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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 IV 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 CATHERNIE CHIEN

Assistant Public Defender
435 N. Orange Avenue
Suite 400
Orlando, Florida 32801
On behalf of the Defendant

I N D E X

2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	Hanzel Holiday	434	443	452	455
4	Amanda Johnson	457	465	470	471
5	Dr. Marie Hansen	474	492	498	
6	Daniel Radcliffe	504	508	512	
7	Allison Wright	513			
8	Donald Swift	523			
9	Deanna Washington	528	539	567	570
10	John Dobbs	576	608	623	

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P R O C E E D I N G S

1
2
3 **MS. CHIEN:** I dropped off a white shirt for
4 Mr. Dobbs. Is there any way we can bring a white shirt
5 for him? I dropped it off after the first day of the
6 trial, and that was -- and I followed procedure which
7 is dropping it off at the visitation center and they
8 are not changing it.

9 **THE COURT:** Do you have one?

10 **MS. CHIEN:** It is at the office.

11 **THE COURT:** Well, if you can get it here before
12 all the jurors get here, that would be fine. Are there
13 any matters that we need to take up while we are
14 waiting for the balance of the jury?

15 Ms. Vickers, we are waiting for one more juror.
16 You may want to go out and talk to your witness before
17 that juror gets here because when that juror gets here,
18 I am starting.

19 (Court was at ease.)

20 **THE COURT:** We do have all of our jurors now. Are
21 we ready to go forward?

22 **MS. LASKOFF:** Your Honor, I would just ask that
23 the Court inquire whether Mr. Dobbs has anything to
24 address the Court, because it seems he's dissatisfied
25 with some matters. Other than that, I am ready to

1 proceed.

2 **THE COURT:** All right. Mr. Dobbs, anything you
3 want to discuss with me? I asked you that question
4 previously, and I did not get an answer, so I am fixin'
5 to bring the jury in.

6 **THE DEFENDANT:** One more second.

7 **THE COURT:** Okay. Let's bring the jury in,
8 please.

9 (Jury enters the courtroom.)

10 **THE COURT:** You may be seated. State, you
11 recognize the presence of the jury sworn to try this
12 matter?

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

14 **THE COURT:** Defense, do you?

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

16 **THE COURT:** Let the record reflect that counsel
17 for each party is present as is the defendant as he has
18 been throughout.

19 State, you may call your next witness.

20 **MS. BARRA:** Your Honor, at this time the State
21 calls Mr. Holiday.

22 Thereupon,

23 **HANZEL HOLIDAY**

24 was called as a witness and, having first been duly sworn,
25 testified as follows:

1 **MS. BARRA:** May it please the Court?

2 **THE COURT:** You may inquire.

3 **MS. BARRA:** Thank you.

4 **DIRECT EXAMINATION**

5 **BY MS. BARRA:**

6 **Q** Good morning, sir.

7 **A** Good morning.

8 **Q** Could you please state your name and spell your
9 last name for the court reporter.

10 **A** Hanzel Holiday. H-A-N-Z-E-L. Z as in zebra.
11 Holiday, H-O-L-I-D-A-Y.

12 **Q** Thank you, sir. Sir, on October 25, 2006, where
13 were you employed?

14 **A** I be employed at the Cabaret International on OBT.

15 **Q** What establishment is that across the street from?

16 **A** Umm, it is across from Thee Dollhouse.

17 **Q** And sir, on that date at approximately 2:15 in the
18 morning, did you get involved in an incident that was
19 happening?

20 **A** Yes, I did. I was leaving work and my supervisor
21 Allen was working across the street and I seen a lot of --
22 bunch of people doing, you know, something is going on. So
23 I drove across the street to see what was going on.

24 **Q** And what were you in, what type of a vehicle were
25 you in?

1 **A** I was in a F-150 Ford truck.

2 **Q** And so you drove across the street and did you
3 actually stop and talk with somebody?

4 **A** No, Allen told me to stop that car right there.
5 It was an Acura, a gray Acura.

6 **Q** So, were your windows down at this time?

7 **A** Yes, it was.

8 **Q** And was he yelling at you to do this?

9 **A** Yes, he was, yes.

10 **Q** So it is not like you pulled up to him and talked
11 about it.

12 **A** No, no.

13 **Q** And did you see the vehicle that he wanted you to
14 stop?

15 **A** Yes, I see it was leaving the parking lot.

16 **Q** And what did you do?

17 **A** I got behind the vehicle and I bumped the vehicle
18 when he was trying to go onto Orange Blossom Trail.

19 **Q** What do you mean by you bumped the vehicle?

20 **A** I hit the vehicle, tried to stop it.

21 **Q** Whereabouts in the parking lot was the vehicle
22 when you did this?

23 **A** It was coming out at the entrance, coming out
24 going on Orange Blossom Trail.

25 **Q** So it was coming out the entrance?

1 **A** Yes, there is two entrances. There is two
2 entrances that go in there.

3 **Q** Okay. But it wasn't quite to OBT?

4 **A** No, no. It was coming out from one entrance
5 around, like you got something that come around and you got
6 back on the back on the side street. And he -- I came in
7 from the front park where the valet parking at. I came in
8 there and was coming out the other way. Come to the stop
9 sign. It wasn't a stop sign, but it was coming out on the
10 trail there.

11 **Q** When you bumped the vehicle, was it clear that you
12 had hit it?

13 **A** Yeah.

14 **Q** Did the vehicle stop?

15 **A** No.

16 **Q** What happened?

17 **A** It pulled on out and made a right on 441, started
18 back towards Kissimee.

19 **Q** What was the speed level of the vehicle?

20 **MS. VICKERS:** I object as to speculation.

21 **THE COURT:** Overruled.

22 **THE WITNESS:** I got it to run about 40 miles an
23 hour. He wasn't moving that fast.

24 **BY MS. BARRA:**

25 **Q** Would you say like a normal pace for a vehicle?

1 **A** Yeah.

2 **Q** Okay. So after it went onto 441, what did you do?

3 **A** There was a cab driver behind me and we tried to
4 stop it. I hit it again down the road just before you get
5 to Oakridge and then I pulled on the side of it.

6 **Q** Now, if are you -- when you are doing this, are
7 you honking the horn or doing anything like that?

8 **A** No.

9 **Q** Okay. So then you pulled alongside of it?

10 **A** Yes.

11 **Q** What side of the vehicle did you pull alongside,
12 was it the passenger side or the driver's side?

13 **A** Driver's side.

14 **Q** As you are driving, your passenger side is closest
15 to the driver's side?

16 **A** Right. Right.

17 **Q** When you pulled alongside of it, what was your
18 intention there?

19 **A** My intention was to try to force it off the road.

20 **Q** Did you know the person in this vehicle?

21 **A** No.

22 **Q** Had you ever seen the person before?

23 **A** No.

24 **Q** Why were you so intent on forcing it off the road?

25 **A** Because it was like I saw people on the ground at

1 Thee Dollhouse. They was bleeding.

2 **Q** Did you, in your mind, was this a suspect to that?

3 **A** Yes.

4 **Q** So when you pulled alongside of the driver's side,
5 what happened?

6 **A** When I pulled alongside of the driver's side, a
7 hand came out the window with a gun like this, it was like a
8 gun came across like this.

9 **Q** Now, when the gun came across like that --

10 **A** I hit my brakes because I was really scared, so I
11 hit my brakes, and then I seen fire, sounded like two shots
12 was fired.

13 **Q** Okay. Okay. I am gonna slow you down for a
14 second. How far down did the window go on the driver's
15 side?

16 **A** It didn't go all the way down.

17 **Q** It wasn't all the way?

18 **A** It was just -- his arm came down the window like
19 this.

20 **Q** Could you see the face of the driver?

21 **A** No, I never did see the face.

22 **Q** Now, for the record, you are motioning with your
23 right hand over across your body.

24 **A** Yeah. It was like, like a person like you coming
25 across with a gun like this. That's the way it looked like,

1 like it was holding like this, because the gun was pointed
2 like this.

3 Q And was it, the gun, actually pointed at you?

4 A Yes, it was. It was pointed at the passenger side
5 of my truck.

6 Q In the manner in which he was holding the gun, did
7 it appear that his finger was on the trigger?

8 A On the trigger, yeah.

9 Q Whereabouts are you as far as the streetwise goes,
10 what street are you on?

11 A Well, we had just passed Oakridge.

12 Q Oakridge?

13 A Yeah.

14 Q Is that in Orange County, Florida?

15 A Yes, it is.

16 Q You stated that as soon as you saw the gun out the
17 window, that's when you hit the brakes?

18 A Yes.

19 Q Was there anybody -- was the cab driver still
20 behind you?

21 A Yeah. We turned around about the same time and we
22 went back up to the club.

23 Q I am sorry, say that again?

24 A We turned around and went back up to the club.

25 Q As you hit the brakes, what exactly did you see,

1 if anything, the gun do?

2 **A** I saw some fire.

3 **Q** What do you mean by fire?

4 **A** Like when you shoot a gun at night, and like fire
5 come out the barrel of it.

6 **Q** Like a flash of light?

7 **A** Yeah.

8 **Q** Could you hear anything?

9 **A** Sounded like it was two shots.

10 **Q** And this is all happening when you put on the
11 brakes?

12 **A** Yes.

13 **Q** After you saw the gun and saw the fire, were you
14 in contact with the police at all?

15 **A** Yes, I was. When I got -- no, I wasn't in contact
16 with the police. I think Allen said he had already called
17 the police. I went back up to the club and when I got back
18 up there, they was there and the paramedics.

19 **Q** Did you ever see the police on the roadway?

20 **A** No.

21 **Q** Coming to --

22 **A** No.

23 **Q** And so, when you went back to Thee Dollhouse, did
24 you talk to the police there?

25 **A** Yes, I did.

1 **MS. BARRA:** Your Honor, may I have a moment?

2 **THE COURT:** You may.

3 **BY MS. BARRA:**

4 **Q** Sir, you stated that Allen had yelled across the
5 way. Is Allen your manager?

6 **A** Supervisor, yes.

7 **Q** Your supervisor. Does Allen go by the name
8 Phillip?

9 **A** Yes.

10 **Q** Phillip Westfall?

11 **A** I think that's his last name. I don't really know
12 his last name.

13 **Q** Okay. And what was his role across at Thee
14 Dollhouse?

15 **A** He was working over there at night.

16 **Q** Okay.

17 **MS. BARRA:** Your Honor, may I approach the
18 witness?

19 **THE COURT:** You may.

20 **BY MS. BARRA:**

21 **Q** Sir, I am showing you what's State's Exhibit
22 Number 3. Do you recognize this?

23 **A** Yes.

24 **Q** And what is that a photo of?

25 **A** That's the car that night. Because I was telling

1 them about the tag, because they were asking me about the
2 paper tag, and I was telling them it was a paper tag, and I
3 saw the car.

4 **Q** So that is the Acura that you were following?

5 **A** Yes.

6 **Q** Sir, as soon as you saw that gun come out the
7 window, how did that make you feel?

8 **A** I was afraid.

9 **Q** Afraid for?

10 **A** My life.

11 **MS. BARRA:** Thank you, sir. I have no further
12 questions.

13 **THE COURT:** Cross-examination?

14 **MS. VICKERS:** Thank you.

15 **CROSS-EXAMINATION**

16 **BY MS. VICKERS:**

17 **Q** Good morning, Mr. Holiday.

18 **A** Good morning.

19 **Q** How you doing today?

20 **A** Okay.

21 **Q** Now, Thee Dollhouse, that's owned by the Cabaret,
22 owned by the same people?

23 **A** Yes, it is.

24 **Q** And your boss, Allen, who is also Phillip
25 Westfall, kind of runs all the valets out of those two

1 clubs?

2 **A** Yes. He run -- it is more clubs than that.

3 **Q** How many clubs all together do you have?

4 **A** I think seven of them.

5 **Q** Seven of them. Okay. So he runs the valet for
6 all seven clubs?

7 **A** Right.

8 **Q** And so you work for him?

9 **A** Right.

10 **Q** Okay. Now, The Dollhouse is located on Orange
11 Blossom Trail, is that correct?

12 **A** Correct.

13 **Q** Kind of a bad part of town?

14 **A** I don't really know. I guess it is a bad part of
15 town. People say that.

16 **Q** Okay. And it was obviously dark out that night?

17 **A** Yeah. But they have lights on the outside out
18 there.

19 **Q** Okay. But this happened around?

20 **A** 2:15 in the morning. I was leaving work from
21 cross (sic) from Cabaret.

22 **THE COURT:** If there are any cell phones, please
23 turn them off. You may continue.

24 **BY MS. VICKERS:**

25 **Q** Now, an F-150, that's a pretty big truck, isn't

1 it?

2 **A** Yes, it is.

3 **Q** It is one of the larger trucks on the market right
4 now, is that right?

5 **A** No.

6 **Q** Okay.

7 **A** It's not the largest one. They have got a 250,
8 350, they got a lot of trucks bigger than that.

9 **Q** But it is not as small as like a Ranger or
10 anything like that?

11 **A** No, it is the next size to the Ranger.

12 **Q** It is mid -- kind of a medium size truck?

13 **A** Yes.

14 **Q** But it is obviously much bigger than an Acura?

15 **A** Yes.

16 **Q** Now, did you announce who you were to the person
17 in the Acura?

18 **A** No.

19 **Q** Did you have a conversation with him, hey, stop,
20 come back, we got to figure out what's going on here?

21 **A** No.

22 **Q** You were just following him?

23 **A** Yeah.

24 **Q** And you were trying to ram him off the road,
25 weren't you?

- 1 **A** No, I was just trying to stop him.
- 2 **Q** And the way you were trying to stop him was to ram
3 him off the road, correct?
- 4 **A** I ran him off the road to stop him.
- 5 **Q** In fact, you rammed their car twice?
- 6 **A** Right.
- 7 **Q** And with your F-150?
- 8 **A** Yeah.
- 9 **Q** Now, this is happening, all happening pretty
10 quickly, right?
- 11 **A** Yes.
- 12 **Q** And the Acura is driving away from you, right?
- 13 **A** Uh-huh.
- 14 **Q** So the Acura wasn't driving towards you?
- 15 **A** No.
- 16 **Q** The Acura wasn't trying to harm you in any way,
17 correct? The Acura was going away?
- 18 **A** Yeah. But they had harmed somebody else.
- 19 **Q** Okay. But it wasn't trying to hurt you?
- 20 **A** No.
- 21 **Q** They were trying to get away from you, weren't
22 they?
- 23 **A** They were trying to get away from the scene, not
24 away from me.
- 25 **Q** But you were ramming them off the road?

1 **A** Yeah, I was trying to stop them.

2 **Q** Okay. And so if you are trying to ram somebody
3 off the road, obviously they are trying to get away from
4 you?

5 **A** No, they were trying to get away before I tried to
6 stop them.

7 **Q** But in the process -- follow me -- in the process,
8 while you are trying to ram them off the road, they are
9 trying to get away from you because you are ramming them,
10 you are hitting their car?

11 **MS. BARRA:** Objection. Asked and answered.

12 **THE COURT:** Overruled.

13 **BY MS. VICKERS:**

14 **Q** You can answer that.

15 **A** Excuse me?

16 **Q** They are leaving the scene?

17 **A** Right.

18 **Q** We are all clear on that. You are chasing them
19 down the road hitting their car twice trying to ram them off
20 the road?

21 **A** Right.

22 **Q** So they are trying to get away, also, from you?

23 **MS. BARRA:** Objection, calls for speculation.

24 **THE COURT:** Overruled.

25

1 **BY MS. VICKERS:**

2 **Q** You can answer that.

3 **A** They are trying to get away from the scene. I
4 don't know they are trying to get away from me. I think
5 they were trying to get more away from the scene than to get
6 away from me, but I think they knew I was trying to stop
7 them.

8 **Q** Okay. Now, you said that you saw a gun come out
9 the window?

10 **A** Yes.

11 **Q** When the Acura was leaving the parking lot, were
12 the windows up or down?

13 **A** They was up. They was up.

14 **Q** Okay. And you said that the gun came across the
15 person, correct?

16 **A** Right.

17 **Q** So the left hand would have been on the steering
18 wheel, correct?

19 **A** Yes.

20 **Q** And so the right hand --

21 **A** It came out like this.

22 **Q** Okay. Now, are you familiar with guns at all?

23 **A** A little bit.

24 **Q** And guns make a pretty loud noise when they are
25 fired?

1 **A** Yeah, they do.

2 **Q** Okay. And you said you didn't hear a shot, you
3 just saw like a flash?

4 **A** I thought I heard a gunshot, yeah.

5 **Q** Okay. But you thought you heard -- you are not
6 sure you heard --

7 **A** Yeah, but the cab driver said it was two.

8 **MS. VICKERS:** I am going to object, Your Honor, as
9 to hearsay. I didn't elicit that response.

10 **THE COURT:** You can't tell us what other people
11 told you.

12 **THE WITNESS:** Okay.

13 **BY MS. VICKERS:**

14 **Q** So you thought you heard a gunshot?

15 **A** Yeah, two shots.

16 **Q** Okay. Now, do you remember giving a statement to
17 the police officers that night?

18 **A** Yes.

19 **Q** And in that statement you told them you heard, or
20 you thought you heard a gunshot, not two, is that right?

21 **A** I said gunshots. I thought I said two, a couple
22 of shots.

23 **Q** All right. Now, so we have established that guns
24 make a pretty loud noise, correct?

25 **A** Yes.

1 **Q** And if somebody is holding the gun across their
2 body, it would make a pretty loud noise right near their
3 ear, correct?

4 **A** Correct.

5 **Q** Could blow out their eardrum, correct?

6 **A** Correct.

7 **Q** And did you see what kind of gun this was?

8 **A** All I seen was a gun, looked like a nine
9 millimeter.

10 **Q** Did you see what color it was?

11 **A** It was a dark gun, black gun.

12 **Q** Now, nine millimeter, semiautomatic revolver, what
13 was it?

14 **A** I don't know what it was, whether it was a
15 semiautomatic, or an automatic. I know it looked like an
16 automatic gun.

17 **Q** Okay.

18 **A** The way they put the thing in the bottom.

19 **Q** Now, when an automatic or a semiautomatic gun is
20 fired, projectiles, casings come out of the gun, is that
21 correct?

22 **A** Yes.

23 **MS. BARRA:** Objection Your Honor.

24 **THE COURT:** Overruled.

25

1 **BY MS. VICKERS:**

2 **Q** So, just so the jury understands, when an
3 automatic, semiautomatic is fired, the bullet comes out, is
4 that right?

5 **A** Uh-huh.

6 **Q** You have to say yes or no.

7 **A** Yes.

8 **Q** And then the casing, which held the actual bullet
9 comes out like of the gun as well?

10 **A** Right.

11 **Q** Okay. But it doesn't -- the casing doesn't come
12 out with as much force as the bullet does, obviously?

13 **A** No, it doesn't.

14 **Q** It just kind of pops back out?

15 **A** Right.

16 **Q** Is that correct?

17 **A** Right.

18 **Q** Now, have you ever been convicted of a felony
19 before?

20 **A** Yes, I have.

21 **Q** How many times?

22 **A** Four or five.

23 **Q** Okay.

24 **MS. VICKERS:** If I can have just a moment, Your
25 Honor?

1 **THE COURT:** You may.

2 **MS. VICKERS:** Nothing further.

3 **THE COURT:** Any redirect?

4 **MS. BARRA:** Yes, Your Honor, just briefly.

5 **REDIRECT EXAMINATION**

6 **BY MS. BARRA:**

7 **Q** Sir, what exactly did Allen say to you when you
8 pulled into the parking lot?

9 **MS. VICKERS:** Objection, hearsay.

10 **THE WITNESS:** He said --

11 **THE COURT:** Hold on. Approach, please.

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

13 **THE COURT:** Do you have any exception? You are
14 speaking --

15 **MS. BARRA:** Yes, ma'am. One, it clearly goes to
16 his state of mind and what caused him to act. Two, it
17 is an excited utterance that was in the middle of what
18 was happening. He yells this. Umm, so we would ask
19 under the state of mind and exception to utterance
20 exception --

21 **THE COURT:** What do you expect the answer to be?

22 **MS. BARRA:** I expect the answer to be that I
23 believe that that mother fucker just stabbed someone,
24 and then he says follow him. Or get him or stop him.
25 So I believe he's going to say that mother fucker just

1 stabbed somebody. Stop him. And that's what causes
2 him to act the way he did.

3 **THE COURT:** All right.

4 **MS. VICKERS:** I would argue that it is not an
5 excited utterance because it is after the fact, because
6 the fight had ended and it is after the fact.
7 Furthermore, it -- they are trying to bring it in for
8 the truth of the matter asserted as to what he did
9 after the statement to show how he reacted to it.

10 **THE COURT:** So clearly it would be hearsay, but it
11 might be covered by an exception. Any other argument
12 with regard to the excited utterance?

13 **MS. VICKERS:** Just that clearly the fight had
14 stopped at that point and people had previously
15 testified that people were going to get towels and
16 water and things like that. It wasn't as if it was
17 still -- the chaos was still going on at that point.
18 The fight was done, and they were reacting to after the
19 fact.

20 **THE COURT:** Okay. I do find that this is still
21 within the excitement of the moment, and that they have
22 established the predicate for an excited utterance, so
23 I will find that there is an exception to the hearsay.
24 I do find an exception and will overrule the objection.

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

1 **BY MS. BARRA:**

2 **Q** Sir, exactly what did Allen say when he was
3 yelling at you?

4 **A** He said stop that vehicle.

5 **Q** Did he tell you why?

6 **A** He said it had just been a stabbing and I saw the
7 people laying on the ground.

8 **Q** Did he say there had just been a stabbing or that
9 he had actually stabbed him?

10 **A** No. He --

11 **MS. VICKERS:** Object to hearsay.

12 **THE COURT:** I will sustain as to leading.

13 **BY MS. BARRA:**

14 **Q** Sir, when you stated that, when you saw the gun
15 out the window, how far out the window was it?

16 **A** It was like right on the edge, dropped there. You
17 could see his hand, right across here.

18 **Q** Would that be the window up on his wrist area?

19 **A** Yeah.

20 **Q** So his entire hand was out the window?

21 **A** Yeah. Like this, this part was right across the
22 window, right here.

23 **Q** Okay.

24 **MS. BARRA:** Your Honor, may I approach the
25 witness?

1 **THE COURT:** You may.

2 **BY MS. BARRA:**

3 **Q** Sir, I am showing you what has been entered into
4 evidence as State's Exhibit Number 5. Does that look like
5 the gun that you saw?

6 **A** Yeah. A black gun like that, yeah.

7 **MS. BARRA:** Thank you, sir. I have no further
8 questions.

9 **THE COURT:** Any recross?

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

11 **REXCROSS EXAMINATION**

12 **BY MS. VICKERS:**

13 **Q** Now, real quick. Mr. Holiday, you are not a
14 police officer, are you?

15 **A** No.

16 **Q** And you have no lawful authority to stop anyone,
17 do you?

18 **A** No.

19 **MS. VICKERS:** May I approach?

20 **THE COURT:** Yeah.

21 **MS. VICKERS:** May I have permission to handle
22 this?

23 **THE COURT:** Yeah. You wish to have some gloves?

24 **MS. VICKERS:** Sure.

25 **THE COURT:** And if I can just have the deputy

1 check it again today. He did check it yesterday.

2 **BY MS. VICKERS:**

3 **Q** So Mr. Holiday, just to make sure we are all very
4 clear. You are saying that the person stuck the gun out
5 like this?

6 **A** No, no, like this.

7 **Q** Is wasn't like by his body, like this? It was
8 like this?

9 **A** Like this.

10 **Q** Like this?

11 **A** Yeah.

12 **Q** And if they had fired the gun -- I am sorry, if
13 they had fired the gun -- I will do it on the ground. I
14 think we all agree that it is up. If they fired the gun
15 like that, the projectiles would have come out and gone
16 back, is that correct?

17 **A** Right.

18 **Q** Okay, thank you.

19 **MS. VICKERS:** I have nothing further.

20 **THE COURT:** Any redirect?

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

22 **THE COURT:** May this witness be excused?

23 **MS. BARRA:** Yes, Your Honor.

24 **THE COURT:** Defense, may this witness be excused?

25 **MS. VICKERS:** Nothing further.

1 **THE COURT:** Thank you.

2 State, call your next witness.

3 **MS. LASKOFF:** Amanda Johnson.

4 Thereupon,

5 **AMANDA JOHNSON**

6 was called as a witness and, having first been duly sworn,
7 testified as follows:

8 **MS. LASKOFF:** Good morning.

9 **THE COURT:** You may inquire.

10 **DIRECT EXAMINATION**

11 **BY MS. LASKOFF:**

12 **Q** Can you introduce yourself to the jury, please.
13 Tell them your name?

14 **A** My name is Amanda Johnson.

15 **Q** And where is it that you work, Ms. Johnson?

16 **A** I work at the Florida Department of Law
17 Enforcement, Orlando Regional Operations Center in the
18 firearms section.

19 **Q** And how long have you worked with FDLE?

20 **A** I have worked with FDLE for seven years.

21 **Q** Okay. And what training have you had specifically
22 relating to being in the firearms section?

23 **A** I started out in the firearms section as a
24 forensic technologist which means I assisted with case work
25 and did some case work related duties. I also received two

1 years of training in firearms examination and
2 identification. Part of my training was to go to the Bureau
3 of Alcohol Tobacco Firearms and Explosives National Firearms
4 Examiner Academy where I trained in firearms assemblies,
5 firearms identification, microscope work, tool marks, serial
6 number restoration.

7 **Q** Okay. And what specifically at FDLE are your
8 duties as a firearm analyst?

9 **A** As a --

10 **MS. VICKERS:** We will stipulate she's an expert in
11 firearms and firearm analysis.

