggravated battery.

6 Imminent and impending means the danger is about  
7 to take place and cannot be avoided by using other  
8 means. A threat of future harm is not sufficient to  
9 prove this defense. Nor can the defendant use the  
10 defense of necessity if the defendant committed the  
11 crime after the danger from the threatened harm had  
12 passed.

13 The reasonableness of the defendant's belief that  
14 a danger existed should be examined in the light of all  
15 of the evidence.

16 In deciding whether it was necessary for the  
17 defendant to commit aggravated battery, you must judge  
18 the defendant by the circumstances by which the  
19 defendant was surrounded at the time the crime was  
20 committed.

21 The danger facing the defendant need not have been  
22 actual. However, to justify the commission of  
23 aggravated battery, the appearance of the danger must  
24 have been so real, that a reasonably cautious and  
25 prudent person under the same circumstances would have

1 believed that the danger could be avoided only by  
2 committing aggravated battery. Based upon appearances,  
3 the defendant must have actually believed that the  
4 danger was real.

5 If you find from the evidence that the defendant  
6 committed aggravated battery out of necessity, you  
7 should find the defendant not guilty. However, if you  
8 find that the defendant did not commit aggravated  
9 battery out of necessity, you should find the defendant  
10 guilty if all of the elements of the charge have been  
11 proved.

12 Self-defense as to Count IV. The law of  
13 self-defense is set forth in two different  
14 instructions. Justifiable use of deadly force and  
15 justifiable use of non-deadly force depending upon the  
16 force used. If you find that force was used, you must  
17 determine whether that force was likely or not likely  
18 to cause death or great bodily harm. If you find that  
19 any force used was likely to cause death or great  
20 bodily harm, then you shall use the instruction titled  
21 justifiable use of deadly force. If you find that any  
22 force used was not likely to cause death or great  
23 bodily harm, then you shall use the instruction titled  
24 justifiable use of non-deadly force.

25 An issue in this case is whether the defendant

1 acted in self-defense. It is a defense to the offense  
2 with which John Dobbs is charged if the injury to  
3 Hanzel Holiday resulted from the justifiable use of  
4 deadly force.

5 Deadly force means force likely to cause death or  
6 great bodily harm. The use of deadly force is  
7 justifiable only if the defendant reasonably believed  
8 that the force was necessary to prevent imminent death  
9 or great bodily harm to the defendant while resisting  
10 one, another's attempt to murder the defendant or two,  
11 any attempt to commit aggravated battery upon the  
12 defendant, or three, any attempt to commit aggravating  
13 battery upon or in any vehicle occupied by the  
14 defendant.

15 Aggravated battery means the actual touching or  
16 striking of someone against their will with a deadly  
17 weapon or intentionally causing great bodily harm,  
18 permanent disability or permanent disfigurement.

19 Persons are justified in using deadly force if  
20 they reasonably believe that such force is necessary to  
21 prevent one, imminent death or great bodily harm to  
22 themselves or another, or two, the imminent commission  
23 of aggravated battery against themselves or another.

24 However, the use of deadly force is not  
25 justifiable if you find the defendant initially

1           provoked the use of force against himself unless A, the  
2           force asserted toward the defendant was so great that  
3           the defendant reasonably believed that the defendant  
4           was in imminent danger of death or great bodily harm,  
5           and had exhausted every reasonable means to escape the  
6           danger other than using deadly force on Hanzel Holiday.  
7           B, in good faith the defendant withdrew from physical  
8           contact with Hanzel Holiday and indicated clearly to  
9           Hanzel Holiday that the defendant wanted to withdraw  
10          and stop the use of deadly force, but Hanzel Holiday  
11          continued or resumed the use of force.

12                 In deciding whether the defendant was justified in  
13           the use of deadly force, you must judge the defendant  
14           by the circumstances by which the defendant was  
15           surrounded at the time the force was used. The danger  
16           facing the defendant need not have been actual,  
17           however, to justify the use of deadly force the,  
18           appearance of danger must have been so real that a  
19           reasonably cautious and prudent person under the same  
20           circumstances would have believed that the danger could  
21           be avoided only through the use of that force. Based  
22           upon appearances, the defendant must have actually  
23           believed that the danger was real.

24                 If the defendant was not engaged in an unlawful  
25           activity and was attacked in any place where the

1 defendant had a right to be, the defendant had no duty  
2 to retreat, and had the right to stand his or her  
3 ground and meet force with force, including deadly  
4 force if the defendant reasonably believed that it was  
5 necessary to do so to prevent death or great bodily  
6 harm to himself or herself or another, or to prevent  
7 the commission of a forcible felony.

8 If the defendant was in an occupied vehicle where  
9 the defendant had a right to be, the defendant is  
10 presumed to have had a reasonable fear of imminent  
11 death or great bodily harm to himself or herself or  
12 another if the victim had unlawfully and forcibly  
13 entered or removed or attempted to remove another  
14 person against that person's will from that occupied  
15 vehicle and the defendant had reason to believe that  
16 had occurred. The defendant had no duty to retreat  
17 under such circumstances.

