

## EXHIBIT 2

*(continued)*

1 IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
2 IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA  
3 MISDEMEANOR DIVISION

4 STATE OF FLORIDA,

5 Plaintiff.

6 vs.

7 DENNIS HUNT,

8 Defendant.  
9 \_\_\_\_\_/

CASE NO: 03-CM-018502

DIVISION: E

10  
11 **TRANSCRIPT OF PROCEEDINGS**

13 BEFORE:

**HONORABLE TOM BARBER**

14 TAKEN AT:

Courtroom 20  
Courthouse Annex  
Tampa, Florida

16 DATE AND TIME:

June 8, 2005  
1:30 p.m. docket

18 RECORDED BY:

Joshua Johnson  
Electronic Court Reporter

19 TRANSCRIBED BY:

Catherine Tomasi  
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21 (ORIGINAL ~~\_\_\_\_\_~~)

22 (COPY ~~\_\_\_\_\_~~)

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**SCANNED**

1 A No.

2 Q Did Hillsborough County -- did any security officer  
3 approach you and ask you to leave?

4 A I went up to the front desk to retrieve a Florida civil  
5 practice manual and a Hillsborough County security officer was  
6 the front desk, talking to Mr. Pilver, and he turned around and  
7 said to me, "Oh, you have to leave."

8 Q Okay, so the -- there was a security officer who told  
9 you you had to leave? Once -- once the security officer told  
10 you that you have to leave, you didn't leave; correct?

11 A That's correct.

12 Q Okay, at some point Mr. Pilver and Tampa Police Officer  
13 Hathcox approached you; correct?

14 A Approaches me? No.

15 Q Or they just walk up to you?

16 A No.

17 Q The officer and Mr. Pilver never walked up to you?

18 A That's correct.

19 Q Mr. Pilver -- with Mr. Pilver and the officer -- Mr.  
20 Pilver didn't tell you that you had to leave the library?

21 A He did not is -- that's correct, he did not.

22 Q Mr. Pilver didn't tell you that he --

23 A That's --

24 Q -- that you have to leave?

25 A Yes, that's correct.

1 Q Did Officer Hathcox tell you that you had to leave?

2 A Yes, he did.

3 Q Okay, so your testimony is that Mr. Pilver never told  
4 you that you had to leave?

5 A That's correct.

6 Q It was only the officer?

7 A That's correct.

8 Q So when Officer Hathcox asked -- told you that you're  
9 no longer welcome on the premises and that you had to leave, you  
10 didn't leave; correct?

11 A Well, I -- I did -- I indicated to him that I had a lot  
12 of case material and personal property; that I needed to pack  
13 that material up. And so I went to the -- towards the back of  
14 the library to do that and in the -- in the course of doing  
15 that, I made the decision that it just was not right and it was  
16 too important for me to be there, as I had an upcoming trial  
17 that I was preparing myself for.

18 Q And --

19 A A civil trial.

20 Q Okay, so you were going to leave --

21 A And they were violating my rights.

22 Q You were going to leave but you decided not to;  
23 correct?

24 A That's correct.

25 Q At some point the officer tells you again that -- "Mr.

1 Hunt, you're no longer welcome on these premises. You have to  
2 leave." And you still didn't leave; correct?

3 A Sometime again he tells me -- I'm trying to --

4 Q He told you more than one time that you had to leave,  
5 the officer did; correct?

6 A Yes, I believe he did. Yes.

7 Q But you refused to leave?

8 A Do you -- I said to him -- I packed up my materials. I  
9 indicated to -- I said to the Officer Hathcox, I said, "Now  
10 these are all my things right here." On that particular day, I  
11 had an additional couple of items with me. I had a cassette  
12 player and a headphone set which I -- the library has continuing  
13 legal education tapes provided by the Hillsborough County -- the  
14 attorney board --

15 MS. HALE: Objection, Your Honor. Non-responsive.

16 THE COURT: What was the question?

17 MS. HALE: The question was --

18 Q Once Officer Hathcox asked you more than once to leave  
19 and you refused to leave? That was the question.

20 A Oh, yes. I indicated to him, "These are my things.  
21 These are the library manuals here that I've been using. Now  
22 I'm going to sit down and I'm going to stay here until 5:00."  
23 Until closing at 5:00. Then I sat down?