12 **MS. LASKOFF:** I would just request permission from
13 the Court to have this witness offer opinion testimony
14 with regard to firearm analysis.

15 **THE COURT:** Based upon this stipulation, she will
16 be permitted to give her opinion.

17 **MS. LASKOFF:** Thank you, Your Honor.

18 **BY MS. LASKOFF:**

19 **Q** Can you just tell the jury what your duties are
20 specifically relating to firearms analysis at the lab?

21 **A** I examine firearms and firearms related evidence
22 which can include fired ammunition components, and clothing
23 that may have been involved -- somebody who has been shot, I
24 also do tool mark examinations.

25 **Q** Okay. I am going to take you specifically to FDLE

1 case number 2006-0514280. Were you an analyst involved in
2 this case?

3 **A** Yes, I was.

4 **Q** And how is it you became involved in this case?

5 **A** I was assigned the case.

6 **Q** Okay. And the jury has kind of heard about
7 evidence, the evidence section at FDLE in relating to other
8 matters. Are firearms processed in the same manner at FDLE
9 as other evidence is processed?

10 **A** Yes.

11 **Q** So it goes from the vault at FDLE once it is
12 received from whatever agency submits it and then you obtain
13 it?

14 **A** Yes, the one difference for firearms is that they
15 do go through a safety check prior to being entered into the
16 vault.

17 **Q** And can you just explain to the jury briefly what
18 that means?

19 **A** As the evidence comes in, a trained firearms
20 inspector goes down and checks to make sure the firearm is
21 not loaded for safety considerations.

22 **Q** All right. And what assurances are there for
23 contamination, anything happening to cause this evidence to
24 be mixed up with some other case, or something happening in
25 that resort?

1 **A** The firearms inspector is well-versed in evidence
2 handling. They use gloves so that they don't disturb any
3 latent prints and they package -- they open one package at a
4 time, check the gun to make sure it is unloaded, put it
5 right back in the package and seal it up.

6 **Q** Okay. Now --

7 **MS. LASKOFF:** If I may approach the witness, Your
8 Honor?

9 **THE COURT:** You may.

10 **BY MS. LASKOFF:**

11 **Q** I am showing you what has been marked as State's
12 5, and this has come off it. It was taped to it. If you
13 could look at this item and tell me if you recognize what
14 that is?

15 **A** Okay.

16 **Q** Do you recognize what that is?

17 **A** Recognize the packaging, yes.

18 **Q** How do you recognize the packaging?

19 **A** By the FDLE bar codes placed on the container as
20 well as my initials on the packaging itself.

21 **Q** And can you open it up and let me know if you
22 recognize what this item is, and if it is in substantially
23 the same condition as when you last saw it.

24 **A** May I have a glove, please.

25 **Q** Okay. You recognize those?

1 **A** Yes, I do.

2 **Q** And what are those items?

3 **A** This is a high point model C9 semiautomatic
4 pistol. The magazine for the pistol and eight cartridges.

5 **Q** Okay. And for us folks that are not familiar with
6 guns, what are cartridges and a magazine?

7 **A** Cartridges are the pieces of ammunition. It
8 refers to the whole piece of ammunition. That's the bullet
9 that will come out of the gun. It is also the cartridge
10 case which holds the powder and the primer together in one
11 unit.

12 **Q** Okay. Now, what testing is it that you did on
13 these items?

14 **A** The testing that I did was first, just to document
15 the condition that I received the gun in, then I test fired
16 it using laboratory ammunition and the magazine that was
17 submitted to make sure the magazine worked and that the
18 firearm functioned.

19 **Q** First, let's talk about the examination. What
20 upon examining the firearm did you discover?

21 **A** I discovered that the serial number had been
22 obliterated and then painted over on the bottom of the
23 frame.

24 **MS. LASKOFF:** Your Honor, could I ask permission
25 that this witness may step down and show to the jury

1 what it is that she's referencing to by pointing to the
2 weapon?

3 **THE COURT:** She may.

4 **MS. VICKERS:** I am just going to object as to
5 relevance as to the serial number.

6 **THE COURT:** Overruled.

7 **THE WITNESS:** Would you like me to show them the
8 gun?

9 **BY MS. LASKOFF:**

10 **Q** Yes, if you can just step down and show them on
11 the gun what it is you are talking about in regard to the
12 serial number and you can talk in front of the jury.

13 **A** I am referring to this area down here. When I
14 received it, there was plastic covering. Most of this metal
15 plate and the very center part of this metal plate, which
16 you can see has some grinding marks on it was painted over
17 so those grinding marks were not visible when I originally
18 received the weapon.

19 **Q** Now, after the physical examination of it, can you
20 explain to the jury -- you did further testing on the
21 magazine and the firearm itself. Can you explain to the
22 jury what exactly you did at this point in regard to the
23 test fire?

24 **A** In regard to test firing, when I test fired the
25 gun, after examination, I simply take laboratory ammunition

1 of the same caliber as the cartridges that were submitted.
2 I labeled them, placed them in the magazine, put them in the
3 gun that I received, and fired them into a big tank of
4 water. The reason I do that is because the bullets are able
5 to be recovered from that. I recovered the bullets and the
6 cartridge cases and then I have fired standards from this
7 weapon and prove that the firearm did function.

8 **Q** Okay. So it could shoot a bullet?

9 **A** Yes.

10 **Q** Okay. Now, just so the jury is clear, there's
11 bullets in one of those envelopes, correct?

12 **A** They are the cartridges, full pieces of
13 ammunition.

14 **Q** And those are the things that the gun shoots out
15 also known as the projectile, correct?

16 **A** Right.

17 **Q** And the ones that are in there, are those the
18 ones, all of the ones that were in the gun when you received
19 it, or in the magazine when you received it?

20 **A** I received the cartridges inside this envelope
21 which also had the magazine that I used to test fire this
22 gun.

23 **Q** Okay. And just to make it clear, so you did not
24 utilize any of the ammunition in the test fire?

25 **A** No, I did not.

1 **Q** As you explained you used the office?

2 **A** That is correct. We have standard laboratory
3 ammunition so we do not have to use evidence ammunition
4 unless it is absolutely required.

5 **Q** Okay. Now, do you conduct a test to determine
6 whether or not the gun has been shot, somebody has fired it?

7 **A** No. We do not have a way of telling how long it
8 has been since the gun was fired. I do check the barrel for
9 residues. There were residues in the barrel from the gun
10 being fired, however I have no idea how recently it was
11 fired.

12 **Q** Let me ask you this, do you check for the residue
13 before you do the test fire yourself?

14 **A** Yes, that is part of my initial examination.

15 **Q** So there is no residue from your testing?

16 **A** No.

17 **Q** And how do you test for the residue?

18 **A** I observe it down the barrel. A barrel that is
19 clean has a very shiny appearance whereas a barrel that has
20 had a piece of ammunition fired through it has a more dull
21 residue look.

22 **MS. LASKOFF:** I have nothing further, Your Honor.
23 Thank you.

24 **THE COURT:** Cross-examination?

25 **MS. VICKERS:** Yes, thank you.

CROSS-EXAMINATION

1

2 **BY MS. VICKERS:**3 **Q** Good morning.4 **A** Good morning.5 **Q** Now, did you run this gun to see who it belonged
6 to?7 **A** No, we don't perform that particular test.8 **Q** And the residue that you were just talking about,
9 how long can that remain in the barrel?10 **A** Until it is clean.11 **Q** A year?12 **A** A year, two years.13 **Q** Five years?14 **A** Five years, it could be from the factory if they
15 proof tested the gun.16 **Q** Before it was even sold?17 **A** Before it was even sold.18 **Q** So there is no way to tell?19 **A** No way.20 **Q** All right. Now this particular gun, how many --
21 now, I am gonna use the word bullet. I understand that
22 ammunition is the projectile that comes out, which I think
23 we all know is the bullet and then the casing that comes
24 out?25 **A** Right. Right.

1 **Q** So how many bullets does that particular gun hold?

2 **A** The gun holds nine, which means eight are held in
3 the magazine and one can be loaded into the chamber.

4 **Q** Now, the one that has to be loaded in the chamber,
5 does that have to be done in a special way?

6 **A** It has to be done deliberately. I can do it
7 two -- one of two ways. Either you can open the slide and
8 hand load, meaning you put it in through the ejection port
9 of the firearm and then close the slide and then put the
10 loaded magazine into the gun, or, you can load your magazine
11 with your eight cartridges, slide the magazine into the
12 magazine well. Wrap the slide, move the slide back so that
13 it loads one into the chamber, drop the magazine again and
14 place another cartridge on top of the magazine. Load that
15 magazine back into the gun.

16 **Q** Now, without using the actual ammunition, can you
17 kind of just show the jury what you are talking about?

18 **A** Sure.

19 **Q** Okay. Thank you. While you are getting your
20 gloves on, let me ask you a question.

21 **A** Sure.

22 **Q** Now, so the maximum capacity that gun could hold
23 is nine rounds?

24 **A** Correct.

25 **Q** And there are eight in that packaging?

1 **A** Correct.

2 **Q** Okay. No way to hold a tenth?

3 **A** No.

4 **Q** And the eight rounds that are in there were not
5 fired?

6 **A** None of them are fired and none of them had any
7 evidence of trying to be fired.

8 **Q** Okay. And are you able to tell by looking at the
9 gun or when you examine the gun whether there had been a
10 ninth one in the actual top part of the chamber?

11 **A** There is no way to determine that.

12 **Q** Okay. And -- I'm sorry. Each time the gun is
13 fired it would make a sound, is that right?

14 **A** Yes.

15 **Q** And each time that particular gun is fired, it
16 might -- would it produce some kind of light or flash out of
17 it?

18 **A** I am not certain. Most guns, if it were dark, you
19 would see some kind of flash which is not necessarily in
20 pistols.

21 **Q** Okay. And so if there's eight cartridges, eight,
22 I am sorry, eight bullets, ammunition in there and somebody
23 had said that they saw two shots being fired, how would
24 the -- that would be nine and ten bullets, how would the
25 tenth bullet have gotten in the gun?

1 **A** I don't see any way that, without the magazine
2 being dropped, and another cartridge being put in there that
3 a magazine with eight cartridges could have fired two shots
4 with this gun.

5 **Q** And wouldn't it -- let's just pretend for a moment
6 that two shots were fired. Wouldn't it make sense just to
7 fire the gun twice and then that would be leaving seven
8 bullets left over?

9 **A** That is correct.

10 **Q** Normally somebody wouldn't take the magazine out,
11 reload, put the magazine back in, because you have already
12 got bullets in the magazine?

13 **A** Not under any circumstances that I would consider
14 the -- if you assume that people don't drop the magazine and
15 load it back up until it is empty, then there should be
16 seven after two shots. There is no way that this gun holds
17 more than nine if it is fully loaded unless you add more
18 cartridges to the magazine.

19 **Q** Okay. And to do that, you'd have to take the
20 magazine out?

21 **A** You'd have to take the magazine out and add the
22 cartridges.

23 **Q** Okay. If you need to, you can sit there or if you
24 feel more comfortable stepping down, whatever you choose.

25 **A** You can see somehow the way that it would work.

1 **Q** Right.

2 **A** In order for you to load this gun to nine, the
3 full capacity, you would fill the magazine up with eight
4 cartridges. You press down on this magazine folder here.
5 It is spring loaded. Once it is full, you will have all
6 eight cartridges in here. You would insert the magazine
7 into the magazine well and then you would cause the slide to
8 close up. It is stuck open because of the serial number
9 thing that I did, but this part here would slide closed, and
10 the bullet on the top of the magazine would be fed into the
11 barrel, into the chamber right here at the end of the
12 barrel.

13 Once this was closed, you could then drop the
14 magazine and place another cartridge on top because there
15 would now be room with the spring and then you would place
16 it back in the magazine and now you have nine.

17 **Q** Now, does that take two hands to do?

18 **A** Yes.

19 **Q** It would be impossible to do it with one hand?

20 **A** Yes.

21 **Q** And in your opinion, extremely impossible to do
22 while driving, if somebody is driving, and tries to do that?

23 **MS. LASKOFF:** Objection, speculation, Your Honor.

24 **THE COURT:** Overruled.

25

1 **BY MS. VICKERS:**

2 **Q** You can answer it. Can you answer the question?

3 **A** If they had one hand on the wheel, I don't think
4 they could do it, no.

5 **Q** Okay.

6 **MS. VICKERS:** Thank you. If I can just have a
7 second?

8 **THE COURT:** You may.

9 **MS. LASKOFF:** Nothing further.

10 **THE COURT:** Any redirect?

11 **MS. LASKOFF:** Briefly, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MS. LASKOFF:**

14 **Q** Ms. Johnson, you heard the term one in the
15 chamber, right?

16 **A** Right.

17 **Q** Is it possible to have had a firearm so that it is
18 ready to shoot, with one in the chamber already, without
19 having to do anything and prepare it to shoot?

20 **A** You do -- once you put the magazine into the
21 magazine well, you do have to open the slide and let it
22 release to load that first cartridge from the magazine into
23 the chamber.

24 **Q** Can it be stored with one in the chamber?

25 **A** Yes, it can.

1 **Q** So is it feasible that you can have it forward
2 whether it be next to me or under me, whatever, all you have
3 to do is pick it up and pull the trigger to make it shoot
4 rather than having to go through pulling anything or
5 adjusting anything?

6 **A** That is correct.

7 **MS. LASKOFF:** I have nothing further, Your Honor.

8 **THE COURT:** Any recross?

9 **REXCROSS EXAMINATION**

10 **BY MS. VICKERS:**

11 **Q** But then you'd still have to load that eighth
12 bullet back in the magazine?

13 **A** If all of these cartridges were found in the
14 magazine, then none of them were in the chamber. You can't
15 have it simultaneously in the chamber loaded and ready to go
16 and in the magazine.

17 **Q** Okay.

18 **MS. VICKERS:** Thank you.

19 **THE COURT:** All right. May this witness be
20 excused?

21 **MS. LASKOFF:** The State is excusing her.

22 **THE COURT:** You are free to go, ma'am. Thank you.
23 State calls Dr. Hansen.

24 **MS. VICKERS:** May we approach?

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

1 **MS. VICKERS:** We just need to have a brief hearing
2 on some of the autopsy photos I have an objection to.
3 I don't know if you want to do it here.

4 **THE COURT:** Yeah, we can. They look like they are
5 marked Composite M3 and look at them and tell me which
6 ones you object to.

7 **MS. VICKERS:** What I would be objecting to is I
8 would agree for them to use either M9 or M8, and then I
9 would be agreeable to them using -- what happens is in
10 these photos, it shows the picture of the actual stab
11 wound and then it shows somebody manipulating the stab
12 wound, like stretching it out at both ends. So, and M8
13 I would be objecting to use. I would be agreeable to
14 using either one of those.

15 **MS. BARRA:** The doctor can explain without that,
16 what the injury actually is, and then she's going to --
17 it is basically to help explain what she is talking
18 about.

19 **THE COURT:** If that is the case, I don't know if
20 you -- do you know if that's the case?

21 **MS. VICKERS:** I don't know if that's the case. I
22 believe they are cumulative. I think that the doctor
23 can explain whatever she needs to explain with one
24 photo or the other. I don't believe she needs both.

25 **THE COURT:** I would overrule that cumulative

1 objection.

2 **MS. VICKERS:** I would also be agreeable to
3 allowing M2 or M1, but not both, as I believe they
4 would be cumulative.

5 **MS. BARRA:** This is essentially the same thing.
6 That is the wound that goes with that photo.

7 **THE COURT:** I would overrule that objection.
8 Anything further?

9 **MS. VICKERS:** I just would ask that the State
10 obviously bring out that this large scar was not
11 related to any stabbing wound that my client is accused
12 of. That was due to the autopsy.

13 **MS. LASKOFF:** No.

14 **THE COURT:** That is not the Y incision from the
15 autopsy, so that is something that can be explored in
16 cross-examination.

17 **MS. VICKERS:** Okay.

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

19 Thereupon,

20 **DR. MARIE HANSEN**

21 was called as a witness and, having first been duly sworn,
22 testified as follows:

23 **THE COURT:** You may inquire.

24 **MS. BARRA:** Thank you, Your Honor.

25 **DIRECT EXAMINATION**

1 **BY MS. BARRA:**

2 **Q** Good morning.

3 **A** Good morning.

4 **Q** Could you please state your name?

5 **A** Dr. Marie H. Hanson, H-A-N-S-E-N.

6 **Q** And what is your occupation, Dr. Hansen?

7 **A** I am a medical examiner, which is a forensic
8 pathologist.

9 **Q** What type of education do you need to be a medical
10 examiner?

11 **A** I am a medical doctor. I got my medical degree
12 from the University of Minnesota. I am a pathologist. I
13 studied four years of anatomic and clinical pathology. I
14 did my residency in St. Paul, Minnesota as a forensic
15 pathologist. I have an additional year in residency
16 training in forensics, and I have passed the national boards
17 for anatomic, clinical and forensic pathology, and thus am
18 considered board certified in anatomic, clinical and
19 forensic pathology.

20 **Q** How long have you been a medical examiner?

21 **A** Since 1990.

22 **Q** And where do you currently work?

23 **A** At the District 9 medical examiner's office that
24 serves Orange and Osceola counties.

25 **Q** And how long have you worked there?

1 **A** Since November of 2002.

2 **Q** Roughly what are the duties of the medical
3 examiner?

4 **A** We are assigned cases to look at the investigation
5 and to help with the examination of the body and the history
6 to help determine the cause and manner of death.

7 **Q** Do you perform autopsies?

8 **A** Yes, I do.

9 **Q** And what exactly does that mean?

10 **A** An autopsy is getting the history, looking at the
11 history and then looking at the external and the internal
12 surfaces of the body, looking for evidence of natural
13 disease and evidence of trauma and taking appropriate
14 specimens to help determine the cause and manner of death.

15 **Q** How many, approximately, have you performed in
16 your career?

17 **A** I stopped counting at 3,000.

18 **Q** Have you ever been qualified as an expert in
19 forensic pathology in any courts of law?

20 **A** Yes, I have.

21 **Q** How many times, roughly?

22 **A** I believe it is over 25. I don't keep count of
23 court appearances, I am sorry.

24 **Q** Okay. That's fine.

25 **MS. BARRA:** Your Honor, at this time, the State

1 tenders this witness as an expert in forensic pathology
2 and requests she be allowed to offer opinion testimony.

3 **THE COURT:** Any voir dire?

4 **MS. VICKERS:** I do, Your Honor.

5 **VOIR DIRE EXAMINATION**

6 **BY MS. VICKERS:**

7 **Q** Now, Dr. Hansen, when you are forming your opinion
8 in creating your reports, do you gather different
9 information from different people?

10 **MS. BARRA:** Objection, Your Honor. May we
11 approach?

12 **THE COURT:** You may.

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

14 **MS. BARRA:** Your Honor, that question has nothing
15 to do with whether or not she is an expert in the
16 field.

17 **MS. VICKERS:** It has to do with how she can form
18 her opinions as to whether she can testify as an expert
19 or not. I just want to know what other things she
20 relies upon in making her opinions.

21 **MS. BARRA:** Seems like the cross.

22 **THE COURT:** All right. I would agree with the
23 State. I am going to sustain their objection. Do you
24 have any other questions with regard to her expertise?

25 **MS. VICKERS:** No.

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

2 **THE COURT:** The objection is sustained. I will
3 permit Dr. Hansen to give her opinion.

4 **MS. BARRA:** Thank you, Your Honor.

5 **BY MS. BARRA:**

6 **Q** Ma'am, did you perform an autopsy on someone
7 identified as William Troy?

8 **A** Yes, I did.

9 **MS. BARRA:** Your Honor, may I approach the
10 witness?

11 **THE COURT:** You may.

12 **BY MS. BARRA:**

13 **Q** Ma'am, I am showing you what is State's Exhibit
14 Number 4 already entered into evidence. Is that the
15 individual you know as William Troy or identified as William
16 Troy to you?

17 **A** Yes.

18 **MS. BARRA:** May I approach again, Your Honor?

19 **THE COURT:** You may.

20 **BY MS. BARRA:**

21 **Q** Ma'am, this is State's N for identification
22 purposes. If you can take a look at those and look up when
23 you are finished.

24 **A** (witness complies).

25 **Q** What are those?

1 **A** These are copies of the photographs taken at the
2 autopsy.

3 **Q** Do they fairly and accurately represent the person
4 identified to you as William Troy?

5 **A** They represent the injuries that we saw on
6 Mr. Troy, yes.

7 **Q** Okay.

8 **MS. BARRA:** Your Honor, at this time I'd like to
9 move what has been previously marked as State's Exhibit
10 N for identification purposes into evidence as State's
11 Exhibit 13.

12 **THE COURT:** Any objection, other than previously
13 noted at the bench?

14 **MS. VICKERS:** No, just to renew those objections.

15 **THE COURT:** It'll be admitted as State's next
16 numbered exhibit.

17 **THE CLERK:** 13.

18 **BY MS. BARRA:**

19 **Q** And ma'am, I know that I showed you this photo,
20 but the jury didn't see --

21 **MS. VICKERS:** I object. That photo was not moved
22 into evidence.

23 **MS. BARRA:** It previously was.

24 **THE COURT:** I believe it is State's 4.

25 **MS. BARRA:** Yes, it is.

1 **THE COURT:** If I can see it just to ensure. I
2 believe it was admitted with one of the previous
3 witnesses, correct.

4 **MS. VICKERS:** Okay. Sorry. They just hadn't
5 shown it to us before they put it up there.

6 **BY MS. BARRA:**

7 **Q** So, for the jurors benefit, the photo that I just
8 showed you, is that the person?

9 **A** Yeah. That would be the standard identification
10 photo which is a cleaned up face photo, after all the
11 evidence of medical intervention might have been removed
12 from the body for purposes of identification.

13 **MS. BARRA:** May I approach the witness again?

14 **MS. CHIEN:** You may.

15 **BY MS. BARRA:**

16 **Q** This is a laser pointer that might help in your
17 explaining things. I have a series of photos that I am
18 going to present to you, and if you can just kind of explain
19 to you the jury what it all is?

20 **A** Okay. This is an overall photo of the torso of
21 Mr. Troy, and you have a stab wound at the inside end of the
22 left nipple. You have a stab wound in the left -- in the
23 right chest and you have this incision that the doctors made
24 when they were cutting in to try and get to his heart
25 because his heart had stopped and they were doing cardiac

1 massage when they tried to save him. There's a little hook
2 here and that goes to a chest tube. It was a tube put in
3 his chest to try and help re-expand his chest.

4 **Q** And for the record, that was N2. Now showing you
5 N11.

6 **A** N11 shows a small abrasion on the left anterior
7 chest, and then the stab wound through the nipple as well as
8 the thoracotomy incision that the doctors made. That's the
9 one with all the sutures where they sewed it back together.
10 The stab wound to the left chest went through the opening
11 between the fourth and fifth ribs. It went through the sack
12 around the heart. Your heart actually sits -- if we could
13 have it turned 90 degrees.

14 **Q** This way?

15 **A** Yes.

16 **Q** In your body, your heart actually sits much more
17 closely to this. So when that knife comes down, it is
18 coming into the pericardial sac, and it is getting into the
19 left ventricle. The wound goes all the way through the left
20 ventricle and his was slightly thickened. He had a two
21 centimeter left ventricle, might be consistent with high
22 blood pressure, goes through the thickness of the left
23 ventricle and into the intraventricular septum which
24 separates the left and right heart chambers. So basically
25 the wound to the left chest nicks the anterior edge of the

1 left lung, goes into the sack around the heart and goes
2 through the thickness of the heart.

3 When we got to him at autopsy, he had already had
4 a chest tube that they put in the left chest and then they
5 opened his left chest but there was still 600 cc's of blood
6 left after the surgeries had been in there and drained some
7 of it away, and, of course, they had opened the pericardial
8 sack in attempts to save his life.

9 This is a stab wound to the right chest and you
10 can see that skin does not -- once you break the surface of
11 the skin, the lines of gravity don't help your skin keep
12 even, so this is gaping and that is just because you cut
13 through the skin and a tension to the skin holds it
14 together. You destructed that, and that is why it gapes.

15 We are trying to approximate to see which is --
16 this appears to be a more blunt edge and this appears to be
17 a more sharp edge. This may be even slightly longer than
18 the actual blade was. Due to the fact that we go through
19 the skin, it stretches. But it is trying to attempt to show
20 if you have a single edged knife and this is consistent with
21 a single edged knife, it has a blunt edge and a sharp edge.

22 This is going through the -- this is the one on
23 the right chest, goes through the right lung. That is three
24 lobes. This one goes through the middle lobe of the right
25 lung, and this is the stab wound going through the lung at

1 this point in time, and then it goes -- this one went
2 through the diaphragm. That's the muscle separating your
3 chest and your abdomen. And on the right side, your liver
4 is right under your diaphragm, so it went into the chest,
5 through the lung, through the diaphragm and into there.

6 This is the muscle of the diaphragm, and you can
7 see the imprint of the stab wound going through this sharp
8 edge and the sharp edge and the blunt edge, again,
9 consistent with a single edged blade.

10 Q I am not sure which way this goes.

11 A Other way. There you go. Okay. This is the
12 liver after we've taken it out of the body, and the
13 diaphragm sits up here, so this is the right side and the
14 wound to the right chest went through and it went just into
15 under the surface of the liver.

16 The other wound from the abdomen that we are going
17 to talk about comes in and comes on this side of the liver
18 and I can see this slit on this side of the liver, so, he
19 gets two stab wounds to the liver, but he only has 20 cc's
20 of blood in his abdomen, so suggesting at the time that he's
21 getting these stab wounds to the liver. He doesn't have
22 very much blood pressure going on because your liver is a
23 very vascular organ, and if you lacerate it, it should bleed
24 quite profusely if you got a blood pressure.

25 MS. BARRA: Your Honor, if we can approach?

1 **THE COURT:** You may.