18 A person who unlawfully and by force enters or  
19 attempts to enters another's occupied vehicle is  
20 presumed to be doing so with the intent to commit an  
21 unlawful act involving force or violence. In  
22 considering the issue of self-defense, you may take  
23 into account the relative physical abilities and  
24 capacities of the defendant and Hanzel Holiday.

25 If in your consideration of the issue of



1 self-defense you have a reasonable doubt on the  
2 question of whether the defendant was justified in the  
3 use of deadly force, you should find the defendant not  
4 guilty. However, if from the evidence you are  
5 convinced that the defendant was not justified in the  
6 use of deadly force, you should find the defendant  
7 guilty if all of the elements of the charge have been  
8 proved.

9 An issue in this case is whether the defendant  
10 acted in self-defense. It is a defense to the offense  
11 with which John Dobbs is charged if the injury to  
12 Hanzel Holiday resulted from the justifiable use of  
13 non-deadly force.

14 Non-deadly force means force not likely to cause  
15 death or great bodily harm.

16 John Dobbs would be justified in using non-deadly  
17 force against Hanzel Holiday if the following two facts  
18 are proved. One, the defendant must have reasonably  
19 believed that such conduct was necessary to defend  
20 himself, herself or another against Hanzel Holiday's  
21 imminent use of unlawful force against the defendant or  
22 another person. Two, the use of unlawful force by  
23 Hanzel Holiday must have appeared to the defendant to  
24 be ready to take place.

25 If the defendant is in the defendant's occupied

1 vehicle, the defendant is presumed to have held a  
2 reasonable fear of imminent peril of death or bodily  
3 injury to himself, herself or another. If the victim  
4 has unlawfully and forcibly entered or has removed or,  
5 attempted to remove another person against that  
6 person's will from that occupied vehicle and the  
7 defendant had reason to believe that had occurred, the  
8 defendant had no duty to retreat under such  
9 circumstances.

10 A person who unlawfully and by force enters or  
11 attempts to enter another's occupied vehicle is  
12 presumed to be doing so with the intent to commit an  
13 unlawful act involving force or violence.

14 If the defendant was not engaged in an unlawful  
15 activity and was attacked in any place where the  
16 defendant had a right to be, the defendant had no duty  
17 to retreat and had the right to stand his or her ground  
18 and meet force with force, including deadly force if  
19 the defendant reasonably believed that it was necessary  
20 to do so to prevent death or great bodily harm to  
21 himself, herself or another or to prevent the  
22 commission of a forcible felony.

23 A person does not have a duty to retreat if the  
24 person is in a place where the person has a right to  
25 be. The use of non-deadly force is not justifiable if

1           you find the defendant initially provoked the use of  
2           force against himself unless the force asserted towards  
3           the defendant was so great that the defendant  
4           reasonably believed that he was in imminent danger of  
5           death or great bodily harm and had exhausted every  
6           reasonable means to escape the danger other than using  
7           non-deadly force on Hanzel Holiday. B, in good faith,  
8           the defendant withdrew from physical contact with  
9           Hanzel Holiday and indicated clearly to Hanzel Holiday  
10          that the defendant wanted to withdraw and stopped the  
11          use of non-deadly force, but Hanzel Holiday continued  
12          or resumed the use of force.

13                 In deciding whether the defendant was justified in  
14          the use of non-deadly force, you must judge the  
15          defendant by the circumstances by which the defendant  
16          was surrounded at the time the force was used. The  
17          danger facing the defendant need not have been actual.  
18          However, to justify the use of non-deadly force, the  
19          appearance of danger must have been so real, that a  
20          reasonably cautious and prudent person under the same  
21          circumstances would have believed that the danger could  
22          be avoided only through the use of that force. Based  
23          upon appearances, the defendant must have actually  
24          believed that the danger was real.

25                 In considering the issue of self-defense, you may

1 take into account the relative physical abilities and  
2 capacities of the defendant and the victim.

3 If in your consideration of the issue of  
4 self-defense you have a reasonable doubt on the  
5 question of whether the defendant was justified in the  
6 use of non-deadly force, you should find the defendant  
7 not guilty.

8 However, if from the evidence you are convinced  
9 that the defendant was not justified in the use of  
10 non-deadly force, then you should find the defendant  
11 guilty if all of the elements of the charge have been  
12 proved.

13 An issue in this case is whether John Dobbs acted  
14 out of necessity in committing the crime of aggravated  
15 assault with a firearm. It is a defense to aggravated  
16 assault with a firearm, if the defendant acted out of  
17 necessity. In order to find the defendant committed  
18 aggravating assault with a firearm out of necessity,  
19 you must find the follow six elements.

