

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 V OF VI

 COPY

TRIAL PROCEEDINGS

BEFORE

THE HONORABLE LISA T. MUNYON

In the Orange County Courthouse
Courtroom 10D
Orlando, Florida 32801
February 28, 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
435 N. Orange Avenue
Suite 400
Orlando, Florida 32801
On behalf of the Defendant

1 actually had a Glock in his hand. It is completely
2 different in this situation and it is a situation where here
3 it is the State's position obviously this is not
4 self-defense.

5 The defendant took the situation to a different
6 level than was anticipated or needed to be taken.
7 These victims were clearly not making verbal threats as
8 was indicated by the defendant's testimony as well as
9 corroborated by the eye witness testimony. It was the
10 defendant who had a weapon. The victims and the eye
11 witnesses also indicate that, you know, none of the
12 victims had any guns or knives or weapons that they
13 were utilizing.

14 Umm, and for those reasons, we'd ask that the
15 Court, again, deny a motion for JOA on those grounds.
16 There's enough. This is a jury question. Again,
17 whether or not they believe the defendant's
18 self-defense argument or not, and the State is clearly
19 established that it has overcome for the purposes of
20 this case as well, that it's not clear cut.

21 **MS. VICKERS:** If I can just make one more comment?
22 In the Jenkins case, the Court noted that we found
23 seven Florida cases in which Florida courts reversed
24 conviction based on the State's failure to rebut a
25 prima facie case of self-defense. There has been no

1 rebutting here of the case of self-defense that was put
2 on by the defense.

3 **THE COURT:** As noted in Jenkins, self-defense
4 cases are intensely fact specific. And the facts of
5 this case are distinguishable from Jenkins and every
6 other case cited in Jenkins by both the State and the
7 defense. I believe that there has been a sufficient
8 case presented, that the matter is a question for the
9 jury to decide, and the motion for judgment of
10 acquittal as to Counts I, II, and III would be denied.

11 I have included the standard introduction to final
12 instructions and statement of the charge. Any
13 objection to those two paragraphs?

14 **MS. LASKOFF:** No.

15 **MS. VICKERS:** No.

16 **THE COURT:** I have included the standard
17 introduction to homicide which has the justifiable
18 homicide and excusable homicide, and in the jury
19 instructions that you sent me. Ms. Vickers, I did note
20 that you wished that I delete number three of excusable
21 homicide based upon the case that you provided in your
22 e-mail which was Radillo?

23 **MS. VICKERS:** Yes, I have copies if everybody
24 needs them.

25 **THE COURT:** I pulled a copy of Radillo myself.

1 **MS. VICKERS:** I'd like to provide one to the court
2 reporter just to make sure it is accurate.

3 **THE COURT:** 582 So.2nd 684, a Third DCA 1991
4 opinion. State, do you have any objection to me
5 deleting the third element of excusable homicide and
6 the definition of deadly weapon?

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

8 **THE COURT:** All right. Then I will indicate that
9 it is two circumstances, not three. I will delete
10 three. I will delete deadly weapon. I will delete the
11 or after two and put a period there. Any other changes
12 requested to introduction to homicide, State?

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

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

15 **THE COURT:** All right. It is already a quarter
16 to, or 12 till four. I'm concerned that it might take
17 us 45 minutes or so to get through these jury
18 instructions and then I will have to edit them and come
19 up with a final draft. Would it be wise to send the
20 jury home and have them come back in the morning for
21 closing argument?

22 **MS. LASKOFF:** I would actually prefer that, Your
23 Honor.

24 **MS. CHIEN:** Yes, I would prefer that as well.

25 **THE COURT:** All right. I suppose they are

1 probably not all back yet, are they?

2 **COURT DEPUTY:** No, they won't be back until five
3 minutes of.

4 **THE COURT:** Will you let me know when they are all
5 back and I will excuse them? That will give you also
6 an opportunity to thoroughly prepare your closings.

7 **MS. LASKOFF:** Yes, ma'am. I was just going to
8 ask.

9 **THE COURT:** I do have the conclusion of the
10 Guetsloe hearing in the morning, so that will take some
11 time before I can start this.

12 **MS. LASKOFF:** I was just going to ask if -- do you
13 want to go through all 40 pages of this now or can I
14 take a five minutes break?

15 **THE COURT:** You need a five minutes break right
16 now? I will give everyone a five minute rest room
17 break and then we will come back and finish.

18 (Whereupon a short recess was taken.)

19 **THE COURT:** We are going to bring the jury in and
20 I am going to excuse them. I saw nothing in the paper
21 this morning so I'm going to let them read the paper.

22 (Jury enters the courtroom.)

23 **THE COURT:** Ladies and gentlemen, this is going to
24 take much longer than I anticipated to go through the
25 jury instructions. Once you hear them, you will

1 understand. At present they are 40 pages long, single
2 spaced and it is -- I don't want to have you sitting in
3 that small room while we take an hour or more to go
4 over these jury instructions and make sure they are
5 absolutely accurate. So I am going to send you home
6 for the evening, ask that you come back at 9:30 in the
7 morning. At that time we will hear closing arguments,
8 testimony and then I will instruct you on the law
9 applicable to the case and you will retire to your
10 deliberations.

11 Does anybody have -- I did look at the paper this
12 morning. There was nothing in the paper about this
13 case, so please feel free to read the newspaper.
14 Please follow the same directions in the morning.
15 Don't look at the paper until we have an opportunity to
16 look at it. Anybody have any questions before I
17 release you?

18 Mr. Jacoby, I understand your difficulty tomorrow.

19 **A JUROR:** Well, the question is, if we start to
20 deliberate tomorrow and don't reach a verdict by let's
21 say five at night, are we sequestered?

22 **THE COURT:** No. I indicated during the voir dire
23 I am not sequestering.

24 **A JUROR:** Well, there is a lot of things that have
25 gotten indicated up and down.

1 **THE COURT:** No, this is not the type of case that
2 would require sequestration.

3 **A JUROR:** So I will be able to leave tomorrow,
4 assuming that I am not the one that's, the seventh man
5 out so to speak, I will be able to leave like at a
6 regular business hour so to speak?