2 **MS. LASKOFF:** I would just ask --

3 **THE COURT:** Does your client need a break?

4 **MS. VICKERS:** Oh, yes.

5 **THE COURT:** We will take a break.

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

7 **THE COURT:** Ladies and gentlemen, we are going to
8 take a break. I understand we have several smokers on
9 the panel, so I will give you a little bit longer break
10 so that you can go smoke. I would ask that you be back
11 in the jury room -- is 15 minutes sufficient? Getting
12 through security and everything, I don't know.

13 **A JUROR:** Depends on the elevators, Your Honor.

14 **THE COURT:** Unfortunately, I have absolutely no
15 control over them, or we'd have more of them. Let me
16 give you 20 minutes. Be back at 10:30 in the juryroom.

17 (Whereupon a short recess was taken.)

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

19 (Jury enters the courtroom.)

20 **THE COURT:** You can be seated. Ma'am, you are
21 still under oath. State, you may continue.

22 **BY MS. BARRA:**

23 **Q** Thank you. Dr. Hansen, I believe that we were on
24 this photo and I believe that you were describing the injury
25 to the bottom right hand corner?

1 **A** Yes. Actually this is the top right. This is the
2 right side of the body because if you look at it as if the
3 liver is in you and a big part is on your right side and the
4 lobe is toward the center and the stab wound above the belly
5 button going into the abdomen, gets the inferior half,
6 inferior one fifth, inferior edge of the left lobe of the
7 liver. So you have a small laceration in the inferior left
8 lobe. It is his left lobe. On our right side, but his
9 left.

10 **Q** So the wound in the upper left-hand side, that
11 represents the right chest?

12 **A** The upper right, yeah. The upper left side of the
13 photo is the right side of his body, and that's the one
14 coming down from the chest, going through the diaphragm into
15 the top portion of the liver.

16 **Q** Okay.

17 **A** This is a closeup of the wound, the opening of the
18 wound in the abdomen, and you can see this is the belly
19 button and it is just above and just to the left, his left,
20 our right of the belly button. And you can see it appears
21 to have a sharper edge at the top and a more squared edge at
22 the bottom.

23 **Q** Now, ma'am, you are saying a sharper edge at the
24 bottom and a square edge at the bottom. What would cause
25 that?

1 **A** This would be consistent with a single edged
2 blade. When you look at knives and cutting instruments,
3 sometimes they are sharp on both sides and sometimes they
4 are sharp on one side, and they have a non-sharpened edge on
5 the other side, like if you think of any kitchen knife or
6 steak knife, it is sharp on one side and the top edge of it
7 is not sharp. It is not or dull or blunt.

8 **MS. BARRA:** Your Honor, may I approach the
9 witness?

10 **THE COURT:** You may.

11 **BY MS. BARRA:**

12 **Q** Ma'am, I am showing you what has been entered into
13 evidence as State's Exhibit Number 6. Would this be
14 consistent with that injury?

15 **A** That would be consistent with being a single edge
16 blade, yes.

17 **Q** And could you tell the manner in which this
18 instrument was used to create it that way, to create the
19 wound like that?

20 **A** That would be with the sharp edge up.

21 **Q** Like this?

22 **A** Yes.

23 **Q** So it would be something like that?

24 **A** The abdomen wound, it would be in that direction.
25 The chest wound, the left chest wound has got the blunt

1 edge.

2 **Q** I am going to pull up a picture of that left chest
3 wound for you.

4 **A** Yes. Okay. On the left chest wound, it appears
5 that the sharp edge is over towards the outside of the body,
6 so in that case the edge -- yes, it would be. If I was the
7 person who I autopsied and you were the assailant person,
8 you would be coming at me on this sort of an angle because
9 it's going in. It's going from left to right, front to back
10 and slightly downward. And the smooth edge is on the inside
11 of the body. The one on the right chest, it is flipped, and
12 the smooth edge is toward the outside edge of the body, and
13 it goes basically more down because it's going from the
14 chest through the lung and diaphragm.

15 **Q** And in regards to the white?

16 **A** You can't see white as well, but that's -- the
17 wound in the heart itself is one inch in length. So the
18 width of the blade at the time it goes through the heart is
19 an inch, probably closer to that much.

20 **Q** And how -- to get to the heart and how far into
21 the heart did the blade go?

22 **A** Well, it goes all the way through the thickness of
23 the heart, which is two centimeters, which is almost an
24 inch, but then it goes through the front surface of the
25 heart, through the space, the left ventricle and into the

1 inner ventricular septum. So the overall length of wound
2 number one is an estimated four and a half inches. That is
3 from the skin to the inside of the heart.

4 **Q** And again, this is the abdomen wound?

5 **A** That's the abdomen wound. And the measurements
6 from the skin to the interior edge of the liver is
7 approximately three and a half inches.

8 **Q** And what is that?

9 **A** That is a closeup of the inferior edge of the
10 liver on the left side showing that you have the imprint of
11 the blade in the liver.

12 This is the fourth stab wound that we described
13 when we were numbering, and they are just numbered for my
14 reference so that I make sure that I have got all of the
15 wounds that are on the body, not to imply any order of
16 occurrence.

17 And this is on the back half of the left arm and
18 it actually just goes into the left arm. The wound itself
19 in the skin is about an inch and it goes approximately -- it
20 goes into the muscles of the back of the arm. It doesn't go
21 through the back of the arm. It misses all of the blood
22 vessels that are next to the bone, muscles the bone, so it
23 is just a superficial stab wound.

24 **Q** This is that same wound?

25 **A** And this is a wound to show that when you make

1 it -- when you are approximating the edges to try and get
2 the shape, again, it appears to be sharp and blunt, appears
3 to be a single edged, consistent with a single edge.

4 **Q** Now, do you have an opinion within a reasonable
5 medical certainty as to which trauma wound was the most
6 immediate cause of death?

7 **A** The most immediately lethal is going to be the one
8 to the left chest that is getting the heart because your
9 heart is pumping. You got a big hole near where the largest
10 area of concentration of blood is. You're gonna die from
11 that first, and also, if you stab the heart, it can go into
12 an irregular rhythm just from the irritation of being cut.

13 **Q** Now, you also indicated at one point that the
14 liver wasn't bleeding as much as you would anticipate.
15 Could you explain to the jury what exactly you mean by that?

16 **A** Okay. When you -- when all of your blood vessels
17 are intact, and the blood is going through your system, it
18 has a pressure because it's in a closed system. If you put
19 a cut to the heart, you are decreasing the pressure in that
20 system, and as the body gets injuries, it will start
21 shifting blood away from peripheral organs into the central
22 organs to try and preserve your life. You go for your
23 heart, your head, your kidneys. First of all, the wounds
24 are not that deep, but with those wounds, the liver has a
25 lot of blood vessels in it. If you had a lot of blood

1 pressure, even that much laceration to the liver, I would
2 expect more than 20 cc's of, or two tablespoons of blood in
3 the abdomen.

4 **Q** So in your opinion, was the wound to the heart
5 before, and did that cause the blood pressure to slow down
6 or cease?

7 **A** With the findings in the body, it would be
8 consistent with the wound to the chest being one of the
9 first in the series. Now, there's a possibility that the
10 arm could have been before that, but because you are not
11 getting anything that is very vascular, you are not getting
12 much blood.

13 **Q** Okay. Now, just so we are clear, when you
14 initially see the body, does it look like this or how do you
15 initially see it?

16 **A** When we initially see it, this gentlemen had an
17 endotracheal tube, so he had a tube in his mouth down his
18 trachea. He had -- there is a chest tube that goes with
19 this. They had taken the chest tube out when they made the
20 incision to go in and try and do open heart massage on the
21 table when his heart was stopping and he was covered in a
22 fine coat of blood.

23 So basically, when we get him, he has his clothes
24 partly cut off because they took him from the scene, they
25 got him onto the table and they lost all -- he did not have

1 a pressure when he got to the hospital and they were
2 attempting to resuscitate him. And so when they are
3 attempting to go real fast, they don't bother with removing
4 clothing. They just cut. And so we had the clothing
5 hanging part off and we have everything that they tried to
6 do in attempts to save him. And they worked on him for an
7 hour, so as you can imagine, there's an IV. There's chest
8 tubes. There's incisions where they went in to try and do
9 open heart massage and try and save him.

10 **Q** Okay. So this incision right here was done by the
11 doctors?

12 **A** Yes. This incision was done by the doctors and
13 you can tell they sewed it up at surgery before he came to
14 us.

15 **Q** Okay.

16 **MS. BARRA:** Your Honor, may I have a moment?

17 **THE COURT:** Yes.

18 **BY MS. BARRA:**

19 **Q** Now, ma'am, I know that you touched on it briefly,
20 but are you able to tell exactly which wound happened first
21 then second and third and fourth?

22 **A** No, I can give you from the injuries in the body
23 and the injuries and the evidence and the blood
24 accumulations and what things got. I can tell you that the
25 wound to the heart, if it came as one of the first ones with

1 the effects that we know that it has, the fact that the stab
2 wound that went through the -- the lung only has 100 cc's of
3 blood in the right chest, so it is about a cup of blood in
4 the right, not quite a cup of blood in the right chest. And
5 if you perforate the lung and have a lot of good circulation
6 in the lung, I would expect more blood in that chest.

7 However, we have a chest tube and they were busy
8 saving his life, so nobody was busy recording how much
9 blood, if any, was coming out at the hospital. So we don't
10 quite know that. So the wound to his right and left chest
11 may happen at relatively the same time. The wound to his
12 abdomen with the extent of it into his liver would be
13 suggested to be later in the event based on the amount of
14 blood that we have at autopsy.

15 **Q** And is it fair to say that all the wounds that we
16 have been talking about and seeing, with the exception of
17 just this one, that that being the only medical incision,
18 everything else was from the stab?

19 **A** Yes. And then if you had a picture of this side
20 of the body where this blue clip is, there's a tube that is
21 a little bit thicker than the size of my pen. This white
22 plastic, that is what a chest tube is about this size of and
23 it is about the size of -- it varies between the size of my
24 first finger and the size of my thumb.

25 **Q** Okay. And ma'am, final question, in your opinion,

1 what was the cause of Mr. Troy's death?

2 **A** The cause of death was multiple stab wounds.

3 **Q** Okay.

4 **MS. BARRA:** I have nothing further at this time.

5 **THE COURT:** Cross-examination?

6 **MS. VICKERS:** Thank you, Your Honor.

7 **CROSS-EXAMINATION**

8 **BY MS. VICKERS:**

9 **Q** Now, Dr. Hansen, obviously in forming your opinion
10 you got reports from doctors about surgery?

11 **A** Yeah. We would review the medical records that
12 were available, the general information of the scene from
13 the police, the initial information. Some of the tests that
14 we take out that -- the blood that we test and we send out,
15 we rely on a lab for the analysis of that.

16 **Q** Okay. And you rely on all of those things in
17 forming the basis of your opinion when you are doing
18 autopsies?

19 **A** Yeah. We will -- those are things that we factor
20 in. In this particular case, it is obvious that the stab
21 wound to the chest is going to be the cause of death.

22 **Q** Right. But you do all of those lab tests and you
23 talk to the police and you get information from the scene
24 and the doctors at the hospital; is that right?

25 **A** That is correct.

1 **Q** Okay. Now, could you tell us the height and
2 weight of Mr. Troy?

3 **A** Mr. Troy was 72 inches, which is 6 feet, and 178
4 pounds.

5 **Q** Now, those stab wounds that we saw were all in the
6 front, obviously, correct?

7 **A** Well, there were three to the front and then
8 there's one to the side of the arm.

9 **Q** Okay. So one on the side of the arm?

10 **A** Yes.

11 **Q** But there is no wounds or stab marks or anything
12 on the back side of Mr. Troy?

13 **A** No, not on the back.

14 **Q** Okay. So that would tell you that he was never
15 injured or hurt from behind, never stabbed from behind
16 obviously?

17 **A** Right. There is no penetration of his body from
18 behind.

19 **Q** Okay. And you collect all the actual property of
20 Mr. Troy, is that correct, like wallet, ID, things like
21 that?

22 **A** We would collect the things that came with him
23 from the hospital. If there was something at the scene that
24 the police took into evidence at that point in time, it
25 would not necessarily come to us.

1 **Q** Okay. Now, these wounds we are talking about, all
2 of them were like a straight on stabbing motion, is that
3 correct?

4 **A** Well, the one to the left chest is straight. The
5 one to the right chest is obviously going down, and the one
6 to the abdomen is going from left to right, but they are
7 relatively straight, yeah.

8 **Q** Okay. What I mean is, that none of them are like
9 what is sometimes referred to as a stab and twist, nothing
10 like that happened?

11 **A** No.

12 **Q** Okay. So there's no -- there would have been no
13 twisting or turning of the knife from what you saw?

14 **A** No.

15 **Q** Now, of the three -- the stab wound of the arm
16 obviously was not of any consequence to Mr. Troy's death
17 from your findings?

18 **A** Right, it would not be immediately lethal. It
19 might hurt but it is not going to be immediately lethal.

20 **Q** So I want to concentrate then on the three stab
21 wounds that you are referring to on the front of the body.
22 Would any of those cause immediate incapacitation, like,
23 after stab and then immediate?

24 **A** The stab wound to the heart, he's going to need to
25 bleed some before he loses the pressure, so he may have

1 seconds to maybe even up to a minute. Depending upon the
2 stab wound to the right chest, if it collapses his lung by
3 going through part of the lung, that may cause him to be
4 incapacitated faster, because now he's got the stress of
5 trying to breathe. And the way you breathe is by having a
6 vacuum, having a seal of your chest wall. And so when you
7 expand your chest wall, you pull your lung open. Well, if
8 you got a hole in the chest wall, then you got air coming
9 through and you have air around the lung. And when you open
10 your chest, you expand your chest with muscles. You don't
11 necessarily expand your airways, so then you can have
12 problems breathing, and that can contribute to you being
13 maybe more in the seconds to a minute, but you still may
14 have, depending upon the person, this is somewhere where you
15 have some individual variation, you may have up to a minute
16 of conscious moment.

17 **Q** Okay. So nothing was immediately paralyzing?

18 **A** No.

19 **Q** And nothing was immediately incapacitating?

20 **A** No. It doesn't have to be. The wound to the
21 heart, if it causes the heart to go into an irregular rhythm
22 could have used him to drop right then.

23 **Q** Were you able to tell that from your findings?

24 **A** No, I was not. Then you would rely on the history
25 from the police and the people at the scene.

1 **Q** Okay. So he could have had -- Mr. Troy in this
2 case could have, after he was stabbed, could have had, could
3 have been still moving seconds to up to one minute?

4 **A** Yes.

5 **Q** Okay. Now, among some of the things that you
6 found on Mr. Troy was 38 one dollar bills, is that correct?

7 **A** That is correct.

8 **MS. BARRA:** Objection Your Honor, relevance?

9 **THE COURT:** Approach, please.

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

11 **THE COURT:** Is there a relevancy to that topic?

12 **MS. VICKERS:** Just that he was leaving a strip
13 club and he had been to several strip clubs that night.

14 **THE COURT:** He was at Thee Dollhouse. He has 38
15 one dollar bills, he was at Thee Dollhouse.

16 **MS. VICKERS:** That is why it is relevant.

17 **MS. BARRA:** It's not relevant. It is cumulative.

18 **THE COURT:** I will overrule the objection for what
19 relevance it does.

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

21 **THE COURT:** Objection is overruled.

22 **BY MS. VICKERS:**

23 **Q** So he had 38 one dollar bills on him, in his
24 possession?

25 **A** That is correct. He had -- the money he had on

1 him was \$58.10. A 20 dollar bill, 38 ones and a dime.

2 **Q** Okay. Now, I'd like to talk to you about some of
3 the labs that you sent out. One of those that they test for
4 is ethanol intoxication, is that correct?

5 **A** Yes. They test for ethanol levels. Standardly we
6 test the blood and the urine for a drug screen and then if
7 there are -- any of them are positive with alcohol, you also
8 test the fluid in the eyeball trying to get a rough idea of
9 where the person was. Sometimes you can tell -- with two
10 fluids I can get a better idea of if the person is still
11 absorbing or if they have reached a plateau or if they have
12 gotten to the state where they are beginning to break down.

13 **Q** And the ethanol intoxication level in Mr. Troy was
14 .183?

15 **A** His ethanol level was .183.

16 **Q** And that corresponds with alcohol intake?

17 **A** Yes, it does.

18 **Q** And .183 is over twice the legal limit here in
19 Florida, is that correct?

20 **A** Right. The legal limit for driving a motor
21 vehicle is .08, and he was .183.

22 **Q** I am sorry?

23 **A** He was .183.

24 **Q** Okay.

25 **MS. VICKERS:** If I can just have a moment, Your

1 Honor?

2 **THE COURT:** Yes, thank you.

3 **MS. VICKERS:** Nothing further.

4 **MS. BARRA:** Briefly, Your Honor.

5 **REDIRECT EXAMINATION**

6 **BY MS. BARRA:**

7 **Q** Ma'am, the defense indicated or asked you whether
8 or not it was consistent with twist and turn, which you said
9 no. What type of force, though, would be needed to make the
10 wounds that you have discussed?

11 **A** If you take the single edged blade that was shown
12 to me as a potential, if that was the type of blade, you are
13 taking a blade and you are going almost through the entire
14 length of the blade into the body so that is going to take
15 more force than just getting the tip into the body. It
16 depends a little on the person.

17 **Q** Okay. So essentially the blade would be all the
18 way in the person's body and the handle would be preventing
19 it from going further of that knife?

20 **A** Well, you have to get to four and a half and five
21 and a half inches. Now, part of the problem is that when I
22 lay a person flat and measure, if he was hunched over and as
23 you have your chest muscles, you have some elasticity to
24 your chest. And if I push on it hard enough, you can get a
25 four inch knife making a five and a half inch path if you

1 put enough pressure on it, so you are collapsing some of the
2 skin and you are using -- the cartridge has a little bit of
3 give to it. So if you are pressing hard on the chest to
4 bend, but not break the ribs, you can cause a blade of that
5 length to have a little bit longer than that length pathway.

6 **Q** Now, as far as in reference to the injury to the
7 heart, how -- are the organs that the blade passed through,
8 I mean, are those paper thin or are those substantial
9 organs?

10 **A** In this case the muscle between the ribs is not as
11 thick as the ribs. The sack around the heart, then the lung
12 are really not much resistance. The heart itself being the
13 last inch is going to have to have some force to go through
14 because it is a muscle. It is about, like, you took an inch
15 of muscle -- if you took an inch of muscle on your arm, that
16 is going to have more resistance. It is not as much as a
17 bone, but it has more resistance than something that is
18 filled with air like a lung.

19 **Q** And the defense also asked you about the alcohol
20 level in his system. Was there also a drug test done?

21 **A** Yes, there was.

22 **Q** And were there any drugs found in his system?

23 **A** No. Other than nicotine and caffeine, so it
24 appears he had a soda and a smoke.

25 **Q** Okay.

1 **MS. BARRA:** Thank you, I have no further
2 questions.

3 **THE COURT:** Any recross?

4 **MS. VICKERS:** Nothing, Your Honor.

5 **THE COURT:** May this witness be excused?

6 **MS. BARRA:** From the State, yes, Your Honor.

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

8 **THE COURT:** You are free to go, ma'am. Thank you.
9 State, call your next witness.

10 **MS. LASKOFF:** Your Honor, at this time the State
11 rests.

12 **THE COURT:** Ladies and gentlemen, I need to take
13 up some matters outside of your presence, so I am going
14 to give you a brief recess in the jury room. Do not
15 discuss the case amongst yourselves. Do not let anyone
16 discuss it with you. Leave your pads and pens on the
17 chair. They will be there when you return. I do
18 understand that you may want to know fairly soon if you
19 might be needed here tomorrow, and I will give you that
20 answer before lunchtime.

21 (Jury exits the courtroom.)

22 **THE COURT:** Defense, do you have any motions at
23 this time?

24 **MS. VICKERS:** Yes, Your Honor. At this time the
25 defense moves for a judgment of acquittal based on the

1 fact that the State has failed to prove a prima facie
2 case of second degree murder, aggravated battery on
3 Counts II and III, aggravated assault with a firearm on
4 Count IV and shooting out of a vehicle on Count V.
5 Specifically -- actually I would just like to leave it
6 at that for now. And on the renewal, I will argue the
7 case law. I think we need to put forth our case before
8 I argue further on what I have. I can, of course,
9 provide the Court and the State with case law now so
10 you have time to read and review it.

11 **THE COURT:** With regard to the self-defense issue?

12 **MS. VICKERS:** Yes. So I can go ahead and provide
13 that, but I will just reserve the rest of my argument
14 until after our case.

15 **THE COURT:** All right. The motion for judgment of
16 acquittal will be denied at this stage considering the
17 evidence in the light most favorable to the State which
18 is required at this stage in the proceedings.

19 Defense, do you intend to present witnesses?

20 **MS. VICKERS:** We do, Your Honor. I know two of
21 them are here and have to be out. One by 11:30 and one
22 before noon. They are very quick technical witnesses.
23 The only other issue is that I know we have another
24 potential witness that missed a deposition for the
25 State, and quite honestly, I haven't had a chance to

1 talk to them either. So if the Court would be willing
2 to maybe take these two witnesses, possibly the third,
3 the manager of the club that we spoke about yesterday,
4 and maybe give us over the lunch break so everybody can
5 talk to whatever remaining witnesses we might have.

6 **THE COURT:** All right. That should not be a
7 problem. I would anticipate, because I do want to let
8 the jury know their schedule, I would anticipate that
9 there is every likelihood that they can be deliberating
10 tomorrow in this matter. So I am going to tell them
11 that they need to make whatever arrangements are
12 necessary to be present tomorrow.

13 **MS. VICKERS:** If they start deliberating today,
14 this afternoon, are you going to let them deliberate to
15 a certain time? My only concern is you tell them time
16 constraints, they might feel obligated to come up with
17 a verdict more likely than not, and I don't know how
18 the Court would handle that.

19 **THE COURT:** I don't have the staffing resources to
20 have them here very late tonight, so if they do begin
21 deliberating tonight, I do anticipate, of course, it
22 will depend. If they go out at one, which I am not
23 expecting, then they very well may be finished tonight.
24 But I would anticipate that.

25 **MS. VICKERS:** Okay. Is the Court, depending on

1 what time we send them out this afternoon, inclined
2 just to bring them back in the morning for charging and
3 then --

4 **THE COURT:** I will try my best to charge them
5 today. The draft of the jury instructions is 40 pages
6 long, single spaced, and it will take me an hour and a
7 half to read. Much of that will be gone, I mean, some
8 of it is not applicable and needs to be deleted so it
9 will be shorter, but it is going to take a substantial
10 amount of time to read.

11 If I can charge them tonight and bring them back
12 tomorrow for deliberations, it is not my preferred way
13 to do it, but I do need to try another case tomorrow,
14 and if I don't start another case first thing in the
15 morning, I wouldn't get it tried before drug court
16 starts on Friday. So that gives us some idea.

17 All right. Let's bring the jury back in and we
18 will begin hearing the defense's case.

19 (Jury enters the courtroom.)

20 **THE COURT:** You may be seated. Defense, you may
21 call your first witness.

22 **MS. VICKERS:** Thank you, Your Honor. At this time
23 the defense calls Daniel Radcliffe.

24 Thereupon,

25 **DANIEL RADCLIFFE**

1 was called as a witness and, having first been duly sworn,
2 testified as follows:

3 **THE COURT:** You may inquire.

4 **MS. VICKERS:** Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 **BY MS. VICKERS:**

7 **Q** Good morning, Mr. Radcliffe.

8 **A** Good morning.

9 **Q** Could you please state your name and spell your
10 last name for the court reporter?

11 **A** My name is Daniel Thomas Radcliffe. My last name
12 is spelled R-A-D-C-L-I-F-F-E.

13 **Q** And what do you do for a living?

14 **A** I am a senior crime laboratory analyst working at
15 the Daytona Beach crime lab which is part of the Florida
16 Department of Law Enforcement.

17 **Q** And particularly what section do you work in?

18 **A** I work in the gunshot residue section and the
19 crime scene section.

20 **Q** Okay.

21 **MS. VICKERS:** I believe, Your Honor, the State is
22 going to stipulate that--

23 **MS. LASKOFF:** I stipulate he's an expert in the
24 field and he can offer opinion testimony in the Court
25 so finds.

1 **THE COURT:** I will permit him to give his opinion
2 then.

3 **MS. VICKERS:** Thank you.

4 **BY MS. VICKERS:**

5 **Q** Mr. Radcliffe, did you have an opportunity to
6 examine a gunshot residue kit in the case relating to State
7 versus John Dobbs?

8 **A** Yes.

9 **Q** Okay. And could you just explain to the jury how
10 that kit is collected and then what you do with it?

11 **A** Yes, ma'am. Agencies all over the State of
12 Florida collect gunshot residue kits to be submitted to the
13 Florida Department of Law Enforcement and the reason that
14 they are collected is to determine if someone has gunshot
15 residue on their hands.

16 **Q** And if somebody has gunshot residue on their hand,
17 what does that tell us?

18 **A** Umm, if, in fact, you have gunshot residue on your
19 hands, then that can tell you a number of possibilities
20 basically. It can tell you that a person -- mainly it means
21 that a person has been in an environment containing gunshot
22 residue and the way that that happens is by handling a
23 firearm, by firing a firearm, being close proximity to when
24 a firearm is fired, all of those are possibilities of
25 getting a positive result.

1 **Q** Okay. Now, did you test the gunshot residue in
2 this case that was taken from John Dobbs?

3 **A** Yes, I did.

4 **Q** And what were the ultimate findings of that test?

5 **A** The gunshot residue samples that were identified
6 as coming from John Dobbs, the results were negative.
7 Gunshot residue was not identified.