24 Q Then what -- so your answer is, yes, you refused to  
25 leave? That's your answer?

1 A That -- that's correct.

2 Q Okay, when the officer told you that, "Sir, you need to  
3 leave or you're going to be arrested," you still refused to  
4 leave; correct?

5 A I just told you what I did. I sat down -- I explained  
6 to him, "Now I'm going to sit down and I'm going to stay here  
7 until 5:00 p.m. closing."

8 Q Okay, and even when the officer told you that you're  
9 going to be arrested, you -- that's what you continued to do;  
10 right? You never --

11 A He -- he immediately -- as I hit the seat to sit down,  
12 the bottom of the seat -- as I sat down, he immediately moved  
13 forward and placed me under arrest. And I just cooperated. You  
14 know, I didn't resist in any way.

15 Q Well it wasn't immediate because --

16 A Oh, yes, it was.

17 Q -- you just testified, sir, that --

18 A Oh, yes, it was immediate.

19 Q -- it was a couple of times.

20 MR. AMADOR: Objection. Argumentative.

21 THE COURT: Hold it. Hold it. Ask the question --

22 MS. HALE: Yes, sir.

23 THE COURT: -- and then answer the question.

24 Q You just testified that at least twice the police  
25 officer asked you to -- that -- informed you that it was time

1 for you to go and you said, "No, I'm not going. I'm going to  
2 stay." So my question to you was --

3 A I didn't say --

4 Q -- it wasn't --

5 A I didn't say --

6 THE COURT: Hold it, Mr. Hunt. Let her finish.

7 Q My question to you is, at what -- he didn't immediately  
8 arrest you because he asked you at least twice to leave;  
9 correct?

10 A That's correct, yes.

11 Q Okay, so it was not immediate that he arrested you?

12 A On my telling him that I was going to stay there until  
13 5:00 and sitting down, he immediately moved forward and placed  
14 me under arrest and handcuffed me.

15 Q Okay, did you at some point tell the officer that if he  
16 did arrest you, you were going to sue him and the Tampa Police  
17 Department, as well as the law library?

18 A I indicated to him that -- that I would file a lawsuit  
19 against the Tampa Police Department and the library and security  
20 and Mr. Pilver.

21 Q Okay.

22 A For violating my rights.

23 Q Have you filed that lawsuit?

24 A No, I've been prevented access to the courts by being  
25 denied access to the law library to be able to enable myself to

1 do such. It's made it much more difficult for me. And --

2 Q Okay, well, Mr. Hunt, let me ask you this. This will  
3 be my last question to you. Isn't it true, sir, that once you  
4 told the officer that, "If you arrest me, I'm going to sue you,  
5 Tampa Police Department, and this law library," isn't that when  
6 he arrested you? After that point?

7 A Some time after, yes.

8 Q Okay.

9 MS. HALE: Your Honor, no further questions.

10 THE COURT: Redirect?

11 **REDIRECT EXAMINATION**

12 BY MR. AMADOR:

13 Q Mr. Hunt, Ms. Hale asked you if you -- well your  
14 response to Ms. Hale's question about if you didn't like Mr.  
15 Pilver, you said "Not personally;" do you like Mr. Pilver in the  
16 respect of how he handles his job?

17 A No, I don't. I think that he doesn't -- and I think I  
18 indicated that to his boss, also. That he was ill-suited for  
19 that position.