7 **THE COURT:** That would be my indication, yes. If
8 you are not finished with your deliberations, then you
9 would have to come back on Friday.

10 **A JUROR:** I don't think my friends would mind.

11 **THE COURT:** We will cross that bridge when it gets
12 to it. Anything else? All right. Don't discuss the
13 case amongst yourselves. Don't let anyone discuss it
14 with you. I am gonna give you the same instructions
15 about your family, just tell them it has taken longer
16 than the judge told you it would take, but when you get
17 finished, you can talk to them about it but not until
18 then.

19 With that being said, I will see you at 9:30 in
20 the morning. Don't worry I am starting earlier but I
21 do have a hearing tomorrow morning at 8:45 or nine and
22 it should be finished by 9:30. All right? You are
23 free to go.

24 (Jury exits the courtroom.)

25 **THE COURT:** If we can get these jury instructions

1 close to perfect as I would like them. I do intend to
2 actually give the jury a copy while I am instructing
3 them because they are so complex. I don't typically do
4 that, but when they are this complex, I think it is
5 best.

6 Second degree murder. I have included the
7 standard instruction on second degree murder. Any
8 objection, State?

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

10 **THE COURT:** Any objection, defense?

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

12 **THE COURT:** I have put the lesser included of
13 manslaughter here because that's sort of what is
14 indicated in the introduction to homicide.

15 **MS. VICKERS:** Your Honor, the defense is not
16 requesting any lessers on any counts.

17 **THE COURT:** State, are you requesting lessers?

18 **MS. LASKOFF:** We are requesting the manslaughter
19 lesser, Your Honor.

20 **THE COURT:** It is a category one lesser, so if
21 either party requests it, I am to give it. With regard
22 to the manslaughter lesser, State, are you requesting
23 2A only? Clearly B does not apply.

24 **MS. LASKOFF:** Right. Can't we do A or B, Your
25 Honor?

1 **THE COURT:** Well, B is procuring the death. It
2 does not --

3 **MS. LASKOFF:** Right. I meant A or C.

4 **THE COURT:** So you're requesting A and C?

5 **MS. LASKOFF:** Yes, Your Honor.

6 **THE COURT:** All right. Defense, understanding
7 that you are not requesting this instruction --

8 **MS. VICKERS:** Right. Well, I am reading this as
9 A, B or C, so I would take it as to mean that we can
10 only give one, A, B or C.

11 **THE COURT:** That isn't actually accurate under the
12 case law, and I have given more than one if more than
13 one apply. It would simply indicate one or the other.
14 Element two -- as a matter of fact, I might have given
15 more than one on a case of yours. I am not quite sure.

16 **MS. VICKERS:** We would accept. First of all, we
17 object to this manslaughter being given. I would
18 object to C being given.

19 **THE COURT:** All right. Do you have any specific
20 objection?

21 **MS. VICKERS:** No, nothing more specific than that.

22 **THE COURT:** Okay. Then I will give A and C. They
23 will be separated by the word or. I will delete the
24 definition of procure since that deals only with B.

25 I have next included the standard instruction on

1 aggravated battery including the two forms that were
2 charged in the information. Any objection as to Count
3 II? Any objection, State?

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

5 **THE COURT:** Any objection, Defense?

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

7 **THE COURT:** I have included the standard
8 instruction for aggravated battery as to Count III,
9 again, including the two different ways it was charged
10 in the information. Any objection, State?

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

12 **THE COURT:** Any objection, Defense?

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

14 **THE COURT:** I have next included the standard
15 instruction for aggravated assault. Any objection,
16 State?

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

18 **THE COURT:** Any objection, Defense?

19 **MS. VICKERS:** Umm, well, the charge is aggravated
20 assault with a firearm.

21 **THE COURT:** Right.

22 **MS. VICKERS:** And this is just talking about --

23 **THE COURT:** Do you want me to define firearm in
24 here as well?

25 **MS. VICKERS:** Well, I would think instead the

1 assault was made with a deadly weapon, it should be the
2 assault was made with a firearm. They are not --
3 according to the information, they are not suggesting
4 there was another deadly weapon the assault was made
5 with, so I would think the correct thing to do would be
6 number four, under aggravated assault, the assault was
7 made with a firearm and instead of giving the
8 definition of the deadly weapon, give the definition of
9 firearm.

10 **MS. LASKOFF:** Wouldn't that be handled by a
11 special verdict form, Your Honor?

12 **THE COURT:** The information actually says that the
13 assault was made with a firearm, comma, a deadly
14 weapon. A firearm is a type of deadly weapon.
15 Typically what I would do in this instance is include
16 the standard definition of aggravated assault if
17 requested. If requested, include a definition of
18 firearm and do a special verdict form indicating
19 whether there was in actuality a firearm, whether it
20 was discharged or not.

21 **MS. VICKERS:** I would just also point out to the
22 Court that the information does go on to use a --

23 **THE COURT:** Did intentionally threaten to do
24 violence to Hanzel Holiday with said firearm, and then
25 at the end it says again or attempt to use a firearm.

1 It doesn't list deadly weapon throughout the rest of
2 it. So the defense's position is that for number four,
3 it should be -- there should be no mention of deadly
4 weapon in the aggravated assault. It should just be
5 firearm and then the definition of the firearm.

6 State, do you really care? Because if it is not a
7 firearm, it's not anything.

8 **MS. LASKOFF:** No, that's fine.

9 **THE COURT:** All right. Then I will make --

10 **MS. LASKOFF:** Am I not going to need to do a
11 special verdict form?

12 **THE COURT:** You will need that for the discharge.

13 **MS. LASKOFF:** Right. Okay.

14 **THE COURT:** So element four will say firearm,
15 rather than deadly --I will delete that and include the
16 definition of firearm as I believe it is included in
17 the robbery and burglary standard instruction. So
18 that's --

19 **MS. VICKERS:** That's acceptable.