8 **Q** Okay. Now, the fact that a gunshot residue kit
9 comes out as being negative, that can mean several different
10 things, would you agree?

11 **A** Yes.

12 **Q** Okay. Could you tell us that the different things
13 that that means when it comes out negative?

14 **A** Umm, yes, ma'am. Again, if you have a negative
15 result, umm, you can get a negative result in a number of
16 different ways. Certainly you can get a negative result
17 because the individual sampled was not exposed to a source
18 of gunshot residue. And that means that they maybe did not
19 handle or fire a gun or was not in close proximity to when a
20 gun is fired, and that can account for a negative result.
21 Another possibility is that the person who did once have
22 gunshot residue on their hands, had the opportunity to
23 either wipe that gunshot residue off, or wash that gunshot
24 residue off. And by the time they were sampled, they tested
25 negative. Another possibility for coming up with a negative

1 result is that the ammunition used did not contain the
2 elements that we are looking for. We are looking for
3 specific elements to characterize it as gunshot residue, and
4 those elements are barium, antimonium and lead. Well, lead
5 is a toxic substance and so there is some types of
6 ammunition out there that's considered environmentally
7 friendly ammunition. That does not contain toxic substances
8 including lead. And that makes up maybe five or 10 percent
9 of the ammunition that's generally used.

10 Again, this is ammunition that's usually used in
11 indoor firing ranges so the people don't breathe in lead.
12 So that's a possibility is that the ammunition that we, or
13 the ammunition used, did not contain the elements that we
14 are looking for. Therefore, you could have a negative
15 result.

16 **Q** Okay. Now, in this particular case, did you test
17 any of the ammunition to see if it would contain the
18 elements you are looking for, or would not contain those
19 elements?

20 **A** No, I did not.

21 **Q** Okay. So we don't know?

22 **A** Correct.

23 **Q** And you have no information either way as to
24 whether Mr. Dobbs washed his hands or wiped them off, do
25 you?

1 **A** No, I do not.

2 **Q** Okay. And you are not able to say whether he
3 fired a gun or not, are you?

4 **A** No, I would not know that from these results.

5 **Q** Okay. And one more thing, you said that you can
6 get residue on your hand from either firing the gun or just
7 holding it, is that correct?

8 **A** Yes.

9 **MS. VICKERS:** May I approach?

10 **THE COURT:** You may.

11 **BY MS. VICKERS:**

12 **Q** Pretending I don't have a glove on, if I did not
13 have a glove on and I am bare handed and I just hold the
14 gun, I could potentially have gunshot residue on my hand, is
15 that correct?

16 **A** Yes.

17 **Q** Okay.

18 **MS. VICKERS:** Thank you. Nothing further.

19 **THE COURT:** Anything further?

20 **MS. VICKERS:** No.

21 **THE COURT:** Cross-examination?

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

23 **CROSS-EXAMINATION**

24 **BY MS. LASKOFF:**

25 **Q** We were talking about the different reasons why

1 gunshot residue may not show up on an individual. Let me
2 ask you this. Is it significant, and I'm showing you
3 State's 5 in this case, in regard to GSR that it is a nine
4 millimeter weapon? Would that have any impact or finding or
5 not finding gunshot residue on an individual?

6 **A** Umm, it could have a bearing or an impact upon
7 whether we find it or not. In general, revolvers produce
8 more gunshot residue than semiautomatic handguns.

9 **Q** Now, for us who are not familiar with guns, is
10 that a semiautomatic or is it a revolver?

11 **A** That is a semiautomatic handgun.

12 **Q** Okay. Were you going to finish? I am sorry. I
13 cut you off.

14 **A** I was going to explain the reason why is that all
15 firearms, of course, are going to emit gunshot residue out
16 the barrel when the cartridge is fired. Most of it is going
17 to go in the direction of the projectile. In revolvers,
18 there's a lot of gunshot residue that comes out around the
19 cylinder of a revolver and that's because the gasses escape
20 around the cylinder of a revolver and a semiautomatic
21 handgun. They don't have a chance to escape until the
22 chamber is open to eject a shell casing and then that
23 chamber is automatically closed and that's within a fraction
24 of a second. So again, this is in general, this is a
25 generality, but in general, semiautomatic handguns do not

1 usually produce as much gunshot residue as revolvers.

2 **Q** Now, let me also ask you this. If this weapon is
3 being held outside a moving vehicle going approximately 30
4 to 40 miles an hour, extended out the window, could that be
5 a reason why gunshot residue may not be found on the
6 individual who actually, in fact, did pull a trigger and
7 shoot the gun?

8 **A** Umm, again, gunshot residue is part of gun smoke.
9 And if the gun smoke doesn't have time to settle back upon
10 the shooter's hands, then there would be less chance of
11 finding the gunshot residue, and if you are traveling at a
12 pretty high rate of speed, then there's going to be a lot of
13 wind, and it's not going to allow the gunshot residue to
14 fall back possibly upon the shooter's hands.

15 **Q** Okay. So, is it fair to say then, that there's a
16 possibility that if I have a gun out the window and I am
17 moving, that even if I, in fact, shoot the gun and then they
18 take a GSR of me, I might not have gunshot residue on my
19 hands?

20 **A** You might test negative. Yes.

21 **Q** Okay. Now, specifically in regard to this case,
22 okay, FDLE case number 2006-0514280, are you aware of when
23 the GSR test was taken from the defendant and the kit was
24 sampled?

25 **A** I do have --

1 **Q** In relation to the offense, I am sorry.

2 **A** I do have information in the case file that
3 indicates the time that the GSR kit was taken and the time
4 of the original incident.

5 **Q** And what is the time lapse that, information-wise
6 you have between the original offense time, and then when
7 the GSR kit was collected?

8 **A** Well, the information I have is that approximately
9 6.75 hours transpired between the time of the incident and
10 the time that the samples, the GSR samples were taken.

11 **Q** Now, let me ask you, is there a specific time
12 limit where you say, okay, we've collected the sample at
13 this time frame. We are not going to test it because it
14 wouldn't render valid results or it is inconclusive?

15 **A** Yes, we actually have a cutoff of eight hours in
16 our lab system for gunshot residue analysis from the time of
17 the incident to the time of the sampling. If it is over
18 eight hours, we usually return those kits back to the agency
19 unworked and the reason why is that the chances we have of
20 finding gunshot residue after eight hours on live subjects
21 is remote.

22 **Q** Okay. So, is it a fair statement to say that
23 because 6.75 hours had transpired, you were close to
24 approaching your eight hour cutoff, correct?

25 **A** Yes. We were within an hour and 25 minutes of it.

1 **Q** Okay. And so therefore, is it a fair statement to
2 say that the amount of GSR on a individual's hands might be
3 less because this significant amount of time has transpired
4 between the actual shooting incident and the GSR collection?

5 **A** Yes. The more time that goes by, the less chances
6 we have of coming up with a positive result.

7 **Q** Now, from my understanding, simply because there
8 was no GSR found on the defendant's hand, that can either
9 mean he didn't shoot the gun, correct?

10 **A** Correct.

11 **Q** But it doesn't mean he did not shoot the gun, is
12 that also correct?

13 **A** Correct.

14 **MS. LASKOFF:** I have nothing further, Your Honor.

15 **THE COURT:** Any redirect?

16 **MS. VICKERS:** Yes.

17 **REDIRECT EXAMINATION**

18 **BY MS. VICKERS:**

19 **Q** So again, just from holding it, gunshot residue
20 can transfer on the hand?

21 **A** Yes.

22 **Q** Somebody doesn't necessarily need to fire it in
23 order to get gunshot residue on their hands?

24 **A** That is correct.

25 **Q** Thank you.

1 We are going to be referring to this and I need to put it up
2 so the jury can see. Now, we were talking yesterday about
3 the point from cone number 10, which was near the Chrysler,
4 correct?

5 **A** Uh-huh. Yes, I am sorry.

6 **Q** And then we were talking about cone number 22, is
7 that right?

8 **A** Correct.

9 **Q** And cone number 10 was the farthest north?

10 **A** Correct.

11 **Q** And cone number 22 was the farthest south?

12 **A** Correct.

13 **Q** So we are talking about basically the length, the
14 distance between those two areas?

15 **A** Correct.

16 **Q** And did you have an opportunity to collect those
17 measurements that we spoke about yesterday?

18 **A** Yes, I did.

19 **Q** And what is the distance between 10 and 22?

20 **A** Approximately 55 feet.

21 **Q** So there's approximately 55 feet between this
22 point right here, by vehicle number two, and number 22, over
23 here?

24 **A** Correct.

25 **Q** And again, those were areas of blood?

1 **A** Yes, ma'am.

2 **Q** Okay.

3 **MS. VICKERS:** Nothing further.

4 **THE COURT:** Any cross?

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

6 **THE COURT:** May this witness be excused?

7 **MS. VICKERS:** Yes.

8 **THE COURT:** You are free to go ma'am, thank you.

9 Ladies and gentlemen, I am going to give you an
10 early lunch break. I do think it is very likely that
11 you may be deliberating tomorrow, so if you need to
12 make arrangements tomorrow, I need you to arrange that.
13 If there is a difficulty, please let me know, but this
14 case has not gone as quickly as the attorneys
15 indicated. I am concerned you may be here today,
16 tomorrow -- Mr. Jacoby, I do know you have to be
17 somewhere at 5:30 tomorrow night and 5:30 on Friday
18 night. It is my hope that you will be able to be meet
19 that obligation. I am more than willing to bring you
20 back on Friday to deliberate if that is necessary as
21 well.

22 **A JUROR:** I am just saying, it is leaving here at
23 the close of what we would call normal business hours
24 would be fine. That would be all right if that were
25 definitely the case.

1 **THE COURT:** We will know more tomorrow.

2 **A JUROR:** Well, okay, but, not necessarily in
3 front of everybody, just, you know, I am irreplaceable.
4 And not because I am so wonderful, but it is just
5 that's the way it is at the moment. Unless
6 arrangements are so and so, a different issue, which we
7 can go into if you'd like at another time.

8 **THE COURT:** All right. I don't anticipate it's
9 going to be a problem. I have staffing issues after
10 hours, so, you know, there is, you know, that concern.
11 So, if necessary, we can come back for more
12 deliberations on Friday if that's necessary.

13 **A JUROR:** All right.

14 **THE COURT:** Then I am going to ask that you be
15 back at the location designated by the court
16 deputies -- is 12:45 sufficient, Counsel, or do you
17 need more time than that?

18 **MS. VICKERS:** We would request one, just to make
19 sure. We don't want to cause any further delay.

20 **THE COURT:** Then I would ask that you be back at
21 the designation at one o'clock. Don't discuss the case
22 amongst yourselves. Don't let anyone discuss it with
23 you. Leave your pads and pens on the chairs. They
24 will be there when you return. I will see everybody
25 back here at 1 o'clock.

1 (Luncheon recess.)

2 **MS. CHIEN:** Your Honor, prior to the jury coming
3 back in, we do have one witness, Donald Swift, and if I
4 can go ahead and proffer what his testimony would be
5 and then the Court could rule on whether or not it is
6 admissible.

7 **THE COURT:** Okay. That would be fine.

8 **MS. CHIEN:** So at this time the defense would call
9 Donald Swift.

10 Thereupon,

11 **DONALD SWIFT**

12 was called as a witness and, having first been duly sworn,
13 testified as follows:

14 **THE COURT:** You may inquire.

15 **MS. CHIEN:** Thank you.

16 (Whereupon, the following was a proffer held
17 outside the hearing of the Jury.)

18 **DIRECT EXAMINATION**

19 **BY MS. CHIEN:**

20 **Q** Good afternoon. Can you please state your name
21 and spell your last name, please.

22 **A** Donald Swift, S-W-I-F-T.

23 **Q** And Mr. Swift, what is your occupation?

24 **A** I am a nightclub manager.

25 **Q** And where are you a nightclub manager at?

1 **MS. LASKOFF:** I understand he works at Thee
2 Dollhouse and the gentleman came and talked to him. If
3 you want to just jump to that, I will stipulate.

4 **THE COURT:** If you can get to the crux of the
5 matter, please.

6 **MS. CHIEN:** All right.

7 **BY MS. CHIEN:**

8 **Q** After there was a stabbing, an incident at Thee
9 Dollhouse, did one of the four gentlemen who was involved in
10 the fight come and speak with you?

11 **A** Yes.

12 **Q** Do you know who that was?

13 **A** Yes.

14 **Q** Who was that person?

15 **A** Mr. Blanco.

16 **Q** And what did he come to Thee Dollhouse for?

17 **A** Well, he came to Thee Dollhouse -- actually, it
18 was in the middle of the afternoon. He had come in to
19 apologize for what had happened the night of the incident.

20 **Q** Okay. And when he apologized for what happened,
21 did he apologize for his part in it?

22 **A** A portion thereof, yes.

23 **Q** Okay. And did he tell you -- did Mr. Blanco tell
24 you how the fight started?

25 **A** Yes.

1 **Q** What did he say as to how the fight started?

2 **A** Well, it was about a half hour to 45 minutes
3 conversation. He had just said that at the end of the
4 evening as everybody was leaving the premises, that they
5 were at and getting into their vehicle, and that a young
6 lady and young man were also getting in their vehicle and
7 Will started running his mouth.

8 **Q** Okay. Did he tell you that that was the reason
9 why the fight started?

10 **A** Yes.

11 **Q** When he came to apologize, did he apologize for
12 what they had done at Thee Dollhouse?

13 **A** Well, actually for the most part, and then
14 actually what had transpired, because they were regular
15 customers at our club, and I guess what happened was, I
16 guess the negative publicity or I guess any publicity at all
17 is what he came to apologize for, so yes.

18 **Q** Did he also apologize for what had happened?

19 **A** Yes.

20 **Q** Okay.

21 **MS. CHIEN:** May I have a moment, Your Honor?

22 **THE COURT:** You may.

23 **MS. CHIEN:** I have no other questions.

24 **THE COURT:** State, do you have an objection to the
25 admissibility?

1 **MS. LASKOFF:** I do, Your Honor.

2 **THE COURT:** Okay. All right. Can we let the
3 witness stand down. All right. You can wait out in
4 the hallway for just a moment, sir.

5 - - -

6 (Witness left courtroom.)

7 **THE COURT:** All right.

8 **MS. LASKOFF:** Your Honor, it is the State's
9 position that, number one, all of the statements that
10 Mr. Blanco made to Mr. Swift are hearsay. There's no
11 exception for their admissibility, and in regard to
12 them being evidence of consciousness of guilt, it is
13 the State's position that that is not what this was.
14 We don't have an individual admitting to any guilt,
15 doing any -- it is more of a situation where he is
16 simply remorseful that the situation happened in the
17 first place. He's not taking responsibility in regard
18 to the acts that happened specifically and directly to
19 the elements of these offenses. And for those reasons,
20 we are arguing that this is not admissible. It is
21 improper impeachment, improper evidence to be used
22 against Mr. Blanco.

23 **THE COURT:** Defense?

24 **MS. CHIEN:** Yes. Umm, our argument is that what
25 Mr. Swift just testified to goes to the weight of the

1 evidence and not to the admissibility as to the
2 evidence. They -- it is something for the jury to
3 decide.

4 First of all, when we questioned, when I
5 questioned Andre Blanco as to how the fight started, he
6 said that he didn't know. And this would be another
7 inconsistent statement that he made to Donald Swift.

8 **THE COURT:** I agree that that portion of his
9 testimony is admissible.

10 **MS. CHIEN:** Okay. And then as far as the other
11 part in which he came back to apologize, it goes to the
12 state of mind to the consciousness of guilt. One of
13 the charges -- well, one of the defenses that we have
14 obviously is self-defense, and what Andre Blanco's
15 state of mind was. He was going back to apologize for
16 what they had done at Thee Dollhouse, or any part of
17 it, or the fact that the fight had broken out there.
18 That shows some form of guilt, and I think it is
19 admissible and it is up to the jury to decide how much
20 weight to give to the -- that apology.

21 **THE COURT:** The alleged victim's state of mind a
22 week subsequent to the incident does not seem to be
23 relevant unless you can give me something more.

24 **MS. CHIEN:** Well, our argument is that he was --
25 when he went to Thee Dollhouse and he was -- he was

1 apologizing and he was feeling -- the State of mind was
2 for what had occurred one week before and it still
3 shows consciousness of guilt. We don't have to -- I
4 mean, there are instances where it is reversed where
5 the defendant made an apology or maybe he cut off his
6 hair. It is up to the jury to make that link.

7 **THE COURT:** That is clearly hearsay. But it is
8 within an exception when the defendant says it because
9 it is a statement of the party opponent. I will permit
10 the impeachment as I have indicated. I will sustain
11 the objection on the alleged apology.

12 **MS. LASKOFF:** Just so -- I just want to be clear.
13 So exactly what is it that they can and cannot address?
14 I just want to be clear so I don't do something I am
15 not supposed to or vice versa.

16 **THE COURT:** I believe that the defense brought out
17 during the proffer that the alleged victim made a
18 different statement about how the fight began than what
19 he testified to in court. And he's certainly permitted
20 to bring that out.

21 **MS. CHIEN:** Can I just go advise him that he
22 cannot talk about the apology?

23 **THE COURT:** Yes. And we will bring the jury in.

24 (Jury enters the courtroom.)

25 **THE COURT:** Defense, you may call your next

1 witness.

2 **MS. CHIEN:** Defense calls Donald Swift.

3 Thereupon,

4 **DONALD SWIFT**

5 was called as a witness and, having first been duly sworn,
6 testified as follows:

7 **THE COURT:** You may inquire.

8 **DIRECT EXAMINATION**

9 **BY MS. CHIEN:**

10 **Q** Okay. Can you please tell the jury your name.

11 **A** My name is Donald Swift.

12 **Q** And what is your occupation?

13 **A** I am a nightclub manager.

14 **Q** And where are you a nightclub manager at?

15 **A** For a company called DH Inc, Thee Dollhouse.

16 **Q** And were you working at Thee Dollhouse in the
17 month of October, 2006?

18 **A** Yes.

19 **Q** Okay. Now, were you -- about a week after there
20 was an incident towards the later month of October at Thee
21 Dollhouse. Did you come into contact with any of the four
22 men who were involved in a fight there?

23 **A** Yes.

24 **Q** Can you tell me exactly when that was?

25 **A** Just after two in the afternoon.

1 **Q** Okay. When did you get a visit from this person?

2 **A** Umm, probably three, four days after the incident
3 had happened.

4 **Q** And who was this person who came to visit you?

5 **A** His name was Mr. Blanco.

6 **Q** Was his first name Andre?

7 **A** Yes.

8 **Q** Okay. When Andre Blanco came to you, did he speak
9 with you?

10 **A** Yes.

11 **Q** And did he tell you how the fight started?

12 **A** Yes.

13 **Q** And can you tell us what he said?

14 **A** He told me the fight started because Will had been
15 running his mouth.

16 **MS. CHIEN:** I have no other questions.

17 **THE COURT:** Any cross-examination?

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

19 **THE COURT:** May this witness be excused?

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

21 **THE COURT:** You are free to go, sir. Thank you.
22 Defense, call your next witness.

23 **MS. VICKERS:** Yes, Your Honor. I just need to
24 grab -- Your Honor, at this time I would be asking to
25 move Defense Exhibit I for identification into

1 evidence.

2 **MS. LASKOFF:** If we can approach, Your Honor?

3 **THE COURT:** You may.

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

5 **MS. LASKOFF:** Your Honor, specifically the last
6 three seem like they are duplicates.

7 **THE COURT:** They appear to be numbered 11, and
8 you're objecting to one, two and three?

9 **MS. LASKOFF:** If those are the last -- I did not
10 look at the back. Yes, Your Honor. Seems like they
11 are all cumulative of one another.

12 **THE COURT:** Some of these are.

13 **MS. LASKOFF:** Just of themselves.

14 **THE COURT:** That would be overruled.

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

16 **THE COURT:** Objection is overruled. They will be
17 admitted as Defense 1 Composite.

18 **MS. VICKERS:** May I have permission to publish
19 them to the jury?

20 **THE COURT:** Yes.

21 **MS. VICKERS:** For the record, I am now showing the
22 jury what has been entered into evidence as Defense
23 Exhibit 1.

24 **THE COURT:** Ladies and gentlemen, just so that you
25 know, the items that have been admitted into evidence

1 will be provided to you in the jury room during your
2 deliberations.

3 **MS. LASKOFF:** If I may approach, Your Honor?

4 **THE COURT:** You may.

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

6 **MS. LASKOFF:** I am not objecting to these.

7 **MS. VICKERS:** For the record, I would be moving to
8 introduce what has been listed as defense.

9 **THE COURT:** E, F, G, H.

10 **MS. VICKERS:** All of these in evidence. I can
11 list all of the letters when the State is done with
12 them.

13 **MS. LASKOFF:** I am objecting to all four of these.
14 What I am referencing is, they have not been marked
15 yet.

16 **MS. VICKERS:** Yes, they have.

17 **MS. LASKOFF:** Oh, they are individually marked.
18 Defense Identification B, C, D and A, this is an
19 overall picture of the defendant.

20 **THE COURT:** That being A, all right.

21 **MS. LASKOFF:** This reflects the facial injuries as
22 well as that picture. Again, that's just a closeup of
23 the exact same thing that is reflected on the other two
24 photos. As well as this one, Your Honor, we are
25 objecting to them. They are simply duplicate pictures

1 of the exact same thing and I would ask that they be
2 narrowed down somehow.

3 **THE COURT:** That will be overruled and they will
4 be admitted. You are not objecting to authentication
5 or fair and accurate?

6 **MS. LASKOFF:** No.

7 **THE COURT:** Then they will be admitted as the
8 defense numbered exhibits which will be 2 through 9.

9 **MS. LASKOFF:** Okay.

10 **THE COURT:** Ms. Vickers, do you have actual other
11 witnesses?

12 **MS. VICKERS:** One.

13 **THE COURT:** So after that we will need to take a
14 break to determine if your client wants to testify or
15 not.

16 **MS. VICKERS:** Correct.

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

18 **THE COURT:** Ms. Vickers, I believe you wanted to
19 mark in what has been Exhibit A through H?

20 **MS. VICKERS:** Yes. I'd like to move those into
21 evidence at this time.

22 **THE COURT:** They will be admitted as Defendant's 2
23 through 9.

24 **MS. VICKERS:** May I have permission to publish
25 those to the jury?

1 **THE COURT:** Yes.

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

3 For the record, I'm handing the jury what has been
4 entered into evidence as Defense 2 through 9. Your
5 Honor, may I proceed?

6 **THE COURT:** You may.

7 **MS. VICKERS:** Defense calls Deanna Washington.
8 Thereupon,

9 **DEANNA WASHINGTON**
10 was called as a witness and, having first been duly sworn,
11 testified as follows:

12 **THE COURT:** You may inquire.

13 **MS. VICKERS:** Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 **BY MS. VICKERS:**

16 **Q** Good afternoon.

17 **A** Good afternoon.

18 **Q** Could you please state your name and spell your
19 last name so the court reporters can take it down correctly?

20 **A** Deanna Washington. W-A-S-H-I-N-G-T-O-N.

21 **Q** Thank you. And where are you from?

22 **A** Georgia.

23 **Q** Okay. And back in October of 2006, where were you
24 living?

25 **A** In Georgia.

1 **Q** And have you ever lived in Orlando before?

2 **A** No.

3 **Q** Back on October 25th of 2006, were you visiting
4 Orlando?

5 **A** Yes.

6 **Q** And who were you with?

7 **A** John Dobbs.

8 **Q** All right. On the night of October 25th of 2006,
9 did you and Mr. Dobbs have an occasion to go to Thee
10 Dollhouse?

11 **A** Yes.

12 **Q** And do you recall what time you arrived there?

13 **A** 1:30 a.m.

14 **Q** And do you recall what time you left?

15 **A** 2:00 a.m.

16 **Q** So you were there for approximately thirty
17 minutes?

18 **A** Yes.

19 **Q** And during that thirty minute time period, did you
20 and Mr. Dobbs have anything to drink?

21 **A** Yes.

22 **Q** And do you recall what you had?

23 **A** Patrone. It is a liquor.

24 **Q** Okay. And how many drinks did you and Mr. Dobbs
25 have?

1 **A** One drink.

2 **Q** One drink each?

3 **A** Each.

4 **Q** All right. Now, what kind of car were you-all
5 driving in that night of October 25th 2006?

6 **A** We both drove in an Acura 2006.

7 **Q** All right. What color was it?

8 **A** Gray.

9 **Q** Now, when you-all -- did you and Mr. Dobbs leave
10 Thee Dollhouse together?

11 **A** Yes, we did.

12 **Q** As you were walking out to the Acura --

13 **A** Yes.

14 **Q** I will refer to it as the Acura. When you are
15 walking out to the Acura, did you hear anything out of the
16 ordinary?

17 **A** I heard yelling across the parking lot to us two.

18 **Q** Could you hear what the yelling was about?

19 **A** I heard the yelling as who, like, you know,
20 walking me and the girl to the car, John Dobbs and me to the
21 car, and, like, that was what I heard.

22 **Q** I am sorry. Could you just clarify for the jury,
23 you said you heard some yelling. Could you tell what the
24 yelling, what the people who were yelling at you, what they
25 were saying?

1 **A** They yelled out, like, umm, who is this, you know,
2 walking out to the car right now, like, you know, who in the
3 world is walking me, you know, John Dobbs and I to the car
4 as in the valet parking people. They were walking behind
5 us.

6 **Q** Okay. So you think the people were yelling about
7 that?

8 **A** Uh-huh.

9 **Q** You have to say yes or no.

10 **A** Yes.

11 **Q** Okay. So they were yelling about the fact that
12 valet was walking behind you as you were all walking to your
13 car?

14 **A** Yes.

15 **Q** Did you get into the car?

16 **A** Yes, we got into the car.