20 MR. AMADOR: I have nothing further.

21 THE COURT: Okay, call your next witness.

22 MS. HALE: Your Honor --

23 MR. AMADOR: The Defense rests.

24 THE COURT: Go ahead.

25 MS. HALE: I had one question based on what Defense



1 Counsel asked.

2 THE COURT: No more questions for this witness. You  
3 can step down, Mr. Hunt. Defense has rested. Ladies and  
4 gentlemen, you have now heard all the testimony and  
5 evidence in this case. This is another opportunity to take  
6 a stretch break and go to the restroom and go to the water  
7 fountain. We need to handle some more legal matters. This  
8 break will take us a little bit longer. I want to say 15  
9 minutes. I'm not trying to waste your time. I understand  
10 you probably want to go on with this, but we -- there's  
11 things we need to do in here will take us that amount of  
12 time. So we'll see you back in 15 minutes. Thank you.

13 (The Jury exited the courtroom.)

14 THE COURT: Okay, the jury's out of the courtroom.  
15 Let's figure out --

16 MR. AMADOR: Judge, if I may renew my motions -- renew  
17 my motions --

18 THE COURT: Okay.

19 MR. AMADOR: -- for judgement of acquittal based on the  
20 same arguments that I've made previously. And I think the  
21 standards are little bit -- right now I'd ask that you  
22 grant my motion on all the reasons that I've given at the  
23 close of the State's case, but in particular, as a matter  
24 of law, the government acted unreasonably in trespassing  
25 Mr. Pilver(sic).

1 THE COURT: Okay, I think the State -- that's for the  
2 jury to decide, so it's denied. Now what about -- you  
3 didn't enter these --

4 MR. AMADOR: No, I did not.

5 THE COURT: -- these exhibits. All right, because we  
6 had them copies to make new ones. I guess we should say --  
7 we should probably just destroy them so they don't confuse  
8 things.

9 MR. AMADOR: Judge, those are part of, actually, the  
10 court file.

11 THE COURT: Well, I had them -- I had them make copies  
12 so we wouldn't have --

13 MR. AMADOR: Oh, I'm sorry.

14 THE COURT: -- duplicates.

15 MR. AMADOR: Gotcha.

16 THE COURT: So let's just -- these are the ones that  
17 were in the old case and then we made copies for the new  
18 one, which I'll just take and throw them away. I'll throw  
19 them away right now. All right, so they're not -- they're  
20 not part of anything? Is there something else in there?  
21 Okay, well what about the jury instructions now?

22 MR. AMADOR: Your Honor, I had provided before the two  
23 proposed jury instructions.

24 THE COURT: Yeah -- yeah, we'll come to that in a  
25 second. First of all, you have -- you have your standard

1 package of Florida standard jury instructions in your  
2 office that you need to print out; right?

3 MR. DUBOSE: I've already provided a copy to you -- to  
4 the Court, Mr. Amador, and I have a copy myself.

5 THE COURT: Okay.

6 MR. DUBOSE: I can give you -- I can give you my copy  
7 right now if you need another one.

8 THE COURT: Let me find it.

9 MR. DUBOSE: But, yes, I can print them out again.

10 THE COURT: Well, no. I thought you indicated earlier  
11 that you needed to, but --

12 MR. DUBOSE: No, Mr. -- I don't have any problems with  
13 any of the jury instructions. I believe it was Mr. Amador  
14 had a question about the verdict form.

15 THE COURT: Hold on. Let me just make sure that I have  
16 what I'm going to need to read. Let's just -- Mr. Amador,  
17 let's just talk about the -- the boiler plate ones, if you  
18 will, and then we'll get down to the ones where there's  
19 something to discuss. What the State's given me -- and I'm  
20 going to give these to the jury, so if there's anything,  
21 you know, in here that shouldn't be in here, we need to  
22 know that and get that taken care of now. First one is  
23 2.1, which is the preliminary instruction. Some place in  
24 one of these standards it talks about the information. I  
25 don't usually read that because I don't usually give the

1 jury the information. In this case, there isn't an  
2 information. So if it says that, I'll just skip it. Let's  
3 see, closing argument. I can -- I can read this if you  
4 want me to. Does anybody have a preference one way or the  
5 other? You want me to read it or not? I'll read it. 3.1,  
6 introduction to follow instructions; I'll read that one.  
7 3.2, statement of the charge; now is this all right? Crime  
8 of trespass in occupied structure after warning? Yeah, it  
9 looks all right to me. Next is plea of not guilty,  
10 reasonable doubt; that is what it is. That's a standard.  
11 Weighing the evidence is a standard. Defendant testifying  
12 --