20 **THE COURT:** The next is shooting from a vehicle.
21 There is no standard instruction for shooting from a
22 vehicle being a recent creation of the legislature, and
23 I do believe I need to add to this firearm, because the
24 offense is knowingly and willfully discharging a
25 firearm. I need to give a definition of both knowingly

1 and willfully. Firearm, since the firearm chapter only
2 has knowingly --

3 **MS. LASKOFF:** And plus I think in the title it
4 says to prove the crime of discharging a firearm in
5 public -- it should be shooting from a vehicle.

6 **THE COURT:** Thank you.

7 In looking at other instructions on willfully, I
8 am just not finding anything. If somebody can direct
9 me to something. I have looked in robbery, battery,
10 stalking and it may be one of those words that is not
11 defined because we all know what it means. Battery.
12 As a matter of fact, knowingly is not typically defined
13 in other areas. Why they chose to define it, I don't
14 know.

15 **MS. LASKOFF:** Willfully means intentionally and
16 purposely.

17 **THE COURT:** Which instruction are you finding that
18 in?

19 **MS. LASKOFF:** I am looking at trespass at the
20 moment.

21 **THE COURT:** Okay.

22 **MS. LASKOFF:** It is 13.13. (sic)

23 **THE COURT:** That will work.

24 **MS. LASKOFF:** 13.3, I am sorry.

25 **THE COURT:** Any objection to that definition of

1 willfully?

2 **MS. VICKERS:** Could you read it again, please.

3 **THE COURT:** Willfully means intentionally and
4 purposely.

5 **MS. VICKERS:** No objection to that definition.

6 **THE COURT:** All right. Okay. I have included the
7 entire definition of firearms. State, are you
8 requesting the entire definition of firearm?

9 **MS. LASKOFF:** Whereabouts?

10 **THE COURT:** In the shooting from a vehicle. I
11 don't think we are dealing with a firearm, silencer,
12 muffler, destructive device or machine gun.

13 **MS. LASKOFF:** Umm, right. And it's not an
14 antique. Well, I guess that can still be in there. I
15 don't have any problems with you shortening it.

16 **THE COURT:** What I would typically do, if there is
17 not an allegation that it was an antique firearm or a
18 firearm silencer, muffler, destructive device or
19 machine gun is read, a firearm is really defined as any
20 weapon, including a starter gun which is designed to or
21 may readily be converted to expel a projectile by the
22 action of an explosive or the frame or receiver of any
23 such weapon period, and stop at that point.

24 **MS. VICKERS:** That's acceptable.

25 **THE COURT:** Any objection to that, State?

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

2 **THE COURT:** With these changes to shooting from a
3 vehicle, and I am going to indicate underneath it that
4 it is Count V. Any objections, State?

5 **MS. LASKOFF:** That it says Count V? No.

6 **THE COURT:** Any objection with all those changes
7 we have discussed?

8 **MS. LASKOFF:** No, I am sorry.

9 **THE COURT:** Any objection, defense?

10 **MS. VICKERS:** No, Your Honor. Will the Court also
11 be using the same shortened definition for firearm on
12 Count IV, aggravated assault?

13 **THE COURT:** Yes.

14 **MS. VICKERS:** Okay.

15 **THE COURT:** All right. I see there is an extra I
16 on the following page. Take that out. I have included
17 the standard instructions on lesser included crimes or
18 attempts. Defense, you are not requesting any lessers?

19 **MS. VICKERS:** Correct.

20 **THE COURT:** State, are you requesting any category
21 one lessers, other than manslaughter?

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

23 **THE COURT:** So you are not requesting any lessers
24 in aggravated battery or aggravated assault?

25 **MS. LASKOFF:** No.

1 **THE COURT:** All right. That makes it easy. Then
2 I probably don't need to give this paragraph at all
3 because I have already explained the lesser of assault.

4 **MS. VICKERS:** Of second degree murder, I would
5 agree.

6 **THE COURT:** State, would you agree?

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

8 **THE COURT:** All right. I will delete that. I can
9 delete felony battery, battery, felony battery, battery
10 and assault. Before I do that, Mr. Dobbs, I do need to
11 make sure you understand what we are talking about in
12 this instance.

13 Lesser included offenses are offenses that are
14 contained within the definition of the greater crime.
15 Lesser included offenses are both lesser in degree and
16 lesser in punishment. Lesser included -- category one
17 lesser included offenses are the offenses that I have
18 included within these jury instructions. You are
19 entitled to have the jury instructed on these lesser
20 included offenses if you wish for me to do that.

21 The lesser included offenses to Count II,
22 aggravated battery with a deadly weapon or causing
23 great bodily harm are felony battery and battery.
24 Aggravated battery is a second degree felony punishable
25 by a maximum of 15 years in prison or a maximum fine of

1 \$10,000.

2 Felony battery is a felony of the third degree
3 punishable by a maximum of five years in prison and a
4 maximum fine of \$5,000. Battery is a misdemeanor of
5 the first degree, and is punishable by a maximum of a
6 year in the County jail and a maximum fine of one
7 thousand dollars. Is it your desire to waive those
8 category one lesser included offenses to Count II,
9 aggravated battery?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** All right. Thank you. Count III is
12 aggravated battery with a deadly weapon and great
13 bodily harm, and it is a category one lesser. Felony
14 battery and battery I have already explained to you the
15 maximum penalties that apply to each of those offenses.
16 None of these, neither Counts II or III has a minimum
17 man, however they do carry greater number of points
18 under the punishment code scoresheet. Have you had an
19 opportunity to discuss that issue with your attorneys?

20 **THE DEFENDANT:** I would like no lesser offenses
21 other than the ones you already stipulated.

22 **THE COURT:** Other than the manslaughter that I
23 have already talked about?

24 **THE DEFENDANT:** I guess that's the one, yes.

25 **THE COURT:** All right. So on count III, you do

1 not want me to give the jury the lesser included
2 offenses of felony battery or battery?

3 **THE DEFENDANT:** Count III would be -- no.

4 **THE COURT:** Count III is the aggravated battery
5 alleged to have occurred against Andre Blanco.

6 **THE DEFENDANT:** No.