17 **Q** Did Mr. Dobbs open the door for you, you got in?

18 **A** No, I got in the car as he unlocked the door with
19 the key.

20 **Q** Okay. And he went over to his side of, the
21 driver's side of the car?

22 **A** Yes.

23 **Q** Okay. You were in the passenger side?

24 **A** Yes.

25 **Q** Okay. Now at some point did you notice anybody

1 approaching the car?

2 **A** I noticed a guy come walking to the passenger side
3 of where I was sitting at to the car door.

4 **Q** I am sorry?

5 **A** To the car door.

6 **Q** Do you know who he was?

7 **A** No.

8 **Q** Was he saying anything?

9 **A** No.

10 **Q** Now, the gentleman that was walking to your car, I
11 want you to describe for us how he was walking. Was he kind
12 of just walking casually or was he walking kind of
13 aggressively?

14 **A** He was walking aggressively to the car.

15 **Q** Okay. Did that scare you?

16 **A** Yes, it did.

17 **Q** All right. So, what did Mr. Dobbs do at that
18 point?

19 **A** Mr. Dobbs said to me to stay in the car and he
20 would get out to find out what's going on with this young
21 man walking up to the car.

22 **Q** Okay. Now, did you expect at that point for there
23 to be a fight?

24 **A** No, I didn't.

25 **Q** What was your expectation at that point of what

1 was going to happen?

2 **A** My expectations were like for them to just talk
3 and for John Dobbs to say, you know, good night to this
4 young man that was walking up to the car.

5 **Q** Now, did you see this man throw a punch at John
6 Dobbs?

7 **A** Yes, I did.

8 **Q** And had John Dobbs hit the man before?

9 **A** No.

10 **Q** Okay. So basically who threw the first punch?

11 **A** The guy that approached the car, the car we were
12 in.

13 **Q** Okay. All right. And did you still stay in the
14 car at this point?

15 **A** Yes.

16 **Q** Now, and then after the gentleman who approached
17 the Acura swung at Mr. Dobbs, did Mr. Dobbs start fighting
18 back?

19 **A** Yes.

20 **Q** Were you scared at that point?

21 **A** Yes.

22 **Q** Did you notice anybody else approach after those
23 first punches were thrown?

24 **A** I noticed three other guys walking up to John
25 Dobbs and surround him.

1 **Q** Okay. And these guys, do you know if they were
2 White, Black, Hispanic, can you describe them at all for us?

3 **A** They were black.

4 **Q** Okay. Light-skinned black males or dark-skinned?

5 **A** I can't really tell, you know, how these guys
6 looked, but I knew they were black.

7 **Q** Okay. Was it dark outside?

8 **A** Yes.

9 **Q** Not a lot of lighting in the parking lot?

10 **A** No.

11 **Q** Now, did you -- what kind of car these guys had
12 come from?

13 **A** No. Because I didn't pay attention to what they
14 were driving.

15 **Q** So, I'm sorry. We will get back on track. You
16 said that three guys had walked over and surrounded
17 Mr. Dobbs?

18 **A** Yes.

19 **Q** And that was after Mr. Dobbs and the one gentleman
20 had already started getting physical?

21 **A** Yes.

22 **Q** So then the three come up and surround them?

23 **A** Yes.

24 **Q** At that point did you do anything to help?

25 **A** At that point I got out the car and I grabbed the

1 guys that were on John Dobbs and began hitting them.

2 **Q** Okay. And did any of the -- when I am talking
3 about the guys, I'm going to refer to the other guys
4 involved in the fight and I will refer to Mr. Dobbs as
5 Mr. Dobbs.

6 **A** Okay.

7 **Q** So did any of those four guys do anything
8 physically to you?

9 **A** No. They yelled out, grab the girl and I felt
10 someone grab me and swung me around so that they can get in
11 front of me to continue attacking John Dobbs.

12 **MS. LASKOFF:** Objection, speculation.

13 **THE COURT:** Overruled.

14 **BY MS. VICKERS:**

15 **Q** Can you repeat the last part of that again?

16 **A** The guys that ran over and that were surrounding
17 John Dobbs, that's when I got out of the car and they
18 yelled, grab the girl, and kind of like swung me around
19 behind them to get in front of me to surround him again by
20 beating him up.

21 **Q** Were you paying attention to blow by blow exactly
22 what was going on, or was it moving kind of quickly?

23 **A** Everything was moving quickly.

24 **Q** All right. Now, how did this all stop? How did
25 the fight end?

1 **A** Well, John Dobbs fell down to one knee and was
2 kind of like hurted badly, and I seen blood everywhere and
3 these guys kind of like backed off when they seen him like
4 not able to take anymore of their punches.

5 **Q** Okay. So you are saying he went down to the
6 ground and the other three backed off?

7 **A** Yes.

8 **Q** All right. What did you and Mr. Dobbs do?

9 **A** Me and Mr. Dobbs got in the car, get ready to
10 drive out of this parking lot from the scene.

11 **Q** Okay. And as you were leaving the parking lot,
12 did you notice anybody, if anybody was following you?

13 **A** I noticed a red truck come pulling out the parking
14 lot as we pulling out the parking lot.

15 **Q** Okay. And had you seen this red truck before?

16 **A** No.

17 **Q** Okay. And what did you think the red truck was
18 following you for?

19 **A** I think that they was gonna continue to follow us
20 to make us scared and just, you know, knock us off the road
21 or something.

22 **Q** Okay. Did you think it was still people from the
23 fight who were coming after you?

24 **A** Yes.

25 **Q** Okay. Were you scared at that point?

1 **A** Yes.

2 **Q** So, this truck, it was following you, the Acura.
3 Did it -- did it try to ram you off the road?

4 **A** The truck was very close to where when we pulled
5 out the parking lot, they were pulling out at the same time
6 and they were right besides us.

7 **Q** Okay. And at any point as you-all were driving
8 and this truck was following you, did the truck hit the
9 Acura?

10 **A** No.

11 **Q** Okay. At any point did you see a gun?

12 **A** I seen a gun.

13 **Q** Okay. And when was the first time that night you
14 saw a gun?

15 **A** Was when we were in the car leaving out their
16 parking lot and it was in John's lap.

17 **Q** All right. Now, as you-all were driving, did
18 Mr. Dobbs do anything with this gun?

19 **A** I didn't see John Dobbs do anything with the gun
20 as in making any fire with it.

21 **Q** You mean shooting it?

22 **A** Yeah. Shooting it.

23 **Q** Okay. So you never heard or saw a gunshot?

24 **A** Yes, I never heard anything.

25 **Q** All right. Now, did Mr. Dobbs do anything with

1 the gun?

2 **A** The gun he had -- what he did was -- I -- you
3 know -- our windows were rolled up from the Acura, and he
4 just pointed it to the red truck.

5 **Q** Okay.

6 **A** But he didn't make no fire, like no shot with it.

7 **Q** Were the windows still rolled up when the gun was
8 pointed?

9 **A** Yes.

10 **Q** All right. So, if the gun had been fired,
11 obviously it would have had to travel through the glass and
12 the glass would have broken?

13 **A** Yes.

14 **Q** So you are sure the gun wasn't fired?

15 **A** I am sure.

16 **Q** Now, after that, did the red truck back off?

17 **A** Yes.

18 **Q** Okay. And it stopped following you-all?

19 **A** Yes.

20 **Q** Did that make you feel a little safer at that
21 point?

22 **A** Yes.

23 **Q** And then just a little later the police pulled
24 you-all over, is that correct?

25 **A** Yes.

1 **Q** All right. Now, Ms. Washington, back in October
2 of 2006, you were dating Mr. Dobbs, is that correct?

3 **A** Yes.

4 **Q** Are you dating him now?

5 **A** No.

6 **Q** Do you have a new boyfriend?

7 **A** Yes.

8 **Q** And how long have you been with the new boyfriend?

9 **A** Three months.

10 **Q** And do you-all live together?

11 **A** Yes.

12 **Q** Umm, do you have any children with Mr. Dobbs?

13 **A** No.

14 **Q** Were you ever married to Mr. Dobbs?

15 **A** No.

16 **Q** So in your opinion, you have no ties or
17 obligations to Mr. Dobbs at this point?

18 **A** Yes.

19 **Q** Yes, you do have obligations to him or no, you
20 don't?

21 **A** No, I don't have any obligations to John Dobbs.

22 **Q** Thank you.

23 **MS. VICKERS:** Nothing further.

24 **THE COURT:** Cross-examination?

25 **CROSS-EXAMINATION**

1 **BY MS. LASKOFF:**

2 **Q** Hi, Ms. Washington.

3 **A** Hi.

4 **Q** How you doing?

5 **A** Fine.

6 **Q** Fine?

7 **A** Yes.

8 **Q** All right. Now, we talked about what happened
9 outside the club. All right. Let's talk about what
10 happened inside the club.

11 **MS. VICKERS:** I am going to object as to outside
12 the scope.

13 **THE COURT:** Overruled.

14 **BY MS. LASKOFF:**

15 **Q** When you were inside the club, you had seen a guy
16 with dreads that was kind of annoying you, didn't you?

17 **A** Yes.

18 **Q** And he was standing by the door and by the bar
19 close to closing time, is this correct?

20 **A** Yes.

21 **Q** And you were talking to one of the other women at
22 Thee Dollhouse and -- about the fact that you kind of shared
23 the same name and almost a common birthday, correct?

24 **A** Yes.

25 **Q** And this guy with the dreads, he was kind of being

1 snotty and making some comments towards you, is that not
2 correct?

3 **A** Yes.

4 **Q** And this is right before you are going out of the
5 club?

6 **A** Yes.

7 **Q** Okay. And John is there and hears part of this,
8 is that not also correct?

9 **A** Yes.

10 **Q** And John says something back to him or does he
11 leave it alone at this point?

12 **A** He leaves it alone.

13 **Q** Okay. And you thought it was kind of rude what
14 the guy in dreads was saying to you, didn't you?

15 **A** Yes.

16 **Q** And the guy in dreads is one of the gentlemen that
17 was in the fight outside, is that not correct?

18 **A** Yes.

19 **Q** Okay. I am going to show you what's previously
20 been marked as State's Exhibit 4. Okay? Is this the guy in
21 dreads I am referencing? Do you recognize that?

22 **A** Uh-huh, yes.

23 **Q** Okay. Yeah, you got to say yes or no for the
24 court reporter.

25 **A** Yes.

1 **Q** Okay. So this gentleman is the one that was being
2 a smart mouth to you inside the club that John was
3 overhearing?

4 **A** Yes.

5 **Q** Okay. Now, how did it end inside the club? Did
6 this guy with the dreads just finally leave or what
7 happened?

8 **A** Yes, that was what the guy did. He left the club.
9 I didn't see him around after that.

10 **Q** Okay. Now, you want John to do something about
11 what the guy with the dreads was saying to you. You did not
12 appreciate what the guy with dreads, what he was saying to
13 you?

14 **A** Yeah, I didn't appreciate it. And I did want
15 Mr. Dobbs to do something about it.

16 **Q** Okay. Now, from the time that the guy was being
17 kind of snotty and making these comments about who cares
18 about your birthdays being similar and who cares that you
19 have the same name, was there anything other than that that
20 he was commenting to you-all on at that point?

21 **A** No. That was all he said.

22 **Q** Okay. So you kind of felt like he was
23 disrespecting you, is that not correct?

24 **A** Yes.

25 **Q** And it was rude?

1 **A** Yes.

2 **Q** And it was out of line?

3 **A** Yes.

4 **Q** Okay. And that's why you wanted John Dobbs to do
5 something about it at this point, correct?

6 **A** Yes.

7 **Q** All right. Now after this conversation, how much
8 time passes before you exit the club?

9 **A** It wasn't not long after that we exit the club.

10 **Q** Okay. Is it like minutes?

11 **A** Yes, like a minute, two.

12 **Q** Okay. Now the lights in the club had come on at
13 this point and the club is closed?

14 **A** Yes.

15 **Q** Okay. Now, you-all walked and when you say
16 you-all, I mean you and John Dobbs walked to your car,
17 correct?

18 **A** Yes.

19 **Q** And you get into the vehicle, in your car?

20 **A** Yes.

21 **Q** And we are talking about the silver Acura that if
22 I could show you what has been marked as evidence as State's
23 3. Is this the silver Acura you are talking about?

24 **A** Yes.

25 **Q** Okay. Now, when you go to the silver Acura, you

1 get into the passenger seat, correct?

2 **A** Yes.

3 **Q** And John Dobbs gets into the driver's seat,
4 correct?

5 **A** Yes.

6 **Q** And you-all sit there, correct?

7 **A** Yes.

8 **Q** And at this point you see the guy with dreads with
9 three of his friends, correct?

10 **A** Yes.

11 **Q** Had you seen the other gentleman inside the club
12 too, aside from the one with the dreads?

13 **A** No.

14 **Q** No? So you hadn't had any other previous contact
15 or problems with the other gentlemen in the club, had you?

16 **A** No.

17 **Q** Okay. Now, when you are outside, what happens
18 when you're in the car? What is it? Who says something
19 outside of the group, not you or John, but one of the other
20 people?

21 **A** I didn't see who said anything, but I heard
22 someone said something about the valet parking people
23 walking us to our car.

24 **Q** Okay. Now, they were kind of -- the four
25 gentlemen kind of saying, making fun of you-all, weren't

1 they?

2 **A** Yes.

3 **Q** Kind of mocking you, saying you-all got to have
4 security walk you out. Kind of something like that?

5 **A** Right. Yes, yeah.

6 **Q** And you thought their comments were kind of sassy,
7 sloppy and rude, right?

8 **A** Yes.

9 **Q** Okay. And you didn't appreciate that comment, did
10 you?

11 **A** No.

12 **Q** And how many of the men in the other group were
13 actually saying these things?

14 **A** I heard just one loud voice out saying that.

15 **Q** So it is was one of them?

16 **A** Yes.

17 **Q** Okay. Was it the guy with the dreads?

18 **A** I wasn't looking.

19 **Q** Okay. Now, how far from them was your car parked,
20 because they were by their car, correct?

21 **A** Yes.

22 **Q** And were there a couple of them already in the
23 car?

24 **A** I don't know.

25 **Q** Okay. So you don't know if some were out or some

1 were in or vice versa?

2 **A** Yes, I don't know.

3 **Q** Okay. And then that happened? You were somewhat
4 offended, is that not correct?

5 **A** Yes. Yes.

6 **Q** Okay. Now, were those comments in such a way that
7 John Dobbs could hear them once you were outside the club?

8 **A** Yes.

9 **Q** Are you aware that he actually heard the comments
10 that the guys were making, smart comments?

11 **A** Yes.

12 **Q** Okay. Now, you are saying that one of the guys
13 from the group started walking over to your car?

14 **A** Yes.

15 **Q** And you point out to John Dobbs, basically, you
16 say, yes, yes, there's a guy coming over to the car?

17 **A** Yes.

18 **Q** Is that not correct?

19 **A** Yes.

20 **Q** All right. Now, John Dobbs didn't stay in the
21 car, did he at this point, when the guys started walking
22 over?

23 **A** No.

24 **Q** Okay. So he was sitting in the driver's seat.
25 Was the car door open or was his car door shut, do you

1 remember?

2 **A** My car? The car we were in?

3 **Q** Right. Let me ask you specifically, the seat
4 where John Dobbs was sitting at, was his car door open or
5 was it closed or do you not know?

6 **A** I do not know.

7 **Q** Okay. So he gets out of the car, whether you
8 recall the door open or closed, correct?

9 **A** Correct.

10 **Q** And then he walks behind the vehicle, correct?

11 **A** Correct.

12 **Q** Okay. And then the other guy from the group of
13 four is still walking over?

14 **A** Correct.

15 **Q** Okay. And you are telling the jury that the other
16 guy, just without saying anything, without anything
17 happening, just walked up and suddenly punched John Dobbs,
18 is that correct?

19 **A** That is correct.

20 **Q** And isn't it true that you never saw any of,
21 either the first guy that, with the dreads, or the gentleman
22 that first walked up to John Dobbs and punched him, you
23 never saw any of them with a weapon, did you?

24 **A** That is correct.

25 **Q** Okay. And you never saw a knife on one of them?

1 **A** That is correct.

2 **Q** And you never saw John Dobbs with a knife, did
3 you?

4 **A** That is correct.

5 **Q** Okay. And when this first gentleman hit John
6 Dobbs, isn't it true that what happened at this point is
7 John hit him so hard, he knocked him to the ground?

8 **A** All I remember is, umm, blood everywhere. I
9 remember from that first guy that was walking to our car
10 attacked John Dobbs.

11 **Q** Right.

12 **A** And --

13 **Q** He knocked that first guy down, John Dobbs hit
14 pretty hard, right?

15 **A** Yes.

16 **Q** Okay. So you saw this first guy fall to the
17 ground?

18 **A** No, I didn't see that.

19 **Q** Okay. And then when did you see somebody else
20 come up?

21 **A** I seen someone come up after the fact that the
22 guy -- he was still trying to attack and get like strength
23 --

24 **Q** Now, are we still talking about the first guy?

25 **A** Yes, we are.

1 **Q** Okay. And I am going to show you what has been
2 moved into evidence as State's Exhibit 1. Okay?
3 Specifically I am showing you D4. Is this the first guy
4 that you are talking about that approached John Dobbs?

5 **A** Yes.

6 **Q** Okay. And John messed him up pretty good, didn't
7 he?

8 **A** It looks like it.

9 **MS. VICKERS:** Objection to speculation, and
10 improper characterization.

11 **THE COURT:** Sustained.

12 **MS. VICKERS:** Could we approach?

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

14 **MS. VICKERS:** I'd ask that that response to the
15 answer be stricken and the Court instruct them to
16 disregard that.

17 **THE COURT:** All right.

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

19 **THE COURT:** Ladies and gentlemen, you will
20 disregard the last answer.

21 **BY MS. LASKOFF:**

22 **Q** Now, you are telling me after the first guy came
23 over, you don't know at what point the second guy came over?

24 **A** Excuse me?

25 **Q** You are telling me after the first guy came over,

1 the guy I just showed you the picture of.

2 **A** Okay.

3 **Q** You are not sure when the second guy came over?

4 **A** No.

5 **Q** And you were still in your car at this point?

6 **A** Yes.

7 **Q** All right. All right. And when did you get out
8 of your car?

9 **A** I got out the car when I noticed the other three
10 guys from the group run over and surround him, John Dobbs.

11 **Q** Okay. And when the other guys you say surrounded
12 him, was John Dobbs, in fact, punching them?

13 **A** Yes. He was trying to get them away.

14 **Q** Well, but he was punching them, right?

15 **MS. VICKERS:** Object, as to letting the witness
16 finish her answers.

17 **THE COURT:** Sustained.

18 **BY MS. LASKOFF:**

19 **Q** You can finish.

20 **A** Okay. The guys from the three, as in from walking
21 from their car came over and attacked John as in surrounding
22 him and all he could do is swing on whoever that was coming
23 towards him and --

24 **Q** Well, let me ask you this, did you then get out of
25 your car?

1 **MS. VICKERS:** Objection, Your Honor. Again, it is
2 narrative and nonresponsive at this point?

3 **THE COURT:** I'm going to sustain the State's
4 objection and overrule the defense objection, ask
5 another question.

6 **BY MS. LASKOFF:**

7 **Q** I have to remember where I am. I am sorry. At
8 this point you get out of the car, you jump on one of the
9 guy's backs, correct?

10 **A** Not, no on anyone's back.

11 **Q** You didn't jump on anybody's back?

12 **A** No.

13 **Q** You started hitting on them, didn't you?

14 **A** Yes.

15 **Q** Okay. And they kind of pushed you out of the way,
16 correct?

17 **A** Yes.

18 **Q** You were still hitting on them, correct?

19 **A** Yes.

20 **Q** Okay. Now, if they had had a knife, would you
21 have seen the knife?

22 **MS. VICKERS:** Objection, speculation.

23 **THE WITNESS:** No.

24 **THE COURT:** Overruled.

25

1 **BY MS. LASKOFF:**

2 **Q** No what?

3 **A** I wouldn't have seen the knife. Everything was
4 going so fast.

5 **Q** Okay. Let me ask you this, you were involved in
6 the fight, correct?

7 **A** Yes.

8 **Q** Okay. And do you remember talking to the
9 detectives right after this happened back on October 25th,
10 2006?

11 **A** Yes.

12 **Q** Okay. It was approximately 8:00 in the morning at
13 this point?

14 **A** Okay.

15 **Q** Do you remember them talking to you about a knife?

16 **A** The detectives?

17 **Q** Right.

18 **A** I remember them talking to me about it.

19 **Q** Okay. I am going to show you, for counsel's
20 reference, page 22, and lines -- if you could read lines 9
21 through 16. Okay. If you can look at those.

22 **A** Okay. Would you like me to read them now?

23 **Q** Not out loud. Read them to yourself. Did you
24 finish reading the whole part?

25 **A** No.

1 **Q** Okay. Go ahead and finish.

2 **A** (Witness complying).

3 **Q** Okay. Have you had a chance to look through that?

4 **A** Uh-huh.

5 **Q** Okay. I am going to ask you, again, when you were
6 there, do you recall whether or not you would have seen a
7 knife, if anybody had a knife?

8 **A** I would have seen it.

9 **Q** Okay. And why would you have seen the knife?

10 **A** Because everyone was attacking John and I, me.
11 Meanwhile, I was out the car after these three guys were
12 attacking him, trying to get them off of him by punching
13 these guys in the face, and I kind of seen whatever guys
14 coming on him, onto him, John Dobbs.

15 **Q** Okay. And you were involved in the fight,
16 correct?

17 **A** Yes.

18 **Q** So you were right there. You saw the guys. You
19 were in close proximity to them, correct?

20 **A** Excuse me?

21 **Q** You were right with them. You weren't far away
22 from them like I to you, you were face-to-face to them in a
23 confrontation, correct?

24 **A** I was fighting with these guys.

25 **Q** Okay. And they were just trying to get you off of

1 them, correct?

2 **MS. VICKERS:** Objection, this is speculation.

3 **THE COURT:** Overruled.

4 **THE WITNESS:** They were trying to get me away from
5 John Dobbs.

6 **BY MS. LASKOFF:**

7 **Q** Okay. Now, you saw the guy with dreads fall to
8 the ground at one point, correct?

9 **A** Yes.

10 **Q** And at what point was it that you saw him fall to
11 the ground?

12 **A** After the fight being stopped.

13 **Q** Okay. And there were other guys falling to the
14 ground too, right?

15 **A** I didn't see that.

16 **Q** You only saw one guy fall to the ground, is that
17 what you are telling me?

18 **A** Yes.

19 **Q** Okay. And when the fight first started and the
20 guy was walking up to the car and John Dobbs was in the car,
21 you knew there was going to be a fight break out?

22 **A** No, didn't know.

23 **Q** Okay. And at what point is it that you knew there
24 was a fight going to be breaking out?

25 **A** When the guy came up real close and I told John

1 about it, and that's when that young man attacked.

2 Q Okay. But John wasn't out of the car yet, right?

3 A No, I told John Dobbs there's a guy walking up to
4 our car. And once I told him, he said, look, sit in the
5 car, and I said, okay. I was, you know, responding to him,
6 okay. And that's when he got out his car, out the driver's
7 side and walked around to the car door of where I was
8 sitting at and that's when that young man attacked.

9 Q Okay. So it was -- let me ask you, was your
10 driver's side or you were in the passenger, was your window
11 up or was it down at this point when the guy started walking
12 over to your car?

13 A My window was down.

14 Q Okay. And so was John's down too, so he heard the
15 comments?

16 A No. He heard it through my window.

17 Q So his window was up?

18 A Yes.

19 Q Okay. And so the fight stops at one point when
20 the guy in dreads falls to the ground, correct?

21 **MS. VICKERS:** Objection, asked and answered.

22 **THE COURT:** Sustained.

23 **BY MS. LASKOFF:**

24 Q Then what happens after the guy in dreads falls to
25 the ground, let me ask you this.

1 **MS. VICKERS:** Objection, asked and answered.

2 **THE COURT:** Overruled.

3 **THE WITNESS:** After this young man with the dreads
4 falls down to the ground, we were at our car and
5 everything like that, umm, getting into our car door
6 and, umm, just getting ready to leave from the scene.

7 **Q** Okay. Now, there were other people in the parking
8 lot, correct, that weren't part of the guy with the dreads
9 or the first guy that hit John, correct?

10 **A** I don't know.

11 **Q** You didn't see anybody else besides you guys and
12 the other guys?

13 **A** Yes.

14 **Q** Okay. Now, you have a cell phone, right?

15 **A** Yes.

16 **Q** And did you utilize that cell phone to call for
17 help?

18 **A** No.

19 **Q** Okay.

20 **A** I didn't have the phone on me. John Dobbs had it
21 in his pocket and that was during the fight of thinking
22 about calling 911.

23 **Q** Okay. Now, there was a point during the fight
24 where John was hitting them and the guys were starting to
25 back off, is that correct?

1 **A** Yes.

2 **Q** Okay. And did you notice the guys were bleeding?

3 **A** I noticed blood being everywhere because there was
4 blood on my pants and blood on my sneakers.

5 **Q** Okay. And you noticed that John Dobbs had blood
6 on him?

7 **A** Yes.

8 **Q** And you noticed that other guys, some of them had
9 blood on them, correct?

10 **A** Yes.

11 **Q** Okay. And some of them were bleeding from the
12 face?

13 **A** I didn't see that.

14 **Q** Okay. And did you see the fact that some of them
15 were bleeding through their clothing or part of their body?

16 **A** Yes, I seen blood draining down their shirts.

17 **Q** Okay. Now, during the fight, was John swinging
18 his arms?

19 **A** Yes.

20 **Q** Okay. And you are saying you never saw a knife on
21 John Dobbs?

22 **A** Never seen.