13 MR. AMADOR: Judge, if we could back to weighing the  
14 evidence?

15 THE COURT: Yeah, you want to take some of this stuff  
16 out?

17 MR. AMADOR: No, I'm fine with it as it is. If you  
18 want to leave it that way, but --

19 THE COURT: I'd love to take some of this out, but to  
20 try to go back and redo it, it takes -- it ends up taking  
21 more time than it would to just have me say it. But I --  
22 you know what I'm going to do? In the future, I'm going to  
23 get some of these in my own computer and when  
24 (indiscernible) I'm going to print out my own version  
25 because I hate to hear the sound of my own voice --

1 MR. DUBOSE: Judge, I can have this -- I can reprint  
2 this in no time. So which ones --

3 THE COURT: All right, well let's first -- let's get  
4 some of these out of here. Which ones don't we need to do  
5 in weighing the evidence?

6 MR. AMADOR: Certainly 9 and 10.

7 THE COURT: Yeah.

8 MR. AMADOR: 6 (indiscernible).

9 THE COURT: 6, 9, and 10.

10 MR. AMADOR: 7.

11 THE COURT: Pressure of threat, yeah. Keep 8.

12 MR. DUBOSE: 6, 7, 9, and 10, we've got out?

13 THE COURT: Yeah.

14 MR. DUBOSE: Okay.

15 THE COURT: So that's that. Let me just mark that.

16 MR. AMADOR: I would ask that 8 be left in.

17 THE COURT: Yeah, we have 8 in. Defendant testifying,  
18 we'll read because he just testified. Defendant not  
19 testifying is out. Now how about 3.10 -- or 3.10. Let's  
20 see if there's -- and 7 is one that we could take out if we  
21 wanted to but, you know, whatever you all want to do. How  
22 does anybody feel about that?

23 MR. AMADOR: I'd just as soon leave it in if --

24 THE COURT: Okay, I'll leave it in there. 3.11 is a  
25 standard. 3.12. This is always -- well, we have two

1 offenses here also, don't we? Don't we have the jury  
2 picking whether or not there was somebody present in the --

3 MR. DUBOSE: Yes.

4 THE COURT: -- in the -- so this is -- this is okay  
5 like this? Because they really are two different offenses,  
6 in a sense.

7 MR. AMADOR: Sure.

8 THE COURT: This gets confusing in the normal  
9 misdemeanors where there isn't any lesser included.

10 MR. AMADOR: Well I think that that -- well I kind of  
11 feel that it is a lesser included --

12 THE COURT: Oh, no. But I'm saying, like, in a DUI or  
13 something like that, we read this instruction about the  
14 highest crime charged and there's only one crime charged.  
15 And I always tell myself, "We need to change that."  
16 Submitting case to a jury; that's fine. That's a standard.  
17 Jury deadlock; hopefully we won't have to read. And then  
18 the other is the discharge one, which I will read at the  
19 end. Okay. Now let's talk about the -- let's talk about  
20 the substantive instruction on trespassing.

21 MR. DUBOSE: Judge, I believe I've presented to you a  
22 copy of my proposed jury instructions on the elements that  
23 I -- in the case that I got them from?

24 THE COURT: Yeah.

25 MR. DUBOSE: That's a recent case that was form the

1 annotated statute itself.

2 THE COURT: Yeah, I looked at that. And the case --  
3 I'll tell you what I've done here, just so you can preview.  
4 I took the standard instruction, the current standard  
5 instruction, which is 3 point -- or what is it?