20 One, the defendant reasonably believed a danger  
21 existed which was not intentionally caused by the  
22 defendant. Two, the danger threatened significant harm  
23 to the defendant or a third person. Three, the  
24 threatened harm must have been real, imminent and  
25 impending. Four, the defendant had no reasonable means

1 to avoid the danger except by committing aggravated  
2 assault with a firearm. Five, the aggravated assault  
3 with a firearm must have been committed out of  
4 necessity to avoid the danger. Six, the harm that the  
5 defendant avoided must outweigh the harm caused by  
6 committing aggravated assault with a firearm.

7 Imminent and impending means the danger is about  
8 to take place and cannot be avoided by using other  
9 means. A threat of future harm is not sufficient to  
10 prove this defense, nor can the defendant use the  
11 defense of necessity if the defendant committed the  
12 crime after the danger from the threatened harm had  
13 passed.

14 The reasonableness of the defendant's belief that  
15 a danger existed should be examined in the light of all  
16 of the evidence.

17 In deciding whether it was necessary for the  
18 defendant to commit the aggravated assault with a  
19 firearm, you must judge the defendant by the  
20 circumstances by which the defendant was surrounded at  
21 the time the crime was committed. The danger facing  
22 the defendant need not have been actual, however, to  
23 justify the commission of aggravated assault with a  
24 firearm, the appearance of the danger must have been so  
25 real that a reasonably cautious and prudent person

1 under the same circumstances would have believed that  
2 the danger could be avoided only by committing  
3 aggravated assault with a firearm. Based upon  
4 appearances, the defendant must have actually believed  
5 the danger was real.

6 If you find from the evidence that the defendant  
7 committed aggravated assault with a firearm out of  
8 necessity, you should find the defendant not guilty.  
9 However, if you find that the defendant did not commit  
10 aggravated assault with a firearm out of necessity, you  
11 should find the defendant guilty if all of the elements  
12 of the charge have been proved.

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

20 To overcome the defendant's presumption of  
21 innocence, the State has the burden of proving the  
22 following. The crime with which the defendant is  
23 charged was committed and the defendant is the person  
24 who committed the crime. The defendant is not required  
25 to present evidence or prove anything. Whenever the

1 words reasonable doubts are used, you must consider the  
2 following. A reasonable doubt is not a mere possible  
3 doubt, a speculative, imaginary or forced doubt. Such  
4 a doubt mustn't influence you to return a verdict of  
5 not guilty if you have an abiding conviction of guilt.  
6 On the other hand if after carefully considering,  
7 comparing, and weighing all of the evidence, there is  
8 not an abiding conviction of guilt, or, if having a  
9 conviction, it is one which is not stable, but one  
10 which wavers and vacillates, then the charge is not  
11 proved beyond and to the exclusion of every reasonable  
12 doubt and you must find the defendant not guilty  
13 because the doubt is reasonable.

14 It is to the evidence introduced in this trial and  
15 it alone that you are to look for that proof. A  
16 reasonable doubt as to the guilt of the defendant may  
17 arise from the evidence, conflict in the evidence or  
18 the lack of evidence. If you have a reasonable doubt,  
19 you should find the defendant not guilty. If you have  
20 no reasonable doubt, you should find the defendant  
21 guilty.

22 It is up to you to decide what evidence is  
23 reliable. You should use your common sense in deciding  
24 which is the best evidence and which evidence should  
25 not be relied upon in considering your verdict. You

1           may find some of the evidence not reliable or less  
2           reliable than other evidence. You should consider how  
3           the witnesses acted as well as what they said. Some  
4           things you should consider are, did the witness seem to  
5           have an opportunity to see and know the things about  
6           which the witness testified? Did the witness seem to  
7           have an accurate memory? Was the witness honest and  
8           straightforward in answering the attorneys questions?  
9           Did the witness have some interest in how the case  
10          should be decided? Does the witness's testimony agree  
11          with the other testimony and other evidence in the  
12          case? Did the witness at some other time make a  
13          statement that is inconsistent with the testimony he or  
14          she gave in court? Was it proved that the witness had  
15          been convicted of a crime?

16                 You may rely upon your own conclusion about the  
17          witness. A jury may believe or disbelieve all or any  
18          part of the evidence or the testimony of any witness.  
19          Expert witnesses are like other witnesses with one  
20          exception. The law permits an expert witness to give  
21          his or her opinion. However, an expert's opinion is  
22          only reliable when given on a subject about which you  
23          believe him or her to be an expert. Like other  
24          witnesses, you may believe or disbelieve all or any  
25          part of an expert's testimony.



1           The defendant in this case has become a witness.  
2           You should apply the same rules to consideration of the  
3           defendant's testimony that you apply for the testimony  
4           of the other witnesses. These are some general rules  
5           that apply to your discussions. You must follow these  
6           rules in order to return a lawful verdict. You must  
7           follow the law as it is set out in these instructions.  
8           If you fail to follow the law, your verdict will be a  
9           miscarriage of justice. All of us are depending upon  
10          you to make -- excuse me. There is no reason for  
11          failing to follow the law in this case. All of us are  
12          depending upon you to make a wise and legal decision in  
13          this matter.