7 **THE COURT:** All right. Count IV charges
8 aggravated assault with a firearm and it is alleged in
9 the information that the firearm was discharged. The
10 lesser included offense of aggravated assault with a
11 firearm is assault. Aggravated assault with a firearm
12 is a third degree felony and typically would carry a
13 maximum penalty of five years in prison and a \$5,000
14 fine. However, because the State has alleged that the
15 firearm was discharged, if the jury finds you guilty of
16 that count, and finds that the firearm was discharged,
17 the Court is mandated to give a twenty year minimum man
18 sentence day for day.

19 Assault, which is a lesser included offense, is a
20 second degree misdemeanor punishable by a maximum of
21 sixty days in the County jail and a maximum fine of
22 \$500. Again, if you request the lesser included
23 offices of assault, because it is a category one
24 lesser, I am required to give it to the jury. However,
25 if you wish to waive that, that is your right. I just

1 want to make sure you understand what it means to waive
2 that. Do you have any questions about Count IV?

3 **THE DEFENDANT:** No.

4 **THE COURT:** All right. Do you want me to give the
5 lesser included offense of assault or not?

6 **THE DEFENDANT:** No.

7 **THE COURT:** All right. Then I will not give it.
8 I do not believe that Count V has any lesser included
9 offenses unless someone can indicate one to me. State?

10 **MS. LASKOFF:** Not that I am aware of. I mean, it
11 could be the misdemeanor displaying, improper
12 exhibition, but I am not --

13 **THE COURT:** Exhibition of a firearm?

14 **MS. LASKOFF:** But I am not requesting it.

15 **THE COURT:** All right. Just in case that is a
16 lesser included offense. I don't know if it is because
17 this is a new statute and there is no case law with
18 regard to that issue. If it was requested by you, I
19 would give it.

20 Count V charges shooting from a vehicle. It is a
21 second degree felony. The maximum penalty is 15 years
22 in prison. The maximum fine is \$10,000. The offense
23 of improper exhibition of a firearm is a first degree
24 misdemeanor. The maximum penalty for that offense is a
25 year in the County Jail and a thousand dollar fine. If

1 you request improper exhibition of a firearm I will
2 give it. If you don't want it, I wouldn't give it.
3 Mr. Dobbs, what is it that you wish for me to do?

4 **THE DEFENDANT:** Umm, I would like -- so I like the
5 charges as they were.

6 **THE COURT:** So you don't want the lesser included?
7 I have next included the self-defense instruction and I
8 know that when you e-mailed the proposed instructions
9 to me, Ms. Vickers, you requested a separate
10 instruction for each count because we are dealing with
11 a different alleged victim in each count.

12 **MS. VICKERS:** Correct. The substance was the
13 same. Just the names were changed.

14 **THE COURT:** I know. I tried to figure out a way
15 to only read it once and I think it is cleaner to read
16 it four different times. When I am giving both,
17 justifiable use of deadly and non-deadly force, I think
18 I need to tell the jury what they are to do with both
19 of those instructions so I created, some time ago, the
20 header before each of them indicating that they will be
21 hearing the law of self-defense in two different ways,
22 and directing them, based upon their factual findings,
23 to use one or the other. Any objection, State? Any
24 objection, defense?

25 **MS. VICKERS:** Yes, Your Honor.

1 **THE COURT:** Okay. And what would you like me to
2 tell them?

3 **MS. VICKERS:** Umm --

4 **THE COURT:** What is your specific objection?

5 **MS. VICKERS:** I would just request the first
6 sentence. I would object to the rest of the paragraph
7 coming in.

8 **THE COURT:** Why?

9 **MS. VICKERS:** Umm --

10 **THE COURT:** I have to tell them when to use one
11 and when to use the other without telling them --
12 without making that determination for them.

13 **MS. VICKERS:** Right. I think the instruction is
14 set forth when, with what they should use for which
15 count, which instruction they should use for which
16 count, and I think it should be up to the jury whether
17 they decide which one obviously will apply to which.

18 **THE COURT:** And that's why I worded it the way I
19 did. If you find that force was used -- because I am
20 not going to tell them that force was used or not, they
21 have to decide that. You must determine whether that
22 force was likely or not likely to cause death or great
23 bodily harm. If you find that any force used was
24 likely to cause death or great bodily harm, then you
25 shall use the instruction titled justifiable use of

1 deadly force. If you find that any force was not
2 likely to cause death or great bodily harm, then you
3 shall use the instructions titled justifiable use of
4 non deadly force. Do you have alternate language that
5 you are proposing other than just not giving them any
6 direction?

7 **MS. VICKERS:** No. I would just prefer for the
8 first sentence to be read in lieu of anything else
9 being read.

10 **THE COURT:** That request would be denied. When
11 these instructions were originally drafted, it was
12 anticipated that they would be given one or the other,
13 but not both at the same time. Since you're requesting
14 that they be given, I need to tell them what to do.

15 **MS. VICKERS:** There is case law out now where I
16 understand there is -- no jury instruction has yet been
17 created to deal with that case law.

18 **THE COURT:** Justifiable use of deadly force. We
19 are going to have to go paragraph by paragraph. The
20 first paragraph is given in all cases. Definition of
21 deadly force is given in all cases, and then the next
22 paragraph has three enumerated possibilities, and
23 you're requesting one. Are you requesting one, another
24 attempt to murder your client?

25 **MS. VICKERS:** No.

1 **THE COURT:** State, are you requesting one?

2 **MS. LASKOFF:** Yes, Your Honor.

3 **THE COURT:** Any argument that that is not
4 justified by the evidence, Ms. Vickers?

5 **MS. VICKERS:** No.

6 **THE COURT:** All right. Then I will give one. You
7 are requesting that number two be given and that the
8 applicable forcible felony be felony battery. Any
9 objection to that, State?

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

11 **THE COURT:** And I have included the definition of
12 felony battery and nobody is requesting that three be
13 given, correct, State?

14 **MS. LASKOFF:** No.

15 **THE COURT:** And Defense?

16 **MS. VICKERS:** Correct, Your Honor.

17 **THE COURT:** So I will delete three. The next is
18 the persons are justified in using deadly force has two
19 possibilities.