23 **MS. VICKERS:** Objection, asked and answered.

24 **THE COURT:** Sustained.

25

1 **BY MS. LASKOFF:**

2 **Q** And I am showing you State's 6.

3 **MS. VICKERS:** Objection Your Honor, the witness
4 has already answered this question.

5 **THE COURT:** There's not a question on the table at
6 the moment, so the objection is overruled.

7 **BY MS. LASKOFF:**

8 **Q** Did you ever see this knife that night?

9 **A** No.

10 **MS. VICKERS:** Objection, Your Honor. May we
11 approach?

12 **THE COURT:** You may.

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

14 **MS. VICKERS:** I would object to relevance and
15 asked and answered. This witness has already testified
16 she never saw a knife on anyone, and so now we are
17 showing her a knife that she never saw.

18 **THE COURT:** Overruled.

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

20 **BY MS. LASKOFF:**

21 **Q** Did you ever, not necessarily during the fight,
22 but any time during the night see this knife?

23 **A** No.

24 **Q** Had you ever seen this knife before that night or
25 before now?

1 **A** No.

2 **Q** John would carry a knife on him for work, wouldn't
3 he?

4 **A** Yes.

5 **Q** And --

6 **A** He did construction work.

7 **Q** Okay. And so it was common for him to carry his
8 work knife?

9 **A** Yes.

10 **Q** Correct?

11 **A** Yes.

12 **Q** Okay. And this night it wasn't until you two got
13 into the car that you realized the defendant might have had
14 a knife, correct?

15 **A** Correct.

16 **Q** And you realized that because he said he thought
17 he stabbed someone, right?

18 **A** Yes.

19 **Q** Now, as you are leaving the parking lot after the
20 fight and get into the car, you are pulling out, this red
21 truck is coming, correct, and you're almost leaving the
22 parking lot, correct?

23 **A** Correct.

24 **Q** Okay. And you hear them still talking outside,
25 somebody yelling?

1 **A** I heard a yell out of getting our tag number.

2 **Q** And was that because your window was still down?

3 **A** Yes.

4 **Q** Okay. And at that point did you drive to any
5 other locale or did you just go straight down the road?

6 **A** Straight down the road.

7 **Q** Okay. Now, you and John don't live in Orlando,
8 correct?

9 **A** Correct.

10 **Q** And you and John Dobbs had never met the guy with
11 the dreads or any of the other guys in his group before this
12 night, is that correct?

13 **A** Correct.

14 **Q** Okay. Now, once you're in the car and this red
15 truck is following you and it runs into the, into your car,
16 correct?

17 **A** Uh-huh, yes.

18 **Q** And you are telling the jury that John Dobbs had a
19 gun in his lap, correct?

20 **A** Correct.

21 **MS. LASKOFF:** If I could approach the witness?

22 **THE COURT:** You may.

23 **BY MS. LASKOFF:**

24 **Q** Ma'am, I am showing you what's previously been
25 marked as State's 5. You recognize what this is?

1 **A** A gun.

2 **Q** Okay. Is this not, in fact, the same gun that
3 John Dobbs pointed out the window?

4 **A** Yes.

5 **Q** Okay. And this is John Dobbs' gun, right?

6 **A** Yes.

7 **Q** Now, after he pointed the gun out the window at
8 the guy, the guy slammed on his brakes, right, or he somehow
9 disappeared from next to you?

10 **A** Yes.

11 **Q** Okay. And at this point who stuffed the gun in
12 the back seat?

13 **A** I don't know.

14 **Q** It just somehow got back there?

15 **A** I don't know.

16 **Q** Okay. Well, let me ask you this, how long of a
17 time passed between this red car coming up next to you and
18 John pointing the gun at him and the cops pulling you-all
19 over?

20 **A** Are you asking me like where was the gun then?

21 **Q** No, I am asking you how much time passed between
22 the guy in the red truck next to you with the gun --

23 **A** Okay.

24 **Q** -- to the time when the cops stopped you-all at
25 the stop sign or the stop light?

- 1 **A** I don't know. The police --
- 2 **Q** How much time?
- 3 **A** Police had pulled us over by then.
- 4 **Q** Well, that's my question. Was it five minutes
- 5 between the time that the red truck pulled up next to you to
- 6 the time the cops stopped you-all, more time, less time?
- 7 **A** Less time.
- 8 **Q** What's that time?
- 9 **A** It was less time.
- 10 **Q** So it was pretty quick, right?
- 11 **A** Yes.
- 12 **Q** Okay. Did you see John put the knife in the
- 13 center console of your car?
- 14 **A** No.
- 15 **Q** Did you see John Dobbs put the gun in the back
- 16 seat?
- 17 **A** No.
- 18 **Q** Did you see them throw it in the back seat?
- 19 **A** No.
- 20 **Q** What did you see happen with the gun from the time
- 21 he pointed it at the man at the window to the time the cops
- 22 stopped you?
- 23 **A** The gun was still in his lap.
- 24 **Q** Okay. But isn't it true that the police found the
- 25 gun in the back?

1 **A** I don't know where the cops found the gun at,
2 ma'am.

3 **Q** Okay. And John had had that gun for at least a
4 couple months, correct?

5 **A** Correct.

6 **Q** John never pulled the gun out at the club during
7 the fight, did he?

8 **A** No.

9 **Q** Okay. Are you aware of whether he carried the gun
10 on him at all times, or was it something he left in the car
11 at all times?

12 **A** I am not aware.

13 **Q** You don't know?

14 **A** I don't know.

15 **Q** Okay. Now, do you remember, again, talking to the
16 police right after the incident, the morning of?

17 **A** Yes, I remember.

18 **Q** Okay. And if I could reference counsel to page
19 34, and specifically line 16, if you could review this
20 ma'am.

21 **MS. LASKOFF:** If I could approach the witness,
22 Your Honor?

23 **THE COURT:** You may.

24 **BY MS. LASKOFF:**

25 **Q** Can you read lines 16 through 21 to yourself,

1 quietly to yourself, and let me know when you're finished.

2 **A** (Witness complying).

3 **MS. VICKERS:** Your Honor, can we approach?

4 **THE COURT:** You may.

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

6 **MS. VICKERS:** I am a little unclear as to whether
7 we are impeaching or refreshing recollection. If we
8 are impeaching, I have no objection to that. If we are
9 refreshing recollection, I do. I am unclear of what
10 the State is doing.

11 **MS. LASKOFF:** I am giving her a chance to refresh
12 her memory before I impeach her.

13 **MS. VICKERS:** I would object to the transcript
14 being used for impeachment. First of all, there is two
15 different transcripts. One might be a cleaned up copy
16 of the other. I also object to the validity of it.
17 When we received the transcript, for example, of the
18 defendant's statements in this case, we actually
19 received a videotape right after the hearing on the
20 motion to suppress, and the videotape and the actual
21 transcript were in great conflict. We never received a
22 tape of this actual transcript and I would be concerned
23 as to its accuracy as we found several mistakes in the
24 other transcripts, and we just never received the tapes
25 in order to listen to it to verify whether or not -- so

1 I would object. This is not a correct transcript that
2 can be used for impeachment purposes.

3 **MS. LASKOFF:** I would say, one, it has never been
4 asked for.

5 **THE COURT:** A tape?

6 **MS. LASKOFF:** Correct. Number two, the
7 transcripts have been provided of two separate
8 interviews. It is a continuation and that is all I can
9 tell the Court. The defense has been aware of it. So
10 --

11 **THE COURT:** I would assume that the witness can
12 indicate whether or not this is what she said. She may
13 say that what is written here is not what I said. And
14 then your objection will be valid and we'd have to have
15 the tape, but we are not at that point here.

16 **MS. VICKERS:** I would also, for the record, just
17 object that it is not proper impeachment, the form of
18 it, and the best use for impeachment purposes would be
19 the audio tape instead of the transcript.

20 **THE COURT:** All right. Thank you. I don't know
21 if she's trying to impeach her. She indicated she's
22 attempting to give her an opportunity to refresh her
23 recollection if she can.

24 **MS. LASKOFF:** If my intention, first, and then if
25 not, then --

1 **MS. VICKERS:** I didn't understand that. Okay,
2 thank you.

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

4 **BY MS. LASKOFF:**

5 **Q** Did you have a chance to review that?

6 **A** Uh-huh.

7 **Q** Okay. Did that refresh your memory somewhat?

8 **A** Yes.

9 **Q** Okay. After the gun was shown to the man in the
10 truck, John tried to put it away, correct?

11 **A** Yes.

12 **Q** Okay. And he actually put it under the seat,
13 correct?

14 **A** Uh-huh, correct.

15 **Q** Is that a yes?

16 **A** Correct.

17 **Q** Just the court reporter can't type uh-huh.

18 **A** Okay.

19 **Q** Okay. And it is true that the whole chaos of that
20 night started because Will, the guy with dreads, had a fresh
21 mouth in the club, correct?

22 **A** Correct.

23 **Q** Okay. And then once outside with his friend, his
24 friends were being smart alecks, correct?

25 **A** Correct.

1 **MS. LASKOFF:** All right. I have nothing further,
2 Your Honor.

3 **THE COURT:** Redirect?

4 **MS. VICKERS:** Yes, please.

5 **REDIRECT EXAMINATION**

6 **BY MS. VICKERS:**

7 **Q** Now, Ms. Washington?

8 **A** Hi.

9 **Q** When you say that you wanted Mr. Dobbs to do
10 something about the men who were making comments, did you
11 mean you just wanted him to talk to them?

12 **A** Yes.

13 **Q** Straighten out the situation?

14 **A** Yes.

15 **Q** So that everybody is cool?

16 **A** Yes.

17 **Q** And can go on about their lives?

18 **A** Yes.

19 **Q** You didn't want him or ask him to go stab anybody,
20 did you?

21 **A** No.

22 **Q** You didn't want him or ask him to go fight
23 anybody, did you?

24 **A** No.

25 **Q** Now, from the time when you were walking out of

1 the club, and then after the fight, the Acura never moved
2 between that time, did it?

3 **A** No.

4 **Q** You-all walked directly out to the Acura, guys
5 walked up and then that's when the fight started?

6 **A** Yes.

7 **Q** And you never saw any guys in a tuxedo out there
8 with mace saying, stop the fight, I am going to mace you if
9 you don't stop?

10 **A** No, I didn't see no guy in a tuxedo with mace, no.

11 **Q** You didn't hear anybody say get back in your cars,
12 stop the fight, you didn't hear that?

13 **A** No, I didn't hear that neither.

14 **Q** Now, when you-all were in the car, you had said
15 that the window was rolled up and the gun was just pointed
16 at the window, is that correct?

17 **A** Correct.

18 **Q** Okay. And were you in -- while you were in the
19 car, after the fight happened, what were you doing most of
20 the time?

21 **A** I was patting John Dobbs down with a napkin, blood
22 was draining down his face and he also had an open wound on
23 his arm. So I was patting his face down and his arm down.

24 **Q** Okay. So you were trying to kind of wipe up
25 blood?

1 **A** Yes.

2 **Q** As it was streaming down?

3 **A** Yes.

4 **Q** Okay. So you were paying exact attention to
5 exactly what the red truck was doing?

6 **A** No.

7 **Q** Were you paying exact attention to where a knife
8 might have been in the car?

9 **A** No.

10 **Q** All right. And do you know the difference between
11 guns?

12 **A** Umm, what do you mean?

13 **Q** I mean, do you know about guns, do you own a gun?

14 **A** No.

15 **Q** Are guns a hobby?

16 **A** No.

17 **Q** Do you know the difference between a 9 millimeter
18 and a .38?

19 **A** No.

20 **Q** Okay. Now, during the fight, we established it
21 was moving really quickly?

22 **A** Yes.

23 **Q** At any point did you have an opportunity to step
24 back and kind of watch the fight and notice who was hurt,
25 and who wasn't hurt?

1 **A** No.

2 **Q** Did you have a chance to step back and maybe lean
3 up against the car and say, okay, that gentleman has a cut
4 on his face, and that gentleman has a cut on his arm, did
5 you have a chance to do that?

6 **A** No.

7 **Q** Okay. Nothing further.

8 **A** Everything was moving quickly.

9 **Q** Okay. Thank you.

10 **THE COURT:** Any recross?

11 **MS. LASKOFF:** Just briefly, Your Honor.

12 **REXCROSS EXAMINATION**

13 **BY MS. LASKOFF:**

14 **Q** When the fight first broke out, you didn't ask the
15 defendant, John Dobbs, to go fight anyone, correct?

16 **A** Correct.

17 **Q** But you were actually shouting back at the guys in
18 the group for being smart mouths, weren't you?

19 **A** No.

20 **Q** So if a witness said you were, that is not true?

21 **A** If a witness said I was?

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

23 **THE COURT:** Sustained.

24 **BY MS. LASKOFF:**

25 **Q** Now, when John Dobbs got out of the car that you

1 are talking about, didn't he make the comment that he didn't
2 need no one to back him up?

3 **A** No. I don't know.

4 **Q** Okay.

5 **MS. VICKERS:** I have nothing further, Your Honor.

6 **THE COURT:** Any redirect?

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

8 **THE COURT:** May this witness be excused?

9 **MS. VICKERS:** Yes.

10 **THE COURT:** State, may this witness be excused?

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

12 **THE COURT:** You are free to go ma'am, thank you.

13 Counsel, could you approach for a moment, please.

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

15 **THE COURT:** Would this be an appropriate time to
16 take a break?

17 **MS. VICKERS:** It would.

18 **THE COURT:** I will let the jury know that they'll
19 get a longer break. Is he going to be your last
20 witness?

21 **MS. VICKERS:** Yes.

22 **THE COURT:** All right. Do you anticipate any
23 rebuttal?

24 **MS. LASKOFF:** Possibly. It depends on what he
25 says if I have to call the detective as rebuttal.

1 **THE COURT:** Okay. So they will conceivably get a
2 longer break this afternoon when we go over jury
3 instructions, a much longer break.

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

5 **THE COURT:** Okay. Ladies and gentlemen, I am
6 going to give you a brief recess right now, and the
7 reason I say brief recess, I am going to give you a
8 much longer recess later this afternoon when the
9 attorneys and I have to go over jury instructions. Is
10 there anyone that can't wait for a cigarette for a
11 little while? Everybody okay?

12 All right. I am going to give you a ten minute
13 recess at this time. Do not discuss the case amongst
14 yourselves. Don't let anyone discuss it with you.
15 Leave your pads and pens on the chairs. They will be
16 there when you return.

17 (Jury exits the courtroom.)

18 **THE COURT:** Counsel, I will give you a few minutes
19 to talk to your client about whether to testify or not
20 testify.

21 **MS. VICKERS:** He's requesting to use the rest room
22 real quick.

23 **THE COURT:** We will be in recess for about five
24 minutes.

25 (Whereupon a short recess was taken.)

1 **THE COURT:** We are back on the record on
2 Mr. Dobbs' case. Ms. Vickers, have you had an
3 opportunity to discuss with your client regarding
4 whether he will be testifying or not testifying?

5 **MS. VICKERS:** We have. We do have one legal issue
6 we need to address, though, with the Court and the
7 attorneys.

8 **THE COURT:** All right.

9 **MS. VICKERS:** Just, I anticipate Mr. Dobbs
10 testifies and the questions regarding the gun and his
11 ownership of it. It didn't belong to him. At this
12 point he has not been charged with possession of a
13 firearm or possession of any type of charge, carrying a
14 concealed firearm, nothing of that. If he were to
15 testify, technically if that issue is brought up,
16 unless the State is a granting immunity on that, I
17 would advise him not to --

18 **THE COURT:** When he gets on the stand, he waives
19 his Fifth Amendment privilege, so he has to decide
20 whether he wants to do that or not.

21 **MS. VICKERS:** But as to uncharged crimes,
22 because -- and then, in my reading of the research says
23 that they can't go back and later then recharge him
24 with carrying a concealed firearm, whatever.

25 **THE COURT:** That is an issue that is not before me

1 right now.

2 **MS. VICKERS:** Right.

3 **THE COURT:** Since one of the offenses does charge
4 aggravated assault with a firearm and there has been
5 testimony, I have not dismissed that count at this
6 stage. If he's asked a question with regard to the
7 firearm, I am going to require him to answer it.

8 **MS. VICKERS:** Right.

9 **MS. LASKOFF:** I'm not even going to address it.

10 **MS. VICKERS:** Okay. If we can just have a minute.

11 (Court was at ease.)

12 **MS. VICKERS:** Your Honor, just one thing for the
13 record. We have been handed what appears to be
14 judgments and sentences from New York. The sentence
15 technically received in New York could technically also
16 be a sentence that somebody could get for a withhold
17 down in Florida. I don't see anywhere where it says an
18 adjudication or conviction. So, I would argue, just
19 ahead of time, so we don't have to address this in the
20 middle, that this is not a judgment and sentence of a
21 conviction or adjudication of a felony.

22 **THE COURT:** A withhold of adjudication is almost
23 unique to the State of Florida. I expect if the State
24 asks a question, as required by case law, they must
25 have a good faith basis for doing so and your client is

1 required to tell the truth when he testifies. Beyond
2 that, I don't know what I can tell you because I
3 haven't reviewed any documents in this matter. I do
4 need an answer from your client regarding whether he's
5 going to testify or not.

6 **MS. CHIEN:** Yes, he's going to testify.

7 **THE COURT:** All right. I have been told that you
8 intend to testify in this matter. I need you to
9 understand your rights. You understand you have the
10 absolute right to testify, if you wish. And you have
11 the right to have the jury use the same rules in
12 consideration of your testimony as that they use in
13 consideration of the other testimony in this case. You
14 also have the absolute right not to testify if that is
15 your wish. Do you understand that?

16 **THE DEFENDANT:** Yes, ma'am.

17 **THE COURT:** And you have the right not to have the
18 jury draw any inference of guilt if you exercise your
19 right to remain silent. Do you understand?

20 **THE DEFENDANT:** Yes, ma'am.

21 **THE COURT:** Do you understand that while you
22 should talk to your attorneys about the decision
23 regarding whether to testify or not to testify, and
24 that while you should attempt to understand the reason
25 that they are giving whatever advice they are giving,

1 the decision whether to testify or not testify is yours
2 and yours alone to make. Do you understand that.

3 **THE DEFENDANT:** Yes, ma'am.

4 **THE COURT:** And is it your desire to testify in
5 this matter?

6 **THE DEFENDANT:** Yes, ma'am.

7 **THE COURT:** All right. Let's place the defendant
8 on the witness stand and bring the jury in.

9 (Jury enters the courtroom.)

10 **THE COURT:** You can be seated.

11 Ms. Chien, you next wish to call your client, John
12 Dobbs?

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

14 **THE COURT:** Could you raise your right hand to be
15 sworn, please, sir.

16 Thereupon,

17 **JOHN DOBBS**

18 was called as a witness and, having first been duly sworn,
19 testified as follows:

20 **THE COURT:** You may inquire.

21 **MS. CHIEN:** Thank you.

22 **DIRECT EXAMINATION**

23 **BY MS. CHIEN:**

24 **Q** Can you please tell the jury your name?

25 **A** John Dobbs.

1 **Q** And Mr. Dobbs, how old are you?

2 **A** Thirty-two.

3 **Q** And where are you from?

4 **A** Georgia.

5 **Q** And where do you live?

6 **A** Georgia.

7 **Q** On October 24th of 2006, what brought you to
8 Orlando?

9 **A** I came the day before to see my children.

10 **Q** Okay. And when did you get to Orlando?

11 **A** October 23rd.

12 **Q** And how long were you planning on staying in
13 Orlando?

14 **A** I was planning to stay for two days.

15 **Q** Umm, did you come with anybody else?

16 **A** I brought my then girlfriend.

17 **Q** And who was that?

18 **A** Deanna Washington.

19 **Q** Okay. Can you tell us the date that you were
20 planning to leave?

21 **A** I was planning to leave the morning of the 25th,
22 check out time at the hotel.

23 **Q** Okay. Now, let me take you back a bit and let's
24 talk about the night of October 24, 2006. Were you with
25 anybody that night?

1 **A** I was with Deanna Washington.

2 **Q** Okay.

3 **A** And DJ.

4 **Q** Okay. And what did you and Ms. Washington do that
5 night?

6 **A** Well, I dropped my kids off about 9:15 with their
7 mother and I went to see my friend DJ who I always see when
8 I come out here and we shot some pool until about 1:15 in
9 the morning. I met up with him about 10, so we shot pool
10 till like 1:15. We met up with him and his wife and then I
11 went to Thee Dollhouse.

12 **Q** Okay. And who went to Thee Dollhouse?

13 **A** Just me and Deanna.

14 **Q** When you got to Thee Dollhouse, approximately what
15 time did you arrive at Thee Dollhouse?

16 **A** About 1:30.

17 **Q** And what did you both do once you went inside Thee
18 Dollhouse?

19 **A** First we got ready to park and they said you had
20 to pay to park in that area so we parked on the next row and
21 they said it is \$10 for this club and you get to go to the
22 club across the street for free if you pay to get, and then
23 we had a seat close to the door, not too far from the front
24 door because it was kind of packed.

25 **Q** Okay. Did you have anything to drink at Thee

1 Dollhouse?

2 **A** Yes.

3 **Q** How much did you have to drink at Thee Dollhouse?

4 **A** One drink.

5 **Q** In total, how much did you have to drink all
6 night?

7 **A** About three.

8 **Q** Three drinks. What time did you have your first
9 drink, approximately?

10 **A** Approximately 11 something, 11:30.

11 **Q** Okay. And did you have anything to eat that
12 night?

13 **A** Chicken strips.

14 **Q** And could these drinks have an effect on you?

15 **A** Not really. I was just happy to see my kids.

16 **Q** Okay. So when you were inside Thee Dollhouse,
17 what did you and Ms. Washington do inside Thee Dollhouse?

18 **A** First I wanted to -- first, I had a funny feeling
19 about the time, and I said, find out what time they close.
20 So she found out what time they close and they said 2
21 o'clock, and I remembered they close early out here, at
22 2:00.

23 **Q** Does it close later in a different part where you
24 are from?

25 **A** Yes.

1 **Q** Okay. So when you and Deanna were inside, what
2 did you do?

3 **A** We was seated for a while, and, you know, I
4 smoking a blacky mount. (sic)

5 **Q** And did you happen to see what Deanna was doing?

6 **A** Yeah, she went to the bathroom and came out with
7 the waitress with the same name as her, and she introduced
8 me to the waitress.

9 **Q** Okay. And at any point when you were inside Thee
10 Dollhouse, did you have any kind of interaction with William
11 Troy?

12 **A** The first interaction with him I didn't recognize
13 him. Umm, the girls were talking and I was watching the
14 girls that were dancing and he said something to them and
15 they were talking, the three of them, but I wasn't really
16 paying -- because Deanna is a dancer also, so, umm, I am
17 used to her talking in that environment. So they was
18 talking and I was -- I didn't notice anything until somebody
19 got -- like, the waitress said something to him, like, she
20 was offended and then Deanna said something, and I just
21 looked at him and I said -- I couldn't even -- I didn't even
22 look at his face, and I said they just talking to --

23 **MS. LASKOFF:** Objection.

24 **THE WITNESS:** I said, no, they just talking
25 because they have the same name. And I didn't pay

1 attention to them anymore.

2 **BY MS. CHIEN:**

3 **Q** Okay. Who were you paying attention to?

4 **A** The dancers.

5 **Q** Did that interaction bother you with William Troy?

6 **A** No.

7 **Q** Well, at any point after that, did you have any
8 further interaction with William Troy?

9 **A** After that is the first time I really saw his
10 face.

11 **Q** Okay. And when was that?

12 **A** Umm, when we was leaving and she was, Deanna was
13 talking to the first waitress and another waitress and they
14 were exchanging numbers, and the girls were talking about
15 coming to see us in Georgia.

16 **Q** Okay. And can you tell me about William Troy?

17 **A** William Troy, okay. What I noticed is he
18 walked -- I was standing maybe about three or four feet from
19 the girls while they was talking and, umm, he walked up to
20 the girls and he was standing like, like trying, standing in
21 front of the two waitresses face and they were just talking
22 to Deanna. They seemed like they was ignoring him. I was
23 just watching him.

24 **Q** Okay. And did he say anything to you?

25 **A** He didn't say anything to me until Deanna said,

1 daddy, let me introduce you to this girl. That was the
2 second girl.

3 Q All right. Did you ever end up speaking with
4 William Troy at any point?

5 A Yes. Then he said to me, umm, he said, where the
6 'ho's (sic) at.

7 Q Okay. What was your response?

8 A I said, I am not from around here, you tell me.

9 Q Okay. And was that it?

10 A No. He asked me again, where the 'ho's at. He
11 said, yeah, man, tell me where the 'ho's is at.

12 Q Okay. And then was that it?

13 A No, I said just 'cuz my girl calls me daddy
14 doesn't mean I got 'ho's.

15 Q Did that interaction with William Troy bother you?

16 A No, I stopped talking to him, though, because
17 after that he said 'cuz me and my boys want to --

18 MS. LASKOFF: Objection, hearsay.

19 THE COURT: Sustained.

20 BY MS. CHIEN:

21 Q Well, did he leave, essentially leave?

22 A I saw another man walk up to him and say, let's
23 go.

24 Q And so were you and Ms. Washington still at Thee
25 Dollhouse?

1 **A** Yes.

2 **Q** Okay. And when did you leave in relation to --

3 **A** Probably about half a minute, a minute after.

4 **Q** Okay. And once you walked outside to Thee
5 Dollhouse, what happened?

6 **A** My girl just grabbed me by the arm and we was
7 walking to the car and I saw about five guys standing out
8 there, you know, I noticed he was one of them but it didn't
9 seem like anything to me because he was --

10 **MS. LASKOFF:** Objection, narrative at this point,
11 Your Honor.

12 **THE COURT:** Overruled.