14          This case must and decided only upon the evidence  
15          that you have heard from the testimony of the witnesses  
16          and have seen in the form of exhibits in evidence and  
17          these instructions. This case mustn't be decided for  
18          or against anyone because you feel sorry for anyone or  
19          are angry at anyone. Remember the lawyers are not on  
20          trial. Your feelings about them should not influence  
21          your decision in this case.

22          Your duty is to determine if the defendant has  
23          been proven guilty or not in accord with the law. It  
24          is the judge's job to determine a proper sentence if  
25          the defendant is guilty.

1           Whatever verdict you render must be unanimous.  
2           That is, each juror must agree to the same verdict. It  
3           is entirely proper for a lawyer to talk to a witness  
4           about what testimony the witness would give if called  
5           to the courtroom. The witness should not be  
6           discredited by talking to a lawyer about his or her  
7           testimony.

8           Your verdict should not be influenced by feelings  
9           of prejudice, bias or sympathy. Your verdict must be  
10          based on the evidence and on the law contained into  
11          these instructions. Deciding a verdict is exclusively  
12          your job. I cannot participate in that decision in any  
13          way. Please disregard anything I may have said or done  
14          that made you think I preferred one verdict over  
15          another.

16          You may find the defendant guilty as charged in  
17          the information, or guilty of such lesser included  
18          crime as the evidence may justify or not guilty. If  
19          you return a verdict of guilty, it should be for the  
20          highest offense which has been proven beyond a  
21          reasonable doubt. If you find that no offense has been  
22          proven beyond a reasonable doubt, then, of course, your  
23          verdict must be not guilty.

24          Only one verdict may be returned as to any crime  
25          charged. The verdict must be unanimous. That is, all

1 of you must agree to the same verdict. The verdict  
2 must be in writing and for your convenience, the  
3 necessary forms of verdict have been prepared for you  
4 and they are as follows: I you think you will find  
5 these to be self-explanatory.

6 At the top of the page is called the style of the  
7 case. In the circuit court of the Ninth Judicial  
8 circuit, in and for Orange County, Florida with the  
9 case number and division. State of Florida, plaintiff,  
10 versus John W Dobbs, defendant. Charge Count I, second  
11 degree murder. About a little more than a third of the  
12 way down is a bolded, underlined word, that word is  
13 verdict.

14 **A JUROR:** Do we have those with us?

15 **THE COURT:** There is only one copy of those.

16 **A JUROR:** That you are holding?

17 **THE COURT:** Yes, I am holding them.

18 **A JUROR:** Thank you.

19 **THE COURT:** There are three possibilities on this  
20 verdict form and they read as follows, from the top to  
21 the bottom. The top line reads we, the jury, find the  
22 defendant guilty of second degree murder as charged in  
23 the information. The second line reads we, the jury,  
24 find the defendant guilty of the lesser included  
25 offense of manslaughter. The third line reads we, the

1 jury, find the defendant not guilty. So say we all,  
2 meaning it is a unanimous verdict dated at Orlando,  
3 Orange County, Florida on this blank day of March,  
4 2007, and today is the First day of March, 2007, with a  
5 signature line for the foreperson.

6 When all of you have reached a unanimous verdict  
7 on this count, the foreperson would put an X or a check  
8 mark on the appropriate line and on only one line.  
9 Sign and date the verdict form and bring it back to the  
10 courtroom when you return.

11 This is a special finding as to Count I. There  
12 are two possibilities. This special finding only needs  
13 to be used if you find Mr. Dobbs guilty of some offense  
14 in Count I. If you find Mr. Dobbs not guilty of Count  
15 I, you do not need to make this special finding.

16 If you need to use this form, it read as follows  
17 from the top to the bottom. The top line reads, we,  
18 the jury, find the defendant did carry, display, use  
19 threaten to use or attempt to use any weapon in the  
20 course of committing said offense. The second line  
21 reads we, the jury, find the defendant did not carry,  
22 display, use, threaten to use or attempt to use any  
23 weapon in the course of committing said offense. So  
24 say we all, meaning it is a unanimous finding, dated at  
25 Orlando, Orange County, Florida on this blank day of

1 March, 2007 with a signature line for the foreperson.

2 If you need to use this special finding, once you  
3 have reached a unanimous finding, the foreperson would  
4 put an X or a check mark on the appropriate line, sign  
5 and date the finding and bring it back to the courtroom  
6 when you return.

7 This is the verdict form for Count II. There are  
8 two possibilities on this verdict form and they read as  
9 follows from the top to the bottom. The top line  
10 reads, we, the jury, find the defendant guilty of  
11 aggravated battery with a deadly weapon or causing  
12 great bodily harm as charged in the information. The  
13 second line reads, we, the jury, find the defendant not  
14 guilty. So say we all, dated at Orlando, Orange  
15 County, Florida on this blank day of March, 2007, with  
16 a signature line for the foreperson.