20 **MS. VICKERS:** Your Honor, for the record,
21 apparently Mr. Dobbs would like for number three to be
22 read.

23 **THE COURT:** I would need some factual basis to do
24 so. Do you have any, Ms. Vickers?

25 **MS. VICKERS:** Mr. Dobbs is saying that any attempt

1 to commit the felony upon -- or in any -- that his
2 vehicle that he was occupying, his vehicle at the
3 time -- he was upon his vehicle at the time this
4 happened.

5 **THE COURT:** All right.

6 **MS. VICKERS:** He was bouncing off of it.

7 **THE COURT:** All right. That would not be a
8 justification to give that. If he was in his vehicle
9 perhaps, or in the dwelling, and the assault was being,
10 or the attack was upon the dwelling, such as somebody
11 was attempting to burglarize the dwelling and you were
12 attempting to defend against it, it may be applicable,
13 but I don't see that three is applicable. So I will
14 not give it. Are you requesting either of one or two
15 in the next paragraph?

16 **MS. VICKERS:** Defense had requested one only.
17 Since we didn't --

18 **THE COURT:** Are you requesting two with felony
19 battery?

20 **MS. VICKERS:** It kind of says the same thing.

21 **THE COURT:** It does. It is redundant. But if you
22 want it, I will give it.

23 **MS. VICKERS:** Sure.

24 **THE COURT:** I will include felony battery as the
25 applicable felony. The next paragraphs are two

1 possibilities. One would not apply because the
2 defendant is not charged with an independent, forcible
3 felony aside from this altercation, so I don't want to
4 have a circular instruction and commit fundamental
5 error as some others have done. So I would delete one
6 unless somebody can come up with an independent
7 forcible felony that the defendant is alleged to have
8 been committing. No? Okay. Is either the State or
9 the Defense requesting two?

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

11 **THE COURT:** State?

12 **MS. LASKOFF:** I would.

13 **THE COURT:** All right. Then I will give -- I will
14 delete the two, the number, the number two. I will
15 place this, make it one paragraph.

16 **MS. VICKERS:** Just for the record, the defense
17 objects to 2B.

18 **THE COURT:** Okay. Do you have a specific legal
19 objection?

20 **MS. VICKERS:** Yes, because it is not supported by
21 the evidence, the facts in evidence during this trial.
22 Also says the defendant initially provoked the use of
23 force against the defendant.

24 **THE COURT:** It would read better if it was against
25 himself.

1 **MS. VICKERS:** That is what it says in the standard
2 jury instructions.

3 **MS. LASKOFF:** Against himself?

4 **THE COURT:** Yes. It appears that they have
5 changed that. All right. Put himself. The next two
6 paragraphs deal with the force used when resisting
7 arrest. They do not seem to apply. Would you agree,
8 State?

9 **MS. LASKOFF:** Yes, Your Honor.

10 **THE COURT:** Would you agree, Defense?

11 **MS. VICKERS:** Yes, Your Honor.

12 **THE COURT:** All right. The next paragraph is
13 given in all cases and the paragraph which begins, if
14 the defendant was not engaged in the duty to retreat
15 paragraph. I assume, defense, you're requesting that?

16 **MS. VICKERS:** Yes, Your Honor.

17 **THE COURT:** I will take out the note to judge. I
18 will take out the next paragraph which deals with the
19 defendant being in a dwelling, residence or occupied
20 vehicle. The one after that which continues that same
21 thought. The whole paragraph and the paragraph after.
22 The little short paragraph after. Then I will delete
23 the definitions of dwelling, residence and vehicle.

24 The next paragraph deals with prior threats. I
25 don't recall hearing any. So I will strike that unless

1 I hear some legitimate argument otherwise.

2 **MS. VICKERS:** No objection.

3 **THE COURT:** None from either party. Okay. The
4 next deals with reputation. I don't recall hearing any
5 reputation evidence, so I will delete that unless I
6 hear otherwise from either party. Hearing nothing, I
7 will delete that. And then the next three paragraphs
8 are given in all cases.

9 Let's deal with the justifiable use of non-deadly
10 force and then I will see if you're requesting any
11 additions to the self-defense instruction.

12 **MS. VICKERS:** Okay.

13 **THE COURT:** Okay. The next is the justifiable use
14 of non-deadly force. The first paragraph is always
15 given. The definition of non-deadly force is
16 different. The next paragraph is in defense of
17 persons. I assume you want both of those read,
18 Ms. Vickers?

19 **MS. VICKERS:** I am sorry. I just need to catch up
20 quickly. You are on under where?

21 **THE COURT:** I am on non-deadly force. The
22 paragraph after the definition of non-deadly force
23 which talks about one and two, the defense of persons.
24 You're requesting both of those paragraphs?

25 **MS. VICKERS:** Yes, Your Honor.

1 **THE COURT:** The next is defense of property. I
2 don't believe that that would apply unless I hear an
3 argument otherwise. I will delete defense of property.
4 I will again delete the dwelling, residence occupied,
5 vehicle paragraphs. I will include the no duty to
6 retreat, no duty to retreat paragraph.

7 **MS. VICKERS:** Yes.

8 **THE COURT:** But I will delete the definition of
9 dwelling, residence and vehicle. The two one sentence,
10 or the one sentence paragraph, a person does not have
11 the duty to retreat if it is in a place where the
12 person has a right to be will remain. And then we get
13 to the use of non-deadly force is not justifiable if
14 you find -- and we have already established that the
15 defendant is not accused of any independent forcible
16 felonies, so one did not apply. State, are you
17 requesting two?

18 **MS. LASKOFF:** Yes, Your Honor.

19 **THE COURT:** Defense, you're objecting?

20 **MS. VICKERS:** Yes, Your Honor.

21 **THE COURT:** All right. I will give it. I will
22 delete the following two paragraphs that deal with the
23 use of force and resisting arrest. I will include the
24 paragraph that is to be read in all cases which begins,
25 in deciding whether the defendant was justified in

1 using non deadly force. However, I will delete the
2 paragraph that deals with reputation, just as I did in
3 the other one. The next three paragraphs are given in
4 all cases. Are you requesting any additional special
5 language in the self-defense instruction?