6 MR. DUBOSE: 3.13, Judge.

7 THE COURT: Yeah, 3.13. And I worked with it a little  
8 bit. The one that you gave me does -- the elements are  
9 what they are from that case. It --

10 MR. DUBOSE: It's much more clear and --

11 THE COURT: I --

12 MR. DUBOSE: -- and it's the same.

13 THE COURT: I agree with you. And --

14 MR. DUBOSE: So this is -- this is repetitive and all.

15 THE COURT: I agreed with you. And it was also -- so,  
16 you know, if Mr. Amador is okay with that, I'll do it. My  
17 -- my version of this is a little bit more true to the  
18 standard. But I'm open to discussion on how this ought to  
19 read. And we can -- we can do this word for word. As a  
20 matter of fact, what I'll do is I'll get my laptop and  
21 we'll write it out right now and it won't take but a  
22 second. You -- I mean, that's -- let's talk about that.  
23 How do you -- have you looked at his other proposed  
24 version?

25 MR. DUBOSE: I gave him a copy, Judge.

1 THE COURT: I don't know where I put my copy.

2 MR. DUBOSE: Of course, my copy does --

3 THE COURT: Oh, here it is.

4 MR. DUBOSE: -- have the additional fourth element.

5 THE COURT: Well the fourth element is what it is;  
6 that's staying in.

7 MR. DUBOSE: Right, I know. I just was saying if -- if  
8 -- either way.

9 THE COURT: You tell me, Mr. Amador. What --

10 MR. AMADOR: I -- if I had my druthers, I'd prefer a  
11 version of the one that you drafted. Even though I had a -  
12 -

13 THE COURT: Yeah, I mean there's no -- I'm not -- I'm  
14 not happy with the one I drafted, the one Mr. Dubose  
15 drafted. But, I mean, it's -- we've got to pick one.

16 MR. DUBOSE: Judge, I took mine verbatim from that case  
17 --

18 THE COURT: Yeah, I know you did.

19 MR. DUBOSE: -- but it is law. I understand the jury  
20 instructions are law and they're not --

21 THE COURT: Yeah, I know you did. And I looked it.  
22 And I -- and I agree with you, it's more straightforward.

23 MR. DUBOSE: And it's also controlling law, as opposed  
24 to the jury instruction, which is merely persuasive.

25 THE COURT: Well I don't know what -- I don't know how



1 that would come out.

2 MR. AMADOR: It's not controlling, Judge.

3 MR. DUBOSE: It's not controlling law?

4 MR. AMADOR: Here it's --

5 MR. DUBOSE: The case that I gave you is Southern  
6 Second. What's --

7 THE COURT: Well --

8 MR. AMADOR: (Indiscernible).

9 THE COURT: But the --

10 MR. DUBOSE: But it's still law. It's not in the --

11 THE COURT: We --

12 MR. DUBOSE: -- jury instruction, which is just --

13 THE COURT: We could spend a lot of time debating that,  
14 but -- I mean, I think at the end of the day it's all  
15 saying the same thing and that there's -- there's the --

16 MR. DUBOSE: Actually there is a -- there is a case law  
17 on point that if there's not a case in this jurisdiction,  
18 then it is the law.

19 MR. AMADOR: Yes, Judge. It's controlling law.

20 THE COURT: It is? How did you find out about that  
21 one?

22 MR. DUBOSE: Oh, Judge, I pay attention to what goes on  
23 in Division E.

24 THE COURT: So I'll tell you what I'm going to do. I'm  
25 going to go -- unless there's a reason not to, I'll go with

1 the one that you've go there, just simply because it's  
2 clear and I want to hear my voice less and not more. And  
3 this other one requires me to talk a lot more. But I'm  
4 going to add -- I mean, the fourth element has got to be in  
5 here. No matter what version of the general common law  
6 trespass is read -- or statutory trespass, you've got to  
7 have the fourth element because that's the constitutional  
8 issue.