17 When all of you reached a unanimous finding on  
18 Count II, unanimous verdict on Count II, the foreperson  
19 would put an X or a check mark on the appropriate line  
20 and on only one line. Sign and date the verdict form  
21 and bring it back to the courtroom when you return.

22 The verdict form for Count III is similar to Count  
23 II. You will see right here is says Count III by the  
24 word charge and underneath that, aggravated battery.  
25 There are two possibilities on this verdict form and

1 they read as follows from the top to the bottom. The  
2 top line reads we, the jury, find the defendant guilty  
3 of aggravated battery with a deadly weapon or causing  
4 great bodily harm as charged in the information. The  
5 second line reads we, the jury, find the defendant not  
6 guilty. So say we all, dated on this blank day of  
7 March, 2007 with a signature line for the foreperson.

8 When all of you have reached a unanimous verdict  
9 on Count III, the foreperson puts an X mark on the  
10 appropriate line and on one line only and will sign and  
11 date the verdict form and bring it back to the  
12 courtroom when you return.

13 The verdict form for Count IV says Count IV,  
14 aggravated assault with a firearm. There are two  
15 possibilities on this form. They read as follows from  
16 the top to the bottom. We, the jury, find the  
17 defendant guilty of aggravated assault with a firearm  
18 as charged in the information. The second line reads,  
19 we, the jury, find the defendant not guilty. So say we  
20 all, dated at Orlando, Orange County, Florida on this  
21 blank day of March, 2007, with a signature line for the  
22 foreperson.

23 When all of you have reached a unanimous verdict  
24 on Count IV, the foreperson will put an X or a check  
25 mark on the appropriate line and on only one line sign

1 and date the verdict form and bring it back to the  
2 courtroom when you return.

3 This is a special finding as to Count IV. You  
4 only need to make this special finding if you find  
5 Mr. Dobbs guilty of Count IV. If you find Mr. Dobbs  
6 not guilty of Count IV, you do not need to make this  
7 special finding. It reads as follows from the top to  
8 the bottom, the top line reads, we, the jury, find the  
9 defendant did actually possess and discharge a firearm  
10 in the course of committing said offense. The second  
11 line reads, the defendant did actually possess, but did  
12 not discharge a firearm in the course of committing  
13 said offense. The third line reads, the defendant did  
14 not actually possess or discharge a firearm in the  
15 course of committing said offense. So say we all,  
16 dated at Orlando, Orange County, Florida on this blank  
17 day of March, 2007, with a signature line for the  
18 foreperson.

19 If you need to use this special finding, once you  
20 have made a unanimous finding, the foreperson would put  
21 an X or a check mark on the appropriate line and on  
22 only one line, sign and date the form and bring it back  
23 to the courtroom when you return.

24 The verdict form for Count V is similar to the  
25 others. There are two possibilities on this verdict

1 form and they read as follows from the top to the  
2 bottom. The top line reads, we, the jury, find the  
3 defendant guilty of shooting from a vehicle as charged  
4 in the information. The second line reads, we, the  
5 jury, find the defendant not guilty. So say we all,  
6 dated at Orlando, Orange County, Florida on this blank  
7 day of March, 2007 with a signature line for the  
8 foreperson.

9 When all of you have reached a unanimous verdict  
10 as to Count V, the foreperson will put an X or a check  
11 mark on the appropriate line and on only one line only,  
12 sign and date the verdict form and bring it back to the  
13 courtroom when you return.

14 A separate crime is charged in each count of the  
15 information and while they have been tried together,  
16 each crime and the evidence applicable to it must be  
17 considered separately and a separate verdict returned  
18 as to each.

19 A finding of guilty as or not guilty as to one  
20 crime mustn't affect your verdict as to the other  
21 crimes charged. In just a very few moments, you will  
22 be taken to the jury room by the court deputy. The  
23 first thing you should to is elect a foreperson. The  
24 foreperson presides over your deliberations like the  
25 chairperson of a meeting. It is the foreperson's job



1 to sign and date the verdict form when all of you have  
2 agreed on a verdict in this case. The foreperson will  
3 bring the verdict back to the courtroom when you  
4 return. Your verdict finding the defendant either  
5 guilty or not guilty, must be unanimous. The verdict  
6 must be the verdict of each juror as well as the jury  
7 as a whole.

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

16 Counsel, could you approach, please?

17 (Conference at the Bench held on the record.)

18 **THE COURT:** Any objection to the instructions as  
19 given other than as previously noted, State?

20 **MS. LASKOFF:** None from the State.

21 **MS. VICKERS:** Not other than previously noted. I  
22 just renew those previous objections at this time.

23 **THE COURT:** Mr. Chami is our alternate. And I  
24 would excuse him unless both of you want me to have him  
25 stay in Mr. Jacoby's place. It matters not to me.