6 **MS. VICKERS:** I am, Your Honor. And this is
7 regarding Jenkins vs. State, 942 So. 2nd 910. I am
8 requesting that for both justifiable use of deadly
9 force and justifiable use of non-deadly force on the
10 next to the last paragraph of both of these
11 instructions, which, if in your consideration of the
12 issue of self-defense you have a reasonable doubt on
13 the question of whether the defendant was justified in
14 the use of non-deadly force you should find the
15 defendant not guilty. The requested additional
16 language I have is -- would be right after that
17 sentence. It is the State's burden to overcome the
18 defense and prove beyond a reasonable doubt that
19 Mr. Dobbs was not acting in lawful self-defense.

20 **THE COURT:** All right. State, what is your
21 position?

22 **MS. LASKOFF:** Your Honor, it is the State's
23 position that the jury instruction as it is sufficient
24 to put the jury on notice and make them aware, and we
25 would request that that is not necessary and it is --

1 and ask that it not be included.

2 **THE COURT:** Ms. Vickers, aren't they already told
3 in the paragraph that you just read that if they have a
4 reasonable doubt, they must find the defendant not
5 guilty?

6 **MS. VICKERS:** Right. But it doesn't state that
7 the State's burden to overcome the issue of
8 self-defense and prove beyond a reasonable doubt he was
9 not acting in a lawful self-defense. It doesn't
10 explain it using -- I think that language is more clear
11 than the language in the standard instructions. Again,
12 that is a 2006 case, so obviously, in October of 2006,
13 to have it is somewhat of a new one and these
14 instructions were already, from what I understand,
15 written before that case came out. I just think that
16 if it is true, the case law says the State has the
17 burden to overcome the defense of self-defense and
18 prove that he was not acting lawfully, that the jury
19 should know that.

20 **THE COURT:** I believe the standard instruction
21 already indicates that to the jury and I will not give
22 the requested language. I have included the necessity
23 defense because you had included that in your requested
24 instructions. Ms. Vickers?

25 **MS. VICKERS:** Yes, Your Honor.

1 **THE COURT:** I believe that this is the standard
2 necessity instruction. Any objection to this
3 instruction, State?

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

5 **THE COURT:** Any objection to the form of this
6 instruction, Defense?

7 **MS. VICKERS:** If I can just check real quick
8 against the one that I had done to make sure it is the
9 same.

10 **THE COURT:** Sure, please do. And I did include
11 the lesser included offense as well because I believe
12 necessity would be a defense to the lesser included
13 offense. And it should be second degree murder or
14 manslaughter.

15 **MS. VICKERS:** It is fine. No objection.

16 **THE COURT:** Okay. The next is the self-defense
17 instruction on Count II. I assume you have the same
18 objection to the preliminary paragraph?

19 **MS. VICKERS:** Yes, I do.

20 **THE COURT:** All right. My rule will be the same.
21 See if I can, it would appear that it would be
22 applicable to remove number three just as we did in
23 Count I.

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

25 **MS. VICKERS:** Your Honor, if it helps, umm --

1 **THE COURT:** Or I can just do the same thing that I
2 did in Count I.

3 **MS. VICKERS:** I would do that. The only thing I
4 would say that needs to be changed instead of the word
5 death at all injury and then the names. Other than
6 that, I believe that the instruction I had created
7 would be the same. This would be the same as for Count
8 I that we had already done. So I would expect the same
9 changes to Count I instead of just changing any word of
10 death or murder to injury or aggravated battery. But
11 it is the same.

12 We are talking about felony battery. We are
13 talking about the same issues. As far as I am
14 concerned, I have no objection to it being the same.
15 Whatever we took out of one, we can take out of two and
16 three.

17 **THE COURT:** Okay. State, would you agree to that?

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

19 **THE COURT:** All right. And we are talking about
20 the same thing, with both justifiable use of deadly and
21 non-deadly force.

22 **MS. VICKERS:** Correct, Your Honor, with all the
23 obvious changes about death and names.

24 **THE COURT:** Right. Okay. And the necessity
25 defense as to Count II, I put aggravated battery or any

1 lesser included offense of aggravated assault. Since
2 neither party is requesting a lesser, I need to delete
3 that --

4 **MS. VICKERS:** Correct.

5 **THE COURT:** -- throughout this instruction. Okay.
6 I can do that. I have to be careful in deleting it
7 all.

8 All right. Self-defense as to Count III. I can
9 do the same as I did to I and II, right?

10 **MS. VICKERS:** Correct.

11 **THE COURT:** Okay. And necessity as to Count III.
12 I need to delete or any lesser included offense just as
13 I did in necessity as to Count II.

14 **MS. VICKERS:** Correct.

15 **THE COURT:** All right. Self-defense as to Count
16 IV. Is this any different than -- it would be
17 different because we are dealing with a car.

18 **MS. VICKERS:** Right.

19 **THE COURT:** So you're requesting aggravated
20 assault in number two rather than felony battery.

21 **MS. VICKERS:** I am.

22 **THE COURT:** Okay. And --

23 **MS. VICKERS:** First of all, I am not requesting
24 that justifiable use of deadly force be used on Count
25 IV. I'm only requesting that justifiable use of

1 non-deadly force be used on Count IV.

2 **THE COURT:** All right. State, are you requesting
3 deadly --

4 **MS. LASKOFF:** No.

5 **THE COURT:** So you are only requesting non-deadly?

6 **MS. LASKOFF:** That's fine.

7 **THE COURT:** Okay. So I don't need to deal with
8 that at all. I can take out the beginning paragraph.
9 Both parties understand that a firearm can be construed
10 as being deadly force. I just want to make sure it is
11 clear for the appellate record, and firearm may only be
12 in some instances considered deadly force and
13 non-deadly force.

14 **MS. VICKERS:** Okay. We are actually requesting
15 that.

16 **THE COURT:** So you want to keep both?