13 **THE WITNESS:** It seemed like, you know, it didn't
14 seem like anything to me. I just saw the five guys
15 standing around each other like they was having a
16 conversation and then he noticed me and he said, you
17 need security to walk you and your girl out and that
18 was it. I didn't really, umm, it wasn't nothing. I
19 was getting in my car, unlocked the car. My girl is
20 getting in the car.

21 **BY MS. CHIEN:**

22 **Q** Well, let's just move back. Who was talking to
23 who as you were walking about?

24 **A** I believe that was William Troy. Yeah, it was
25 William Troy because I --

1 **Q** Did you talk back to him?

2 **A** No, I was really close to my car and, you know, I
3 was just, like, whatever, you know, I don't really know him
4 that well but he was talking to me like I was a player or
5 something.

6 **Q** Okay. And your reaction, like, did you -- even
7 though William Troy was talking to you, where did you head?

8 **A** Well, I opened the door and my girl sat down and I
9 was getting ready to sit down and then she said, one of them
10 is walking over to the car. So I -- I was, like, might have
11 been my butt just touching the seat for a second and then I
12 got up and I looked and I seen the guy walking so I came
13 around the car to meet him.

14 **Q** And didn't you -- could you see who was coming to
15 the car?

16 **A** I seen him now and I know him to be Andre Blanco.

17 **Q** Okay. And what happened when Andre Blanco came up
18 to you?

19 **A** I -- first I was thinking maybe I was going, you
20 know, I am a musician, so I was going to give him some CD's
21 because I haven't got a chance to promote. I was only there
22 for two days, but I saw the way he was walking and his shirt
23 was coming off and it seemed like he wasn't interested in,
24 you know, fixing it. So then I was, like, this guy's got
25 too much energy coming with him. I said, I hope you are not

1 coming here to fight.

2 **Q** Okay. And then what happened once Andre Blanco
3 walked up to you?

4 **A** As I was saying I hope you are not coming here to
5 fight, when I finished the word, he swinging. I kind of
6 blocked, but it still hit me in my ear.

7 **Q** Okay. So, did he hit you?

8 **A** Yeah. He hit me.

9 **Q** Okay. And where did -- where exactly did he hit
10 you?

11 **A** On my ear.

12 **Q** Was it a closed fist or was it an open fist?

13 **A** It was a closed fist, wide swing.

14 **Q** Okay. And did anybody else get involved?

15 **A** After he made that move, I hit him, and
16 immediately behind him was another man who I know now to be
17 Fransisco Gotay who swunged (sic) twice and I blocked his
18 punches and I hit him.

19 **Q** Okay. And, I mean, how many were there that were
20 coming up to you?

21 **A** Actually, umm, I was only seeing one step at a
22 time at that moment. So it was Andre Blanco first, and when
23 I hit him, somehow he had end up on this side of me and
24 Fransisco Gotay was in front of me swinging. And I just
25 happened to be, you know, sharp enough to block his hits and

1 I hit him. And then I am standing between him and these two
2 and another guy that was standing over there and --

3 **Q** That other guy, was he from the group of the four
4 gentlemen, in the group that was standing, talking to
5 themselves?

6 **A** I believe so. I believe -- because the way he was
7 trying to get to me, but I think, umm, the valet or somebody
8 was standing there in front of them for a second and was,
9 like, he didn't have his hands blocking but he had it, like,
10 why you doing this man, and the guy was trying to move
11 around, but I seen him stop when he saw my eyes.

12 **Q** Okay. So how many in total were there that were
13 trying to -- I mean, were all of these people trying to hit
14 you?

15 **A** At that point there were just those three that I
16 noticed.

17 **Q** Okay. And what happened after that?

18 **A** Well, umm I -- the guy, pointed at the guy and I
19 said, he's not fighting. I said it loud so that I could get
20 the other two that I had in the process that they had been
21 coming in. And every time they move in, I try to beat them
22 to the punch.

23 **Q** Okay. But these men, they were able to get
24 punches in and punch you, right?

25 **A** Yes. Yes.

1 **Q** And how were those punches, I mean, can you
2 describe?

3 **A** Every time I got hit -- every time I looked one
4 way I would get hit from the other side, basically.

5 **Q** And why was that, was it -- why was that?

6 **A** Because I was surrounded.

7 **Q** And how many people -- do you recall how many
8 people were surrounding you?

9 **A** At that point I only was paying attention to those
10 three because somehow the guy that was in front of the other
11 guy wasn't there anymore.

12 **Q** Okay.

13 **A** And then -- do you want me to proceed?

14 **Q** Yeah, go ahead.

15 **A** Then I heard Deanna scream, so then I -- it
16 occurred to me that somehow she had got out the car because
17 I had told her to stay in the car, you know. I just told
18 her, because, you know, I didn't want her around the guys
19 but I heard her scream, get off him. And I looked and I saw
20 her in a position where, like, she was pushing somebody who
21 I know now to be Anthony Riollano.

22 **Q** Okay. Did that kind of concern you?

23 **A** Yes.

24 **Q** And why was that?

25 **A** Because I didn't understand why they were trying

1 to fight me in the first place. And then it made me think
2 that they wanted to, like, kidnap her.

3 **Q** Okay. And at any point in time, you know, did you
4 see them trying to fight her or do anything to her?

5 **A** Actually, at that point I saw who I know to be
6 William Troy, he was standing and he said, get her, get her.

7 **Q** I mean, what did you do when you heard that?

8 **A** When I heard that, I was trying to get closer to
9 her, but I didn't really see anybody, like, really, you
10 know, when I saw her push the other guy, you know, they were
11 both looking at me, you know, she wasn't looking at me but
12 the guy that she pushed and William Troy. So I tried to
13 spin around before the other guys that I, that was, that I
14 was surrounded by, because it was all split seconds, right?
15 I tried to spin around before that, they could see that and
16 make a move on me. But they started hitting me in my head
17 at the same time I was spinning around, and I was hunched
18 over.

19 **Q** Okay.

20 **A** Excuse me.

21 **Q** And were they hitting you hard?

22 **A** Yeah. They were hitting me basically with
23 everything they had.

24 **Q** Okay. And where were they hitting you?

25 **A** On my head. It was, like, you know, they really

1 were intending on trying to knock me out or something.

2 **Q** Okay. And at any point in time did you have, I
3 mean, did you have a knife?

4 **A** Yes.

5 **Q** And what kind of knife was it?

6 **A** It was the same knife that they have been showing
7 all day here.

8 **Q** And when did you open up that knife?

9 **A** I opened up the knife when I was hunched over.
10 That's when I opened up the knife.

11 **Q** And you know, why did you open up the knife?

12 **A** I opened up the knife, you know -- first of all, I
13 did see something like a shiny thing come over one hand. I
14 couldn't see anything on their hand, so it was, like, all of
15 it was fists in my face every second, and I did see
16 something, and I was blocking with my left hand and I guess
17 that's how I got the cut.

18 **MS. LASKOFF:** I am going to object to speculation,
19 Your Honor.

20 **THE COURT:** Overruled.

21 **THE WITNESS:** I don't know. I know it was just
22 something shiny and I assumed it was a knife.

23 **BY MS. CHIEN:**

24 **Q** And did you get cut that night?

25 **A** Yes.

1 **Q** Okay. And well, let's go back and talk about the
2 knife. When you opened up your knife, what did you do with
3 it and why?

4 **A** When I opened up my knife, I tried to go like this
5 because I was hunched over and I was swinging it, so that
6 somebody might back up.

7 **Q** Okay. And during that time when you opened up the
8 knife, were you still surrounded by these men?

9 **A** I was surrounded for the entire time.

10 **Q** Okay. And during this time, what were they doing
11 to you?

12 **A** They were punching me in my head.

13 **Q** Okay. And at any -- I mean, did you eventually
14 fall, I mean, fall to the ground or anything like that?

15 **A** Yes. The guy who I know now to have been Anthony
16 Riollano, he came up behind me and grabbed me and had me by
17 my shirt like this, and he was banging me on my head, like,
18 he was banging me on my head so hard that I could barely
19 feel anybody else's hits now because his was so hard.

20 **Q** Okay. And can you describe for us, like, how you
21 were on the floor?

22 **A** I was on the floor hanging from his arm. My left
23 arm was pinned down, so all I had was my right arm. And,
24 like, I was, he was holding me up, but I was still hitting
25 the floor, and I was trying to get up at the same time. But

1 every time I tried to get up, he would hit me back to the
2 floor, but he would not let me fall.

3 **Q** Okay. Did your knees touch the floor?

4 **A** Yeah.

5 **Q** And then so did you just -- were you just
6 kneeling, I mean?

7 **A** No, during the entire time, you know, I was
8 just -- I was just seeing punches and I was just swinging
9 the knife trying to make sure, hoping somebody would see it
10 and get away from me or whatever, back up or whatever, and
11 so I can get some room at least, you know. But I was
12 bouncing off my knees because I kept trying to get up.

13 **Q** Okay. And they kept pushing you down?

14 **A** They kept knocking me down.

15 **Q** Okay. Knocking you down to your knees again. Is
16 that what you are saying?

17 **A** Basically. Basically there was a point, though,
18 that I was down and I was down longer than the other times,
19 and I couldn't really -- I don't really see myself getting
20 up, but somehow God with was with me and I just got up. And
21 I was looking at the tire of my car. That's what scares me,
22 and I heard my girl screaming in the background, and I was
23 looking at the tire and I was, like, I am going to die, be
24 under the car.

25 **Q** Why did you think you were going to die that

1 night?

2 **A** Because they wouldn't stop. They already cut me
3 and there was no reason for me -- I don't know them. They
4 had no reason to do that. I just felt nothing but hate
5 against me. So I thought they was going to kill me.

6 **Q** Were you scared of them?

7 **A** I was scared at that time.

8 **Q** And is that part of why you opened up your knife?

9 **A** Yes. Also because my girl, I mean, you know, I
10 wasn't able to think most of the time. I was just trying to
11 stay focused, but I had feelings, and the feelings that I
12 had told me certain things and less time than it took time
13 to think it.

14 **Q** Tell us how the fight ended.

15 **A** The fight ended? Basically I had, like I said, I
16 was looking at my tire. I believed this is when I made like
17 stabbing motions and I was hunched over and I was down low.
18 My face was right by my tire and they were still hitting me
19 and I just gave it all I had just to go at them where I
20 imagined them to be, because I could never see above like
21 this area of their body because I was so low.

22 **Q** Okay. And when you say that you were on eye level
23 with the tire, was it because you were on -- not eye level,
24 but you could see the tire, was it because you were low to
25 the ground?

1 **A** A couple more inches and my face would have been
2 hitting the tire, because during the process I was bouncing
3 off my car.

4 **Q** Okay. And how did you end up leaving?

5 **A** Umm, actually these are things that, you know, I
6 just felt like, you know, when I felt what I was doing, but
7 I could not see. I just know at a certain point in time
8 that they had backed up and I had been grabbing at things.
9 I couldn't really tell like all of these things right now,
10 during that time I just know I got hit over 50 times at that
11 time.

12 **Q** Okay. And, I mean, when you said that you felt
13 them back up, what did you do?

14 **A** I must have just got in my car, because that's all
15 I remember. I see everything like (indicating) a picture
16 like that (indicating) I don't see anything in motion.

17 **Q** So, is it because, like, you know, you were in the
18 fight you were in the moment and everything was just --

19 **MS. LASKOFF:** Objection. Leading, Your Honor.

20 **THE COURT:** Sustained.

21 **BY MS. CHIEN:**

22 **Q** Okay. Let's talk about when you left. What
23 happened? Did anything happen when were you leaving?

24 **A** Well, when I was sitting in my car, I noticed that
25 I had a gun on my lap, that it wasn't mine.

1 **Q** And, was -- actually was Ms. Washington with you
2 when you were driving, leaving -- which car did you leave
3 in?

4 **A** I left in the car I came in, the Acura.

5 **Q** And where was Ms. Washington?

6 **A** She was in the passenger seat. She had got in the
7 car, I guess at the same time I did.

8 **Q** All right. And when you were driving away, did
9 you at any point in time encounter another car?

10 **A** When I was leaving the parking lot I felt a couple
11 of bumps, but I didn't really realize that my car was being
12 hit. But I did -- there was the F-150 that was poking up
13 that it came like it was getting ready to ram me and as I
14 had the gun on my lap, I was emptying the clip and I just
15 looked and I saw the car coming and I had it like this. I
16 am driving and I had the gun like this and I am dropping the
17 clip out of the gun, but the guy sees me and he looks at me
18 and I just look at him and he just makes a u-turn.

19 **Q** Okay. And, I mean, did this truck actually hit
20 you?

21 **A** From what I understand it did. Now, I felt the
22 bumps, but I was still so much hurt and in shock that I did
23 not really realize that I wasn't -- I thought maybe I was
24 rolling over bumps.

25 **Q** Okay. Did you notice how this car was driving,

1 like whether or not it was trying to drive you off the road?

2 **A** I know it was getting ready to smash right into me
3 and he looked at me. I looked at him. He saw the gun in my
4 hand, and he just urrrrrrrrrrrrrrr (witness makes screeching
5 sound) and spun out the other way.

6 **Q** Now, when were you driving, were you looking at
7 your, in the rear view mirror?

8 **A** Constantly.

9 **Q** Okay. And why was that?

10 **A** Because I figured, you know, I know that when I
11 was walking and the guy said that security is walking me
12 out, I know security was there and they didn't help me. And
13 I just figured, you know, these guys were still going to be
14 coming at me.

15 **Q** Did you think that the truck was coming at you
16 from that group?

17 **A** Yes.

18 **Q** Okay. And why did you think that?

19 **A** It was crazy. I don't know why everybody was
20 coming at me. I just figured, I thought it was actually one
21 of the same guys that jumped in his car to get me.

22 **Q** Okay. And what did you think that this car was
23 going to do?

24 **A** I know he was getting ready to total my car.

25 **Q** So, after this truck leaves, at any point did the

1 police come up to you?

2 **A** The police came after awhile. I was driving and I
3 was just -- I was driving, you know, slower than the speed
4 limit. I was just -- I didn't know what to do. Didn't know
5 what to do with --

6 **MS. LASKOFF:** Objection. Nonresponsive.

7 **THE COURT:** Sustained.

8 **BY MS. CHIEN:**

9 **Q** Did you see a police car in your rear view mirror?

10 **A** Yes, I saw a police car in my rear view mirror.

11 **Q** And what did this police car do?

12 **A** It just followed me for a while. It just followed
13 me for maybe half a block. I was -- it had no light on. So
14 I kept looking. It doesn't have headlights on. So I was
15 looking to make sure it was a police car because I was --
16 but I assumed it was a police car and I told my girl, I
17 think the police are behind us.

18 **Q** And once you realized it was a police car, what
19 did you do? What happened after that?

20 **A** When I realized it was a police car, I just
21 happened to be at a red light stopped.

22 **Q** Okay. And did you -- so you pulled over, is that
23 right?

24 **A** Another car came up and pulled up in front of me
25 and I just, you know, I knew to get out the car.

1 **Q** Okay. And did you try and drive away from this
2 police car?

3 **A** I had no intention of leaving.

4 **Q** Okay. And did you get out of your car when the
5 police pulled over?

6 **A** Yes.

7 **Q** And why was that?

8 **A** Because I had actually, you know, an intuition
9 about what the situation was.

10 **MS. LASKOFF:** I am going to object, Your Honor, to
11 speculation.

12 **THE COURT:** Overruled.

13 **BY MS. CHIEN:**

14 **Q** Okay. You can go ahead and finish answering.

15 **A** Okay. Yeah, you know, I mean, I figured they were
16 there to, about the incident.

17 **Q** Okay. And so you did stop; is that correct?

18 **A** Yeah, I was already stopped.

19 **Q** Okay. Let's talk about certain things. Let's
20 talk about the knife. What kind of -- why do you keep it on
21 you?

22 **A** I worked construction for 12 years and I have been
23 out of construction for the last two and a half years, three
24 years, but I have just always kept it.

25 **Q** Okay. And do you remember using your knife during

1 the night?

2 **A** Yes.

3 **Q** And why was that? Why did you use your knife?

4 **A** I used my knife to get them off.

5 **Q** Okay. Did you at any point in time use the gun?

6 **A** No.

7 **Q** Okay. Once you had the gun, what did you do with
8 it?

9 **A** I was like, you know, I was worried that you know,
10 it might add something like, might have killed somebody on
11 it. It might have, what we call like a body on it, so I was
12 just emptying it.

13 **Q** And when you are emptying it, like during, did
14 anything happen as you are emptying this gun?

15 **A** Actually, umm, I was emptying it. I was getting
16 blood on it from my hand and I was wiping the blood off of
17 it and I was driving at the same time and I didn't know if I
18 was going to throw the gun out one place and throw the clip
19 another place but I noticed it had my blood on it so I
20 didn't really want to throw it like that, because then, you
21 know, it might be considered to be mine.

22 **Q** Okay. Where did you put the gun?

23 **A** Eventually, after the car had made the u-turn and
24 I drove off for a while and I felt like maybe I should
25 relax, you know, I took it off my lap and I squeezed it

1 under my back seat.

2 **Q** Okay. And did you actually unload it, did you
3 unload the gun?

4 **A** I had been unloading it, but when I saw the car do
5 that what it did, I didn't load it all the way. I put the
6 clip half way back in and I just sat it on my lap.

7 **Q** All right. But did you eventually unload the gun?

8 **A** Umm, there was no bullets in the head of the gun
9 and the clip was half way in and, you know, because I
10 figured if they were going to come at me again, then I would
11 have to use it.

12 **Q** Okay. Let's talk about where you were at Thee
13 Dollhouse, and, you know, where you were at and where the
14 other four men were at. Would it help you if I showed you a
15 picture of Thee Dollhouse parking lot? Would that be
16 helpful to you in your testimony?

17 **A** Yes.

18 **Q** Okay. I am going to give you a pointer.

19 **MS. LASKOFF:** Your Honor, I don't mean to
20 interrupt. Can I run over there because I can't see
21 what she's pointing to?

22 **THE COURT:** You may.

23 **BY MS. CHIEN:**

24 **Q** Okay. Mr. Dobbs, do you recognize these pictures?

25 **A** I recognize them, yes.

1 **Q** Okay. And what are they pictures of?

2 **A** The parking lot of Thee Dollhouse.

3 **Q** Okay. Using the pointer, can you tell us where
4 your car was at?

5 **A** My car? Okay. Now, if this is the first row of
6 cars and this is Thee Dollhouse right here?

7 **Q** Right?

8 **A** And this is the row, the first row, my car would
9 be somewhere over here. I don't think you would be able to
10 see my car exactly in this road. It would be a little
11 further back.

12 **Q** So your car was somewhere around here?

13 **A** Yeah, yeah.

14 **Q** As a matter of fact, that's what it is, is that
15 one, like, one lane okay and two lane?

16 **A** Yeah.

17 **Q** It is two lanes?

18 **A** It would have been right about there.

19 **Q** Right around here?

20 **A** Yes.

21 **Q** And using the pointer, can you tell me where the
22 four gentlemen were at?

23 **A** They were right over here.

24 **Q** And when the fight -- when these men approached
25 you, can you tell us in what direction they traveled?

1 **A** They traveled from here to here.

2 **Q** Okay. And can you tell us, using the pointer,
3 what area was the fight at?

4 **A** Right there.

5 **Q** Is that the same area where your car was at?

6 **A** Mostly through the fight I was bouncing off my
7 car, yes.

8 **Q** Okay. Would it help if I showed you an aerial
9 view of Thee Dollhouse so you can tell us, you know, what
10 direction you traveled after you were able to leave Thee
11 Dollhouse?

12 **A** Perhaps.

13 **Q** Okay. Okay. Mr. Dobbs, do you recognize this?

14 **A** That's OBT right there, right. Yes.

15 **Q** Okay.

16 **A** So then I was parked over here.

17 **Q** Uh-huh.

18 **A** And I was going out here or here, one of these
19 two.

20 **Q** Okay. Can you point out where Thee Dollhouse is
21 at?

22 **A** Dollhouse is right here.

23 **Q** Okay. And can you point out on this where the
24 men, the four men were?

25 **A** Initially?

1 **Q** Yes.

2 **A** They were right there.

3 **Q** Okay. And where was --

4 **A** As a matter of fact, this is the house. This is
5 where I was at right here. I am not sure if this is a first
6 row of parking or the second row. There was one row of
7 parking right here. That was -- you had to pay there, and
8 then there was a second row where I was at, so I am not sure
9 which of those is where the parking is, but it would be in
10 that angle.

11 **Q** In this vicinity here?

12 **A** In that vicinity.

13 **Q** Okay. And once you were able to leave the fight,
14 where did you drive your car, like, can you show us here,
15 where you go?

16 **A** First I tried to reverse, and I almost hit the
17 valet guy. He was pinned behind the car. I looked, and it
18 occurred to me that they might all be about it because they
19 was there and they didn't do anything. I didn't really
20 realize they was there during the whole thing. I know they
21 was there. I don't know what was going on, actually.
22 Anyway, I looked and I seen them.

23 **MS. LASKOFF:** I am going to object. This is
24 nonresponsive. He is not answering the question.

25 **THE COURT:** Sustained.

1 **THE WITNESS:** What was the question?

2 **BY MS. CHIEN:**

3 **Q** The question was, can you tell us, using the
4 pointer, when you are able to leave the fight, what
5 direction you went using the pointer?

6 **A** The direction I went was backward then forward.
7 Okay? I guess if I was over here somewhere, I went
8 backward. I stopped because I almost hit somebody and then
9 I went around -- I guess I might have went around this way.

10 **Q** Okay. And can you tell us where it was when you
11 started feeling the bumps?

12 **A** I felt the bumps right in this area as I was
13 coming out.

14 **Q** Okay.

15 **A** And do you want to know next?

16 **Q** Yes.

17 **A** Okay. And as I was right here is when the F-150
18 was on this side of me and pulled like this, like he's
19 getting ready to hit me.

20 **Q** All right. Did you see whether or not this F-150
21 was trying to run you off the road?

22 **A** I knew for sure he was willing to hit me. I saw
23 the look in his face because I was in shock and I just
24 stared at him and I knew he was going to hit my car and he
25 saw the gun and he just totally changed his mind.

1 **Q** Okay. And what direction did you head?

2 **A** I went that same direction of the traffic on that
3 side of the street.

4 **Q** Okay. All right. Okay. Mr. Dobbs, can you tell
5 us, did you have any injuries from that night?

6 **A** Yes, I had plenty of injuries. I still got two
7 broken teeth in the back of my mouth.

8 **Q** Okay. And did you have any other injuries to you
9 as a result of the fight?

10 **A** I had -- I got nine stitches in my arm. They
11 didn't give it to me and they didn't take me to a hospital
12 but I got it when I went to jail. I got stitches in my arm.
13 I got -- I had a red bruise right under my collar bone from
14 being hit with something, and I believe that it was the gun.

15 **Q** Did you have any injuries to your knees?

16 **A** I had injuries to my knees. My knuckles -- I
17 still got scars on them from, you know, from fighting with
18 my fists. I had a long cut right here to the white meat and
19 they said, the doctor said that --

20 **MS. LASKOFF:** Objection, hearsay.

21 **THE COURT:** Sustained.

22 **BY MS. CHIEN:**

23 **Q** Can you describe to us exactly what kind of
24 injuries you had to your knees?

25 **A** To my knees I had -- it was swollen and scraped.

1 **Q** And do you know why they were swollen and scraped?

2 **A** Because I had been bouncing on my knees.

3 **Q** Okay. You mean during the fight?

4 **A** Yes, ma'am.

5 **Q** Okay. Did you have any injuries to your head?

6 **A** I had plenty of injuries to my head. I had
7 swells, lumps all over my head. The pictures that they took
8 didn't even show because they got worse the next day.

9 **Q** Now --

10 **A** Can I go further to explain other injuries?

11 **Q** Sure. Yes. Tell us all of your injuries.

12 **A** I also -- my jaw, I was not probably able to eat
13 probably for about two weeks because I couldn't open my
14 mouth all the way and any time -- I couldn't eat a hot dog,
15 and any time I ate anything or drank anything I had some cut
16 in my mouth that it felt like I had alcohol in my mouth and
17 I had a cut -- I had a cut on both sides of my chin, like,
18 seemed like either a razor or a ring gave me those cuts, and
19 I had a cut on my, above my right eye that I know I was hit
20 with something that it wasn't a fist because it wasn't
21 swollen. It was just a cut. So it was either something
22 that, a sharp object, or maybe even another -- could have
23 been hit with the gun.

24 **Q** Okay. Did you have any other injuries?

25 **A** I had, umm, cuts on my fingers because I knew that

1 they had cut me with something, and I was blocking for a
2 minute. So I had cuts here and here and, well, actually I
3 had cut on my hands and cuts on my fingers. I was trying to
4 just grab whatever I could but for a moment. My arm -- like
5 I said, my left arm was locked down for like half the fight
6 too because when he had me like this, I couldn't lift my arm
7 to block anymore.

8 **Q** How did you -- how are you locked down? Who
9 locked you down and what do you mean by locked down?

10 **A** Well, the big guy, Anthony Riollano, he have me
11 like this, and he was holding me so tight and hitting me so
12 hard, I just really couldn't -- I couldn't even look at him
13 because any time I tried to prepare myself in that
14 direction, I was just constantly surprised. I wasn't
15 knocked out and I couldn't see anything but fists, but I was
16 swinging the knife, you know, crazy, just trying to get
17 somebody to see it. I know that they were still hitting me
18 and that they was cutting themselves on the knife while they
19 was hitting me and they didn't even know it. They didn't
20 know.

21 **Q** Did you ever get a, I guess, a laceration or a cut
22 on your arm?

23 **A** Yes. I had -- I got nine stitches for it and I
24 also had another long cut on it.

25 **Q** Now, did you ever notice William Troy on the

1 ground?