1           **MS. LASKOFF:** I'd rather keep it the way it is.

2           **THE COURT:** Then I will excuse Mr. Chami.

3           **MS. LASKOFF:** Yes, ma'am.

4           **THE COURT:** I am going to send back everything but  
5 the live ammunition. I don't send both the ammunition  
6 and the firearm back at the same time for obvious  
7 reasons, but I don't -- I will explain to them how they  
8 can see the other if they want to. Anything else?

9           (Whereupon, the following was in open court.)

10          **THE COURT:** Ladies and gentlemen, just a few  
11 housekeeping matters. Mr. Chami, did you leave  
12 anything in the jury room?

13          **A JUROR:** Yes.

14          **THE COURT:** All right. You need to tell the court  
15 deputy what that is. You may also want to describe  
16 whatever lunch it was that you ordered. You are our  
17 alternate juror and you will not be retiring to the  
18 jury room with the balance of the jury.

19               I will be back with you in just a moment. For the  
20 rest you, I do have a few additional matters. I am  
21 going to send back all of the evidence with one  
22 exception. I do not, for obvious reasons, send back  
23 firearms and live ammunition at the same time. I will  
24 send back all of the evidence and the firearm, but will  
25 not send back the live ammunition at this time.

1           If you want to see the live ammunition, this is  
2           how you go about doing that. Have the foreperson write  
3           a note, sign and date the note. Send the note and the  
4           firearm out of the jury room and we will send the live  
5           ammunition back in. But I won't have the live  
6           ammunition and the firearm in the same place at the  
7           same time.

8           If you need to communicate with the Court, it is  
9           the same procedure. Have the foreperson write a note.  
10          Sign and date the note. The court deputy will assemble  
11          all of us together to deal with whatever question you  
12          have. The procedure is the same when you reached a  
13          verdict. Knock on the jury room door. Let the court  
14          deputy know you reached a verdict. The court deputy  
15          will assemble us all together if you have a verdict.

16          If you have a question in the next 45 or 50  
17          minutes, I suspect it will be difficult. We wouldn't  
18          get back with you quite as quickly as we would  
19          otherwise, because I'm going to let the attorneys and  
20          some of the court personnel go and eat lunch and would  
21          not expect them to be able to get back here before  
22          1:15, since it is now about 12:25. Your lunch should  
23          be in there.

24          With all of those instructions, you can take your  
25          jury instructions, pads and pens, the verdict forms and

1 all of the evidence except the live ammunition will be  
2 sent back with you to the jury room and I will also  
3 instruct the clerk to include a pair of latex gloves.

4 With that being said, Mr. Chami remain and the  
5 rest of you can go and the court deputy will find out  
6 what you need from the jury room.

7 (Thereupon, at 12:25 p.m., the Jury retired  
8 to deliberate their verdict.)

9 **THE COURT:** Counsel, is there any -- are there any  
10 other matters that we need to take up before we recess?

11

12 **MS. LASKOFF:** Not from the State, Your Honor.

13 **MS. VICKERS:** None from the defense.

14 **THE COURT:** All right. I would ask that the  
15 attorneys review the evidence before it is taken back  
16 by the court deputies and we will be in recess subject  
17 to recall by the jury.

18 (Whereupon, at 1:15 p.m. , Court reconvened  
19 for a question.)

20 **THE COURT:** We are on the record on 2006-CF-15201,  
21 State of Florida versus John Dobbs. The jury sent a  
22 question indicating that the jury wants a smoke and I  
23 wanted to establish a procedure to permit them to do  
24 that -- you can be seated -- so if this issue arises in  
25 the future we don't have to bring everybody back in

1 here. What I would propose to do is send the jury down  
2 with a court deputy to ensure that, A, they are not  
3 talking about the case, and B, that nobody is talking  
4 to them to get a smoke, and then to come back up and  
5 resume their deliberations and I would propose not to  
6 bring the jury back in the courtroom.

7 **MS. VICKERS:** We've got no problem.

8 **MS. LASKOFF:** No objection.

9 **THE COURT:** All right. Then I am going to direct  
10 court deputies that when the jury wants to smoke that  
11 they are to take them down, let them have a smoke, stay  
12 with them, ensure they do not talk about the case and  
13 then return them to deliberations. We will be in  
14 recess subject to recall.

15 (Thereupon, at 2:10 p.m., the Jury returned  
16 to the courtroom with their verdict.)

17 **THE COURT:** I understand that the jury has reached  
18 a verdict. Before I bring the jury in, are you  
19 anticipating any other observers?

20 **MS. LASKOFF:** We are, Your Honor. The family, we  
21 just talked to them. I am just a little perplexed as to  
22 to where they are. I thought they were right here. If  
23 you can just wait a moment?

24 **THE COURT:** Just a moment. When I bring the jury  
25 in, we will all remain seated.