17 **MS. VICKERS:** Yes. Sorry. I am sorry. Okay.
18 You can go through it because it's going to be a little
19 bit different.

20 **THE COURT:** It is. All right. With the
21 aggravated assault I will indicate that's the
22 intentional touching or striking of someone against
23 their will.

24 **MS. LASKOFF:** Your Honor, where is that?

25 **THE COURT:** Rather than felony battery it will be

1 aggravated assault with a deadly weapon or knowingly
2 causing great bodily harm, permanent disability or
3 permanent disfigurement. Any objection to that
4 definition, State?

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

6 **THE COURT:** Or defense?

7 **MS. VICKERS:** Did you say a deadly weapon in
8 there?

9 **THE COURT:** Yes, aggravated assault is the actual
10 touching or striking of someone against their will with
11 a deadly weapon or knowingly causing great bodily harm,
12 permanent disability or permanent disfigurement. All
13 right. And are you requesting the same aggravated
14 assault and the following paragraph, number two?

15 **MS. VICKERS:** You mean number three?

16 **THE COURT:** No. I am sorry. I am going too
17 quickly. Number three.

18 **MS. VICKERS:** Yes.

19 **THE COURT:** Okay. You are at aggravated assault
20 and it would be in any vehicle --

21 **MS. VICKERS:** Correct.

22 **THE COURT:** -- occupied by the defendant. Okay.
23 Then I will give the definition of aggravated assault.
24 Then we get to the next paragraph that has two
25 possibilities, and I assume you're asking for

1 aggravated battery in there as well?

2 **MS. VICKERS:** Correct.

3 **THE COURT:** And then we have aggravated battery.
4 The defendant is not charged with any independent
5 forcible felonies, so one would not apply. State, are
6 you requesting two?

7 **MS. LASKOFF:** Yes.

8 **THE COURT:** And defense, you're objecting?

9 **MS. VICKERS:** Yes, Your Honor.

10 **THE COURT:** And I overrule the objection. I
11 believe I still need to delete the two paragraphs that
12 deal with the resisting arrest.

13 **MS. VICKERS:** Correct.

14 **THE COURT:** All right. I will delete those. The
15 next paragraph is read in all instances which the
16 paragraph after that is the no duty to retreat
17 paragraph. I assume you are wanting that?

18 **MS. VICKERS:** Yes.

19 **THE COURT:** The paragraph after that is the
20 presumption of fear paragraph and you want occupied
21 vehicle?

22 **MS. VICKERS:** Yes, Your Honor.

23 **THE COURT:** All right. In an occupied vehicle.
24 And that would be if the victim had unlawfully and
25 forcibly entered, that would not apply. Removed or

1 attempted to remove another person against the person's
2 will. Which of those two would apply? Or I may just
3 have to connect them with or and let the jury decide.

4 **MS. VICKERS:** Let's just do or.

5 **THE COURT:** I will do or between those two
6 possibilities. I will delete dwelling and residence
7 again and only leave occupied vehicle. And that
8 paragraph in the following and then I can delete
9 dwelling and residence, but leave the definition of
10 vehicle if anybody thinks that vehicle needs to be
11 defined.

12 **MS. VICKERS:** No, I don't think it needs to be
13 defined.

14 **THE COURT:** I don't think so either. But if
15 anybody wants it defined, I will define it for the
16 jury.

17 **MS. LASKOFF:** I don't need it defined, Your Honor.

18 **THE COURT:** And defense, you don't need it
19 defined?

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

21 **THE COURT:** Seems to be self-explanatory. The
22 next paragraph is the prior threats. That doesn't seem
23 to apply and reputation for violence, that doesn't seem
24 to apply.

25 **MS. VICKERS:** Correct.

1 **THE COURT:** The next three paragraphs are given in
2 all three cases.

3 **MS. VICKERS:** Also, I would again request the
4 instruction per Jenkins vs. State that we spoke about
5 earlier in the other self-defense instructions.

6 **THE COURT:** I assume you're requesting that in
7 each of the eight self-defense instructions?

8 **MS. VICKERS:** Yes, all of them.

9 **THE COURT:** And my ruling would be the same as to
10 each of them.

11 **MS. VICKERS:** Okay.

12 **THE COURT:** The next is the justifiable use of
13 non-deadly force. The first paragraph is given. The
14 definition of non-deadly force is given. Defense, are
15 you requesting one and two be given, John Dobbs was
16 justified in using non-deadly force against Hanzel
17 Holiday if the following two facts are proved, you're
18 requesting that?

19 **MS. VICKERS:** Yes.

20 **THE COURT:** Are you requesting the next set of
21 paragraphs, the defense of property?

22 **MS. VICKERS:** No.

23 **THE COURT:** Are you requesting the occupied
24 vehicle paragraphs?

25 **MS. VICKERS:** Are you talking about number three?

1 **MS. CHIEN:** Yes.

2 **MS. VICKERS:** Yes.

3 **THE COURT:** Just like the other instruction. I
4 will delete dwelling and residence and I will put or
5 between unlawful and forcibly entered or removed or
6 attempted to remove. Remove dwelling or residence from
7 each of those and from the following paragraphs.

8 After that, if the defendant was not engaged in
9 unlawful activity, then the duty to retreat is always
10 given. I will delete the definitions of dwelling,
11 residence, vehicle, include the sentence a person does
12 not have a duty to retreat. The next set of paragraphs
13 is the use of non-deadly force is not justified if you
14 find one would not apply because the defendant is not
15 charged with an independent forcible felony.

16 State, are you requesting two?

17 **MS. LASKOFF:** Yes, Your Honor.

18 **THE COURT:** And defense, you're objecting?

19 **MS. VICKERS:** Yes.

20 **THE COURT:** My ruling will be the same. The two
21 paragraphs following that which talk about resisting
22 arrest would not apply. The paragraph after that which
23 starts in deciding whether is given in all cases. I
24 would delete the paragraph regarding reputation and
25 give the final three understanding that the defense is

1 requesting an additional to those which we have
2 discussed and I have denied.

3 **MS. VICKERS:** Correct.

4 **THE COURT:** And then the necessity paragraph for
5 Count IV, I need to take out or assault throughout.