2 **A** Never noticed him on the ground. My girl said she
3 did, but I never noticed him. I only saw when they backed
4 up. I saw him and Anthony Riollano holding, seemed like
5 Anthony Riollano was holding him and he was holding Anthony
6 Riollano.

7 **Q** And let's just talk about the fight briefly. Were
8 you in fear for your life?

9 **A** Totally.

10 **Q** Were you scared?

11 **A** I was definitely scared.

12 **Q** And did you try and get away?

13 **A** Any time I tried to make a move away from them I
14 would run into my car. Can I describe how it was?

15 **Q** Yes.

16 **A** Okay. I am standing here. My car is right behind
17 me. The rear passenger door, I got Andre Blanco to my
18 right, Fransisco Gotay is to my front right, and what's
19 funny is William Troy was not as close as these guys were to
20 me. And anything he did to me, I could see like him like
21 come from behind him and then go back behind them. He would
22 like come from behind him and reach over because he couldn't
23 really fit because they were standing like this and Anthony
24 Riollano was right here, and William Troy was right here,
25 coming back and forth.

1 **Q** Okay. And can you tell us when you tried to get
2 away what would happen?

3 **A** I mean, you know, it was me, you know, the only
4 places I could go was down.

5 **Q** Okay. And at the first opportunity when you were
6 able to leave, what did you do?

7 **A** I left.

8 **MS. CHIEN:** May I have a moment, Your Honor?

9 **THE COURT:** You may.

10 **MS. CHIEN:** No other questions.

11 **THE COURT:** Cross-examination?

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

13 **CROSS-EXAMINATION**

14 **BY MS. LASKOFF:**

15 **Q** Inside the club Deanna was kind of ticked off,
16 wasn't she, about what William Troy had kind of said to her?

17 **A** She says that --

18 **MS. CHIEN:** Objection, speculation.

19 **THE COURT:** Overruled.

20 **THE WITNESS:** She says that, but she didn't really
21 seem ticked off to me.

22 **BY MS. LASKOFF:**

23 **Q** Okay. And then when you went out of the club, you
24 exited and you went to your car, correct?

25 **A** Yes.

1 **Q** And you could -- you were almost to your car, you
2 are not sure if your rear end was in the seat almost or not,
3 but your car door at least was open, correct?

4 **A** Yes.

5 **Q** And you are hearing the guys making fun of you and
6 Will and your girl, is that correct?

7 **A** Well, he said that when I was walking to the car,
8 and, you know, I just figured it was, you know, I had
9 already known that he was tipsy.

10 **Q** So you knew he was tipsy, the other guys appear
11 tipsy to you too?

12 **A** I didn't see the other guys with him until I saw
13 them outside with him.

14 **Q** Okay. When you saw them outside, did they appear
15 tipsy to you too?

16 **A** I had no idea. They were just standing. I just
17 knew that he was because of what he said --

18 **Q** Okay.

19 **A** -- inside the club.

20 **Q** So when you say he, we are talking about the guy
21 you stabbed?

22 **A** Talking about William Troy.

23 **Q** All right. Now, once you got out to your car,
24 Anthony Riollano started approaching, or not Anthony
25 Riollano, Andre Blanco started approaching the vehicle, is

1 that what you are saying?

2 **A** Once I got to my car he started approaching the
3 vehicle, yes.

4 **Q** Okay. And so you are telling the jury that you
5 got out to talk about giving him a CD or something like
6 that?

7 **A** Actually, like I said, the club was closing early
8 for me. I wanted to -- I had been up with my kids and we
9 took a nap together. I wanted to stay out longer.

10 **Q** Okay. But my question to you is when Andre Blanco
11 came to the car, the reason you got out of the car, you
12 didn't initially perceive a problem, correct?

13 **A** Exactly.

14 **Q** Okay. So you got out of the car and you were
15 going to talk to him about, I don't know, selling a CD to
16 him or giving him a CD, is that what you indicated?

17 **A** Well, I don't know if you call it shooting the
18 breeze, whatever, I just figured, you know, the guy had
19 initially spoke to me, was talking about girls. I was
20 bored. I know I never took anything that serious. He
21 didn't say anything to threaten me. We didn't curse at each
22 other or nothing like that. We didn't have any argument, so
23 --

24 **Q** Okay. And isn't it true that Andre Blanco is the
25 first guy you get contact with?

1 **A** I believe so.

2 **Q** He's the guy that came up to the car, right?

3 **A** I believe so.

4 **Q** Either you remember or you don't remember?

5 **A** I said, I believe so.

6 **Q** Okay. And isn't it true that the fight that
7 ensued was one where Anthony Riollano was immediately
8 punched by you with a knife and knocked to the ground?

9 **A** Andre Blanco you are referring to?

10 **Q** I am sorry. You're correct. Isn't that true?

11 **A** Andre Blanco was not hit by a knife by me in the
12 beginning of the fight. Nobody was hit with a knife. The
13 knife was not even open to be cutting anybody.

14 **Q** Now, let me ask you about the knife. You say you
15 carry it for work. Were you hired by Thee Dollhouse to do
16 some construction or something like that?

17 **MS. CHIEN:** Objection, argumentative.

18 **THE COURT:** Overruled.

19 **THE WITNESS:** Actually I said that I used to carry
20 it for work and I have been carrying it since then and
21 I do carry it for protection.

22 **BY MS. LASKOFF:**

23 **Q** So you carried a knife for protection?

24 **A** Yes.

25 **Q** Okay. And this night you actually, when you

1 entered the club, you had your knife in your pocket,
2 correct?

3 **A** I had the knife on me just about every time I
4 leave my house, for years.

5 **Q** Okay. So that is correct, when you went in the
6 club you had your knife in your pocket?

7 **A** Yes.

8 **Q** And when you left your club you had the knife in
9 your pocket?

10 **A** Yes.

11 **Q** Okay. Now, you claimed that you saw some kind of
12 shiny thing coming at you?

13 **A** Yes.

14 **Q** From whom?

15 **A** Actually at the same time I was being hit, all I
16 did see is a hand. I saw one hand reaching over. I
17 would -- if you want me to assume?

18 **Q** No, I want to ask you if you know --

19 **A** I don't know.

20 **Q** -- where the shiny thing came from?

21 **A** I don't know. I didn't see anything. Actually I
22 didn't even know how these guys really looked besides Andre
23 Blanco until the adversary preliminary hearing. All I saw
24 was fists most of the time.

25 **Q** And at what point is it that you stabbed William

1 Troy to death?

2 **MS. CHIEN:** Objection, argumentative.

3 **THE COURT:** Overruled.

4 **BY MS. LASKOFF:**

5 **Q** Can you answer that?

6 **A** It must have been -- actually, I don't remember
7 even stabbing anybody or cutting anybody. I just remember
8 swinging the knife. I remember I made stabbing motions with
9 the knife but I was not sure whether or not I made contact
10 because I was still being hit. Even after that I went back
11 to the ground so -- but I know it was during the time when I
12 was on my knees and I looked at my tire that I decided to
13 give it all I had.

14 **Q** So, when you were down on your knees, is that when
15 you stabbed him four times?

16 **MS. CHIEN:** Objection, asked and answered.

17 **THE COURT:** Overruled.

18 **THE WITNESS:** Actually, no. You know, I couldn't
19 tell you when for sure. All I know is I was taking
20 blows and I was swinging with one hand. I had one hand
21 and I was swinging and wanted them all to get off of me
22 and I didn't realize that he had came back into the
23 crowd. So I wouldn't know.

24 I know that I actually also tried to swing in the
25 direction of Anthony Riollano, but Anthony Riollano was

1 so much in control of my body from the way he had me
2 and I was weak in my legs. He was actually, I mean, if
3 I stabbed him from the direction he was in, the way
4 that they are saying, it was probably because Anthony
5 Riollano was jerking my body back and forth.

6 **BY MS. LASKOFF:**

7 **Q** So you are saying it is Anthony Riollano's fault
8 that William Troy got stabbed that way four times?

9 **MS. CHIEN:** Objection, argumentative.

10 **THE COURT:** Overruled.

11 **THE WITNESS:** Probably.

12 **BY MS. LASKOFF:**

13 **Q** Okay. Now, let me ask you this, was Anthony
14 Riollano able to -- you didn't cut him, did you?

15 **A** I could not. I could not defend myself against
16 him.

17 **Q** Okay. And at the time that Anthony Riollano
18 actually grabbed you, isn't it true that you had already cut
19 up Andre Blanco?

20 **A** No.

21 **Q** And isn't it true that you already had cut up
22 Fransisco Gotay in the mouth?

23 **A** No, I believe --

24 **Q** And you already stabbed William Troy?

25 **A** Definitely not. William Troy, from what I

1 understand and can perceive of the fight, was barely in the
2 fight. He just happened to get the worst of it.

3 Q Now, let me ask you, when you pull your knife out,
4 where is it on you?

5 A It was in my back pocket.

6 Q Your right back pocket, your left back pocket?

7 A My right back pocket.

8 Q Okay. So you pull it out. Assume that is a
9 blade.

10 A Uh-huh.

11 Q Can you show the jury how you held the knife with
12 this being the front of the knife?

13 A I have something here I can use.

14 Q That's fine. If you want to act as if this part
15 is the blade and demonstrate how you held the knife?

16 A Like this.

17 Q And you held it out like this?

18 A Uh-huh.

19 Q And did you show it to them?

20 A I was trying to.

21 Q Did you tell them to back off, I got a knife, I am
22 gonna cut you?

23 A Couldn't speak.

24 Q You couldn't speak at all?

25 A At all. I was getting beat down.

1 **Q** And isn't it true the other guys only came over as
2 you sliced and stabbed each of their friends?

3 **A** That's -- no. It's not true.

4 **Q** Now, let me ask you, if I can show you Defense
5 Exhibit 8. Okay? This is a cut on your arm.

6 **A** Yes.

7 **Q** Can you show me, because it is just a photograph,
8 where on your arm was the cut? Was it here? Was it here?
9 Was it here? Where on your arm, and is it your right arm or
10 your left arm, by the way, that you got that cut on?

11 **A** I can show you right here. It is right here.

12 **Q** Okay. If you want to raise your shirt and show
13 the jury your scar.

14 **A** Can you see it?

15 **A JUROR:** Yeah.

16 **BY MS. LASKOFF:**

17 **Q** On your left arm?

18 **A** Yes.

19 **Q** Can you tell me the position of your arm when you
20 got cut? How were you holding your arm when you got cut?

21 **A** Actually, I am -- just based on the situation, I
22 am assuming that it is when I was like this.

23 **Q** Okay. Put your arm up there like this?

24 **A** Pull my shirt up.

25 **Q** Yeah. If you don't mind, if you can. Are you

1 able to do that?

2 **A** I got it.

3 **Q** Okay. And so you are saying your arm is up here
4 like this?

5 **A** I believe so. I believe that's when I saw the --
6 when I said I got -- I seen the flash shine, whatever. I
7 just saw a flash and I saw like two fists. I can remember
8 two fists right here, and I could see a hand reaching over
9 and I seen something. I could see more of the thumb and a
10 flash above the thumb.

11 **Q** Okay. Now, are you right handed or are you left
12 handed?

13 **A** I am right handed.

14 **Q** So you held the knife in your right hand, correct?

15 **A** Yes.

16 **Q** And during the entire incident where you say that
17 you finally pulled the knife out, you were just swinging and
18 protecting yourself; is that correct?

19 **A** Best I could, yes.

20 **Q** Is that right?

21 **A** Yes.

22 **Q** And you don't recall how you stabbed William Troy?

23 **A** I wasn't sure I had cut or stabbed anyone because
24 I had the knife and I was swinging it, but nobody seemed to
25 notice it. I mean, I didn't know if I touched anybody with

1 the knife.

2 Q And isn't it true that you actually, when you got
3 out of the car, you already had the knife engaged?

4 A Engaged? No.

5 Q Out and ready to fight?

6 A No, no, of course not.

7 Q And isn't it true that you were ticked off by what
8 these gentlemen were saying to your girl?

9 A No, I felt provoked to introduce myself, though.

10 Q Wasn't Deanna giving you an earful saying she was
11 tired of listening to this and she was feeling disrespected?

12 A I never really listened to Deanna. She didn't
13 make any gestures like that. She says that, you know, that
14 is just something that I came to find out that she felt like
15 that.

16 Q Now, you are saying that after the fight ended,
17 you got in your car with Deanna, right?

18 A Yep.

19 Q And you're driving out and you see the truck, the
20 red truck that rammed you?

21 A Yeah.

22 Q Okay. Now you heard them screaming, get his
23 license plate, the dude stabbed someone, right?

24 A I didn't hear that. I was not paying attention to
25 anything except for the fact that I almost hit somebody

1 behind me. I was paying attention to driving and I was
2 paying attention to the gun that was on my lap.

3 **Q** Let me ask you, you're denying the gun is your
4 gun, is that correct?

5 **A** Yes.

6 **Q** And this gun just -- miraculously, you look down
7 and whoa, there's a gun on my lap; is that correct?

8 **A** Yes.

9 **Q** So, it just appeared? Once you sat in the seat,
10 there was a gun?

11 **A** I assumed that I brought it in there but I can't
12 remember walking to my car or anything like that.

13 **Q** And you're denying that prior to this night or
14 incident it was not your gun?

15 **A** No, it was not my gun.

16 **Q** Okay. Now, once you got in the truck and, poof,
17 there's a gun in your lap, and the guy is ramming your car
18 with his truck, are you saying that statement -- I think
19 what you said to counsel was, he saw the gun and his face
20 changed, suddenly?

21 **A** No, not his face.

22 **Q** What was it that changed?

23 **A** His direction.

24 **Q** His direction. So he stopped being next to you,
25 he slammed on his brakes, right?

1 **A** He wasn't exactly next to me. He was running his
2 car towards me. It was at a slant. I was driving like
3 this, and he was -- he had came out around and was going
4 like this and he saw me --

5 **Q** The jury can't see what you are doing.

6 **A** Okay. I am driving like this. I pull out the
7 parking lot. I am driving like this. He must have -- being
8 that they said he was in the parking lot, he came around
9 from a wider angle and intended to ram my car and then he
10 saw me and made a u-turn.

11 **Q** Pulled off? Okay. And are you also telling the
12 jury you just happened to be changing the clip on this when
13 he drove up next to you? It is just a complete coincidence?

14 **A** I was unloading the gun prior to when he did, and
15 I had went like this, and realized that I might have just
16 put a bullet in the chamber is my first reaction was to try
17 to unload it, but I had pushed the clip and it did fall out,
18 so, and I went like this to see if anything was in the
19 chamber, and I realized I put something in the chamber, so I
20 had just decided to keep on going and I was going to -- and
21 I was dropping the clip out even more, shaking it like this
22 trying to get the clip out.

23 **Q** So you were aiming it in his direction like this,
24 at your window?

25 **A** No. No. The gun was in the direction of the

1 window already because I was like this, looking at the gun,
2 trying to shake the clip out.

3 **Q** And you happened to just know how to change the
4 magazine and the clip and everything on this firearm?

5 **MS. CHIEN:** Objection, argumentative.

6 **THE COURT:** Overruled.

7 **THE WITNESS:** It is a simple gun, yes. I have a
8 gun at home.

9 **BY MS. LASKOFF:**

10 **Q** Okay. That's all right. I didn't ask you any
11 questions. Now, isn't it true that when you were driving
12 down the road, you -- after you claim that you were taking
13 the clip out and the gun was in your lap, you actually --
14 you wiped your handprints off of it?

15 **A** I was actually trying to wipe my blood off of it
16 and everything that would have been affiliated with me, yes.

17 **Q** And were you contemplating or thinking about
18 tossing the gun out the window? Is what you indicated to
19 --

20 **A** I thought a lot of things. I thought about
21 keeping it. I thought about throwing it out the window. I
22 didn't know what I was going to do with it.

23 **Q** Okay. And you, in fact, ended up hiding it in the
24 back seat of your vehicle, right?

25 **A** I realized I was wiping my blood off in vain

1 because I kept getting blood on it and I said, I will wait
2 before I decide what I am going to do. Let me just get
3 somewhere safe.

4 **Q** Okay. And isn't it true that you took all these
5 actions because you didn't want that gun connected to you?

6 **A** Yes.

7 **Q** Have you ever been convicted of a felony, sir?

8 **A** Yes.

9 **Q** And how many times have you been convicted of a
10 felony?

11 **A** Once.

12 **Q** One time?

13 **MS. LASKOFF:** If I can have a moment?

14 **THE COURT:** You may.

15 **BY MS. LASKOFF:**

16 **Q** I just have another question, briefly, Your Honor.
17 Sir, I am showing you State's Exhibit 6. Is this your
18 pocket knife that you used that night?

19 **A** Yes. It looks just like it, yes.

20 **Q** Okay. And this is the one that you indicated that
21 you carry with you at all times, just in case?

22 **A** For years.

23 **Q** Okay.

24 **MS. LASKOFF:** I have nothing further, Your Honor.

25 **THE COURT:** Redirect.

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

2 **REDIRECT EXAMINATION**

3 **BY MS. CHIEN:**

4 **Q** Mr. Dobbs, I am showing you what has been marked
5 as Defense Exhibit Number 2. Can you take a look at it and
6 can you tell us what that photo is a photo is?

7 **A** It is a photo of me after the fight.

8 **Q** Okay. And does this show your injuries?

9 **A** Some of them.

10 **Q** Okay?

11 **MS. CHIEN:** Your Honor, permission to publish to
12 the jury?

13 **THE COURT:** You may.

14 **BY MS. CHIEN:**

15 **Q** Mr. Dobbs, that night when the four men surrounded
16 you, were you scared?

17 **MS. LASKOFF:** Objection, asked and answered.
18 Beyond the scope of direct.

19 **THE WITNESS:** I was in fear for my life.

20 **BY MS. CHIEN:**

21 **Q** Okay.

22 **A** And my girlfriend's life.

23 **Q** And can you describe how tall they were in
24 comparison to you?

25 **A** Well, they were all around my height, but they all

1 weighed maybe 30 to 40 pounds more than me.

2 **Q** How tall are you?

3 **A** 5' 11".

4 **Q** And how much do you weigh?

5 **A** Between 165 and 170.

6 **Q** When you were pulled over by the police officer,
7 did you cooperate with the police?

8 **A** Of course.

9 **Q** And when the -- did the police ask you if you had
10 any weapons?

11 **A** Yes.

12 **Q** And what did you tell them?

13 **A** I told them what I had and where it was.

14 **Q** Okay. Did you tell them where the gun was?

15 **A** Yes.

16 **Q** Did you tell them where the knife was?

17 **A** Yes.

18 **MS. CHIEN:** I have no other questions.

19 **THE COURT:** Any redirect, recross?

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

21 **THE COURT:** Counsel, could you approach for a
22 moment, please?

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

24 **THE COURT:** Defense, do you intend to rest now?

25 **MS. VICKERS:** Yes.

1 **THE COURT:** State, do you intend to call any
2 rebuttal witnesses?

3 **MS. LASKOFF:** No.

4 **THE COURT:** So it would be an appropriate time to
5 send the jury on a lengthy break so we can deal with
6 jury instruction issues, half an hour I think?

7 **MS. VICKERS:** I guess. I need time to make the
8 JOA arguments.

9 **THE COURT:** Right. Do you want to rest in front
10 of them now and then I will send them out for half an
11 hour and we will go over the JOA argument?

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

13 **THE COURT:** Defense, any other witnesses?

14 **MS. VICKERS:** No.

15 **THE COURT:** Would this be an appropriate time for
16 a break?

17 **MS. CHIEN:** Defense rests at this time.

18 **THE COURT:** All right. Ladies and gentlemen, this
19 will be an appropriate time for the lengthy break that
20 I talked to you about earlier. I do need to go over
21 some matters with the attorneys outside of your
22 presence. I do need to go over jury instructions,
23 which are lengthy in this case, and that is going to
24 take some time.

25 There is no way to avoid that. So I am going to

1 give you half an hour recess. Do not discuss the case
2 amongst yourselves. Do not let anyone discuss it with
3 you. Leave your pads and pens on the chairs. They
4 will be there when you return.

5 (Jury exits the courtroom.)

6 **THE COURT:** Mr. Dobbs, you can join your attorneys
7 at counsel table. Defense, do you have any rebuttal?

8 **MS. CHIEN:** No.

9 **THE COURT:** Motions, Counsel?

10 **MS. VICKERS:** At this time defense moves for a
11 judgment of acquittal. If the Court doesn't mind, I'd
12 actually like to move backwards, Count Number V.

13 First of all, the State has failed to prove a
14 prima facie case of shooting from a vehicle. At this
15 time the defense has put forth a reasonable hypothesis
16 of innocence. The State has not rebutted it. I am
17 sure you are familiar with the string of cases on the
18 reasonable hypothesis of innocence when it's not
19 rebutted. There has been one allegation from
20 Mr. Holiday that he shot twice, saw flashes but didn't
21 hear anything. There's been testimony from Mr. Dobbs
22 and Ms. Washington saying no shots were fired. And
23 based on no rebuttal from that, we'd ask for a judgment
24 of acquittal on Count V.

25 **THE COURT:** Let me get the argument from the State

1 on Count V and then we can move per count. That way it
2 will be easier for everyone.

3 **MS. LASKOFF:** Your Honor, in looking at the
4 evidence in the light most favorable to the State,
5 there is no circumstantial evidence and testimony from
6 the eye witness in regard to it being a jury question
7 at this point. It is the State's position that clearly
8 there is enough on that count to take it to the jury.

9 **THE COURT:** There is a conflict in the direct
10 evidence in this matter between the testimony of the
11 defense witnesses and that of Mr. Holiday, being the
12 conflict in the direct evidence. It is a matter for
13 the jury to decide. And I will deny the motion for
14 judgment of acquittal.

15 **MS. VICKERS:** On Count IV, the aggravated assault
16 with the firearm, obviously the elements deal with
17 possessing a firearm, and then going back and creating
18 imminent fear in someone. In this case, Mr. Dobbs was
19 clearly driving away from Mr. Holiday, who is a listed
20 victim on Count IV. There was no intent to harm
21 Mr. Holiday, and there was no immediate threat to
22 Mr. Holiday. So, there was no reason for him to be in
23 fear, no reason for him to be in fear that any violence
24 was imminent because Mr. Dobbs was driving away from
25 Mr. Holiday, not towards him, not at him, not trying to

1 ram into his vehicle.

2 Based on the elements of the charges, also, we
3 would argue that Mr. Dobbs had a right to defend
4 himself in that situation against a possible aggravated
5 battery as a car can be used obviously as a deadly
6 weapon and can cause death of great bodily harm in that
7 situation.

8 **THE COURT:** State?

9 **MS. LASKOFF:** Your Honor, again, it is the State's
10 position this is a question for the jury. If the jury
11 believes what Mr. Holiday indicated, it is certainly --
12 Mr. Holiday was in fear. He was shot at by the
13 defendant with a gun and he slammed on the brakes and
14 he was in the near vicinity of the defendant because --
15 and he thought he was going to get shot. It is a
16 question for the jury whether they are going to believe
17 Mr. Dobbs and Ms. Washington's testimony versus
18 Mr. Holiday or what the other evidence may or may not
19 indicate.

20 **THE COURT:** It is a question of fact for the jury
21 to decide and I will deny the motion for judgment of
22 acquittal as to Count IV.

23 **MS. VICKERS:** I would like to argue Counts I, II
24 and III together. I'd like to refer you to Jenkins vs.
25 State, 942 So. 2nd 910. That's a 2006 case where

1 Mr. Jenkins got into an argument with the deceased and
2 ended up stabbing the deceased in which eventually
3 facts came out about this being a self-defense case and
4 the Court held that the Court should have granted the
5 motion for judgment of acquittal in that case. I
6 know -- I assume the Court and the State have both had
7 a chance to read the case?

8 **THE COURT:** Yes.

9 **MS. VICKERS:** I can go into further argument, more
10 specifics. Essentially the facts of the Jenkins case
11 are that Mr. Jenkins basically came outside of his home
12 to have -- have an argument with somebody, or to
13 confront somebody verbally about something. That
14 verbal argument turned physical and Mr. Jenkins used a
15 knife and actually killed the deceased.

16 The argument is exactly the same here. It was
17 clear from the testimony that Mr. Dobbs came up to have
18 a verbal talk with these people, maybe a verbal
19 confrontation that turned physical. He defended
20 himself. Mr. Tory was stabbed and unfortunately died,
21 and based on self-defense and the fact that as the law
22 is these days, he does not have a duty to retreat, and
23 that, in fact, he did retreat the first chance he got.
24 And that it -- in this type of case, the Jenkins case
25 held that, or basically found that it was the State's

1 burden to overcome this defense of self-defense and
2 prove beyond a reasonable doubt that Mr. Jenkins was
3 not acting in the lawful self-defense.

4 There has been no rebuttal evidence, nothing to
5 say to rebut the fact Mr. Dobbs' testimony he was
6 acting in self-defense. And also, Ms. Washington's
7 testimony in this case, it specifically gives the State
8 a burden. Once we raise -- once self-defense is
9 raised, they have to overcome that issue of
10 self-defense beyond a reasonable doubt, and I would
11 argue that the State has not met that burden.

12 **THE COURT:** State?

13 **MS. LASKOFF:** Your Honor, it is the State's
14 position that clearly, this is, again, a jury question
15 as well. The Jenkins case is completely
16 distinguishable from the facts of this case. In the
17 Jenkins case, the victim was described by witnesses as
18 basically a raving lunatic. He was making threats to
19 the defendant that he was going to come back to the
20 mobile park with 20 guns and silencers and kill
21 somebody. He was telling the defendant he was gonna
22 kill him. He was a dead man.

23 In addition to that, the deceased pulled his shirt
24 over and pulled his arm back behind his body where the
25 defendant couldn't see it, and he was claiming he