1           **MS. LASKOFF:** I am not sure where they are. They  
2 should be here momentarily. I can tell the Court that  
3 my victim advocate did speak to them literally five  
4 minutes ago and they were in the building so I don't  
5 know --

6           **THE COURT:** Ms. Laskoff, if they are not here in  
7 the next couple of minutes, I will proceed anyway. I  
8 do, however, typically caution bow both sides in a case  
9 that is highly emotionally charged that the jury has  
10 worked very hard and regardless of the verdict I  
11 wouldn't tolerate any emotional outburst in the  
12 reading.

13           **MS. LASKOFF:** I agree. I think this would be  
14 appropriate in the situation.

15           **THE COURT:** And if I start before they are here  
16 and they arrive, I would ask that you would ask your  
17 victim advocate to tell them that.

18           **MS. LASKOFF:** Yes, Your Honor. The rest of the  
19 family is still parking the car, so we understand you  
20 need to proceed.

21           **THE COURT:** Ladies and gentlemen, I understand  
22 this matter is highly emotional on both sides. The  
23 jury has worked very hard over the last four days to  
24 come to a fair and just verdict. I would -- I expect  
25 everyone in the courtroom to respect that verdict no

1 matter what it is, and I will not tolerate any  
2 emotional outburst during the reading of the verdict.

3 If you do not believe that you can maintain your  
4 composure, I would ask that you step outside the  
5 courtroom. Let bring the jury in and we will remain  
6 seated as the jury is entering. Please be seated.

7 (Jury enters the courtroom.)

8 **THE COURT:** I understand, you can be seated. I  
9 understand that you have reached verdicts in this  
10 matter. If you can hand the verdict forms to the court  
11 deputy, please. The verdicts are in proper order.  
12 Madam clerk, could you publish the verdicts.

13 **THE CLERK:** Yes, ma'am. State of Florida versus  
14 John W. Dobbs. Verdict, we, the jury, find the  
15 defendant guilty of second degree murder as charged in  
16 the information. Special finding Count I, we, the  
17 jury, find the defendant did carry, display, use,  
18 threaten to use, or attempt to use any weapon in the  
19 course of committing said offense.

20 Verdict as to Count II. We, the jury, find the  
21 defendant guilty of aggravated battery with a deadly  
22 weapon or causing great bodily harm as charged in the  
23 information.

24 Verdict as to Count III, we, the jury, find the  
25 defendant guilty of aggravated battery with a deadly

1           weapon or causing great bodily harm as charged in the  
2           information.

3           Verdict as to Count IV, we, the jury, find the  
4           defendant guilty as to aggravated assault with a  
5           firearm as charged in the information. Special finding  
6           as to Count IV, we, the jury, find that the defendant  
7           did actually possess, but did not discharge a firearm  
8           in the course of committing said offense.

9           Verdict as to Count V, we, the jury, find the  
10          defendant not guilty. So say we all, dated at Orlando,  
11          Orange County, Florida on this first day of March, year  
12          2007, juror number 500, foreperson.

13          **THE COURT:** Ladies and gentlemen, I would ask that  
14          you look at your badge number. The clerk is going to  
15          ask you a question by badge number.

16          **THE CLERK:** Thank you. Juror number 500, are  
17          these your true and correct verdicts?

18          **JUROR NUMBER 500:** Yes.

19          **THE COURT:** Juror number 796, are these your true  
20          and correct verdicts?

21          **JUROR NUMBER 796:** Yes.

22          **THE CLERK:** Juror number 152, are these your true  
23          and correct verdicts?

24          **JUROR NUMBER 152:** Yes.

25          **THE CLERK:** Juror number 239, are these your true



1 and correct verdicts?

2 **JUROR NUMBER 239:** Yes.

3 **THE CLERK:** Juror number 422, are these your true  
4 and correct verdicts?

5 **JUROR NUMBER 422:** Yes.

6 **THE CLERK:** And juror number 238, are these your  
7 true and correct verdicts?

8 **JUROR NUMBER 238:** Yes.

9 **THE COURT:** Thank you.

10 Mr. Dobbs, a jury of your peers having found you  
11 guilty of Counts I through IV, I adjudge you guilty of  
12 those offenses at this time. I will enter a judgment  
13 of acquittal as to Count V.

14 Ladies and gentlemen, I wish to thank you for your  
15 time and consideration of this case. I also wish to  
16 advise you of some very special privileges enjoyed by  
17 jurors. No juror could ever be required to talk about  
18 the discussions that occurred in the jury room except  
19 by court order. For many centuries, our society has  
20 relied upon jurors for consideration of difficult  
21 cases. We have recognized for hundreds of years that a  
22 jurors deliberations, discussions, and votes, should  
23 remain their private affair as long as they wish it.  
24 Therefore, the law gives you a unique privilege not to  
25 speak about the jurors work. Although you are at

1 liberty to speak with anyone about your deliberation,  
2 you are also at liberty to refuse to speak with anyone.