6 **MS. VICKERS:** Correct.

7 **THE COURT:** Any other changes requested by the
8 State to that instruction?

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

10 **THE COURT:** Before we get into the rest of the
11 standard instructions, any additional instructions
12 requested by the State?

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

14 **THE COURT:** Any additional instructions requested
15 by the defense before we get into the balance of the
16 standards?

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

18 **THE COURT:** Okay. The next instruction in the
19 packet is plea of not guilty, reasonable doubt, burden
20 of proof. Any objection, State?

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

22 **THE COURT:** Any objection, defense?

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

24 **THE COURT:** The next is the standard weighing the
25 evidence. One through five are always given. State,

1 are you requesting any of six through ten?

2 **MS. LASKOFF:** I would request eight, nine and
3 that's it.

4 **THE COURT:** Defense, are you requesting any of six
5 through ten?

6 **MS. VICKERS:** Just eight and nine, I agree.

7 **THE COURT:** Then I have deleted six, seven and
8 ten, and renumber eight and nine to six and seven. The
9 next is the standard instruction on expert witnesses.
10 Any objection, State?

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

12 **THE COURT:** Any objection, defense?

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

14 **THE COURT:** The next is the standard instruction
15 on defendant testifying. Any objection, State?

16 **MS. LASKOFF:** Oh, no, I am sorry.

17 **THE COURT:** Any objection, defense?

18 **MS. VICKERS:** Yes, Your Honor. I don't want that
19 read.

20 **THE COURT:** And what is your lawful reason for
21 having it read in?

22 **MS. VICKERS:** My lawful reason is that I think
23 that is some kind of burden on the defense to prove
24 something. I think that although it says you should
25 apply the same rules of consideration to the

1 defendant's testimony, I think it just highlights the
2 fact that he testified and that it kind of -- I
3 think -- I don't want to say the tone of it, but I
4 think just the way it is read makes it sound like it
5 just highlights the fact that the defendant is
6 different from everybody else and if we are truly
7 saying the same rules apply to him, I don't think we
8 should highlight that he's any different from any other
9 witness. We don't have anything saying the victims
10 testified, you should apply the same rules to them. I
11 think it highlights the fact and makes it sound
12 different and makes it sound prejudicial.

13 **THE COURT:** I will give it. I will delete
14 defendant not testifying. I will delete defendant's
15 statements. The next is the standard rules for
16 deliberation. Any objection, State?

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

18 **THE COURT:** Any objection, defense?

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

20 **THE COURT:** The next is the standard cautionary
21 instruction. Any objection, State?

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

23 **THE COURT:** Any objection, Defense?

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

25 **THE COURT:** The next is the standard verdict. Any

1 objection, State?

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

3 **THE COURT:** Any objection, Defense?

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

5 **THE COURT:** The next is the single defendant
6 multiple counts, and I will delete or information from
7 the title. Any objection, State?

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

9 **THE COURT:** Any objection, defense?

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

11 **THE COURT:** And the final is the standard
12 instruction on submitting the case to the jury. Any
13 objection, State?

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

15 **THE COURT:** Any objection, defense?

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

17 **THE COURT:** Do you have, by any chance,
18 Ms. Laskoff verdict forms?

19 **MS. LASKOFF:** I have some, but not the
20 manslaughter lessers. And I just have one copy that my
21 secretary gave me.

22 **THE COURT:** Do you have the crucial one, probably
23 the one that we need. The others are simple to create,
24 but do you have the discharging the special findings?

25 **MS. LASKOFF:** I do not, we still need to prepare

1 that Your Honor.

2 **THE COURT:** All right. We were going to do a
3 special verdict on Count I as well as to whether the
4 defendant did carry, display, use, threaten to use or
5 attempt to use a weapon. In the alternative special
6 verdict, the defendant did not carry, display, use,
7 threaten to use, or attempt to use the weapon.

8 If you could please provide that to Ms. Vickers.
9 I suppose it wouldn't be important this evening,
10 because your secretary is already gone, or close to.

11 **MS. LASKOFF:** She's probably --

12 **THE COURT:** If you could provide those to her
13 first thing in the morning?

14 **MS. VICKERS:** Electronically would be lovely if
15 you are able to do that.

16 **THE COURT:** State will have first and last in
17 closing. State, do you have any idea how long you
18 need?

19 **MS. LASKOFF:** I am assuming 45 minutes to an hour.

20 **THE COURT:** All right. Defense, do you have any
21 idea?

22 **MS. CHIEN:** Forty-five minutes.

23 **THE COURT:** Okay. Very well. Then I will see
24 everybody on this case in the morning at 9:30.

25 **MS. VICKERS:** Mr. Dobbs wanted to address the

1 Court.

2 **THE COURT:** Yes, sir.

3 **THE DEFENDANT:** Yes, I was wondering tomorrow will
4 I be able to read what I wanted to read to the family
5 of William Troy, and speak?

6 **THE COURT:** The appropriate time for that -- we
7 have to talk about it. It probably will not be
8 tomorrow. It may not be until after the deliberations
9 are over. We will just have to see.

10 **THE DEFENDANT:** I know I don't want it to seem,
11 like, you know, I am just saying that, you know, after
12 the verdict or --

13 **THE COURT:** Right. I appreciate it.

14 **THE DEFENDANT:** All right. Thank you.

15 **THE COURT:** We have one other matter, sorry. The
16 clerk indicated that when she was going through the
17 defense exhibit, which is number one, which was I for
18 identification, she thought there were 11 photographs,
19 but there are actually 12 and she -- but it was in the
20 group of photographs. She wants to indicate on the tag
21 that this is a composite of 12 photographs and mark
22 this one number 12 on the back. Any objection, State?

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

24 **THE COURT:** Or defense?

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

1 **THE COURT:** All right. Very well. We will be in
2 recess as to this case until 9:20. As to all other
3 matters, 9:45.

4 (Whereupon, the foregoing proceedings were
5 concluded.)

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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 _____ day of _____ 2007, in the City of Orlando, County of Orange, State of Florida.

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