3 A question may come from those who are simply  
4 curious or from those who might seek to find fault with  
5 you. It be up to you to decide whether to preserve  
6 your privacy as a juror. And I do wish to thank you  
7 for your hard work over these four days. I hope you  
8 recognize that when you came and left the courtroom, we  
9 stood. We did that in recognition of the important  
10 service that you are paying to each of us by being  
11 here.

12 I hope you realize that we could not do what we  
13 need to do in this building without your participation.  
14 And I do appreciate your willingness to be here with us  
15 these last four days. I'm going to ask that you step  
16 into the jury room for just a few moments. We will  
17 collect your badges, give you work excuses and then you  
18 will be free to go.

19 (Jury exits the courtroom.)

20 **THE DEFENDANT:** May I speak?

21 **THE COURT:** Not right now, sir. You may be  
22 seated. Defense, do you wish to proceed to sentencing  
23 now or do you want me to schedule a sentencing date, or  
24 to you wish to discuss that for a moment?

25 (Court was at ease.)

1           **THE COURT:** Ms. Vickers, have you made a decision  
2 whether or not you wish to proceed to sentencing at  
3 this time or schedule a sentencing hearing at a later  
4 time?

5           **MS. VICKERS:** I believe Mr. Dobbs has indicated he  
6 wants to reschedule it for another day.

7           **THE COURT:** All right. State, what is your  
8 preference?

9           **MS. LASKOFF:** We would ask that too, Your Honor.

10          **THE COURT:** How long does the State need for its  
11 sentencing situation?

12          **MS. LASKOFF:** Probably at lease 45 minutes, Your  
13 Honor.

14          **THE COURT:** All right. And how long does the  
15 defense need for its sentencing?

16          **THE DEFENDANT:** You-all set me up for this right  
17 here.

18          **MS. VICKERS:** How much did the State ask for?

19          **THE COURT:** They said 45 minutes.

20          **MS. VICKERS:** I would say about 45 minutes.

21          **THE COURT:** Then if you're requesting  
22 approximately that I set aside an hour and a half or  
23 two hours to deal with it, between the two of you?

24          **MS. LASKOFF:** Yes, ma'am. That sounds  
25 appropriate.

1           **THE DEFENDANT:** I am disgusted. Disgusted.

2           **THE COURT:** Then let me see, how long between now  
3 and the sentencing hearing are you requesting, State?  
4 I'm going to ask the same question of the defense.

5           **MS. LASKOFF:** Your Honor, with the State, any time  
6 it fits in with the calendar is appropriate. There is  
7 no schedule conflict.

8           **THE COURT:** Defense, how long do you need between  
9 now and sentencing presentation?

10          **MS. VICKERS:** I would ask for at least a week.

11          **THE COURT:** Okay.

12          **THE DEFENDANT:** That's crazy. Insane. That is  
13 why I need a judge to try this case.

14          **THE COURT:** I believe that March 9th is an all day  
15 hearing with Mr. Himan and Mr. Tynan.

16          **THE DEFENDANT:** I have a right to be heard. I  
17 have been denied that right since I have been here.

18          **THE COURT:** Umm, how is March 8th? That is a  
19 Thursday, a week from today at 9:00 a.m.

20          **MS. VICKERS:** I would assume March 8th at 9?

21          **THE COURT:** Okay. Sentencing in the matter will  
22 be set at 9:00 a.m. We will be in recess until  
23 tomorrow morning at 8:00 a.m.

24                   (Whereupon, the foregoing proceedings were  
25 concluded.)

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**C E R T I F I C A T E**

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5 STATE OF FLORIDA:

6 COUNTY OF ORANGE:

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I, Rebecca Ruiz, Official Court

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Reporter of the Ninth Judicial Circuit of Florida,

9

do hereby certify pursuant to Florida Statute 29,

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that I was authorized to and did report in

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stenographic shorthand the foregoing proceedings,

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and that thereafter my stenographic shorthand notes

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were transcribed to typewritten form by the process

14

of computer-aided transcription, and that the

15

foregoing pages contain a true and correct

16

transcription of my shorthand notes taken therein.

17

18

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_

19

2007, in the City of Orlando, County of Orange,

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State of Florida.

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**REBECCA RUIZ**

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**C E R T I F I C A T E**

STATE OF FLORIDA:

COUNTY OF ORANGE:

I, Rebecca Ruiz, Official Court Reporter of the Ninth Judicial Circuit of Florida, do hereby certify pursuant to Florida Statute 29, that I was authorized to and did report in stenographic shorthand the foregoing proceedings, and that thereafter my stenographic shorthand notes were transcribed to typewritten form by the process of computer-aided transcription, and that the foregoing pages contain a true and correct transcription of my shorthand notes taken therein.

WITNESS my hand this 17 day of May 2007, in the City of Orlando, County of Orange, State of Florida.

  
\_\_\_\_\_  
**REBECCA RUIZ**