9 MR. AMADOR: Judge, and I would ask that the Court --  
10 well obviously I would ask that the Court use my --

11 THE COURT: Okay, we'll come -- we'll come to your --  
12 to yours in a second. Because I've looked at that very  
13 carefully. Let's just get -- let's -- I want to agree at  
14 least on the garden variety, common law trespass elements.  
15 Let's just, for a second, pretend that this is a -- this is  
16 a regular trespass case without this constitutional issue.  
17 There's nothing wrong with the one that Mr. Dubose has  
18 presented. There's nothing wrong with the one I've  
19 presented, except Mr. Dubose's is more straightforward.  
20 Suspicion is, well, since the State proposed it, they must  
21 be trying to do something here. But I don't see that it  
22 really matters one way or the other. As a matter of fact,  
23 Mr. Dubose submitted two different versions of these jury  
24 instructions.

25 MR. DUBOSE: At least.

1 THE COURT: Yeah, so --

2 MR. DUBOSE: I submitted one and I submitted a revised,  
3 easier to understand one. Because we're throwing -- we're  
4 throwing more elements into this, elements that the  
5 legislature didn't even enact for this crime. So that in  
6 and of itself, I'm not sure about. But I'm going to not  
7 address that. I just wanted to make it clear as possible.

8 THE COURT: Then we'll do -- we'll do the short  
9 version.

10 MR. DUBOSE: This is actually, technically, in my  
11 opinion, a defense that it may be an affirmative defense  
12 that --

13 THE COURT: I know, but there's arguing cases that say  
14 that it isn't and that's why I've made it an element of the  
15 State's case.

16 MR. DUBOSE: Right, Judge. I know that. That's why  
17 I'm --

18 THE COURT: But --

19 MR. DUBOSE: -- trying to keep it as plain as possible.

20 THE COURT: All right, so we'll go -- we'll go with the  
21 simplified version but including element four. And there's  
22 one other thing on this one -- on my version I want you all  
23 to look at and it's the -- at the very bottom. Believe me,  
24 Mr. Amador, we'll come to yours. I'm not -- I know --

25 MR. AMADOR: That's fine.

1 THE COURT: The last -- the last one here, it says  
2 "Access to public libraries is a right protected by the  
3 United States and Florida constitutions." This is just  
4 explaining my view of the law that I've already determined  
5 here. Rightly or wrongly, it's my best effort to come up  
6 with a right answer. I thought that ought to be put in  
7 here because I assume you want to argue that; that there's  
8 some --

9 MR. AMADOR: Yes, sir.

10 THE COURT: -- constitutional issue? And --

11 MR. AMADOR: And I have one objection to that.

12 THE COURT: All right, go ahead. What is it?

13 MR. AMADOR: I would prefer that at the -- in an  
14 alternate line, after reasonably --

15 THE COURT: Just give me -- access to public library is  
16 a right -- which one are we talking -- I'm --

17 MR. AMADOR: At the -- that paragraph, the last -- next  
18 to the last line starts --

19 THE COURT: Right.

20 MR. AMADOR: -- reasonably?

21 THE COURT: Yes.

22 MR. AMADOR: I'd ask that the Court strike the rest of  
23 if --

24 THE COURT: All right, all right.

25 MR. AMADOR: -- but in doing so -- in other words, it

1 would read, "This right does not prohibit a public library  
2 from trespassing someone from it's property so long as the  
3 library acted reasonably in doing so."

4 THE COURT: You want --

5 MR. DUBOSE: I'd ask that we leave it in, because the  
6 argument at hand is First Amendment, which doesn't deal  
7 with trespass, it deals with expression. And so for the  
8 jury to fully understand where you're going with this, it  
9 has to be some sort of protected speech. Or in this case,  
10 it's a --

11 MR. AMADOR: No, no, no. The -- if -- I'm sorry.

12 MR. DUBOSE: No, continue.

13 MR. AMADOR: The issue here is access to the  
14 information. It's not --

15 MR. DUBOSE: It's still First Amendment; right?

16 THE COURT: I'll tell you, here's what I'll do on that.  
17 All right, if we want to take out this concept -- because  
18 it's an "and," it not an "or." "And did not suppress  
19 expression merely because of opposition to those views." I  
20 only put that in there because that was right out of that  
21 Third Circuit case. I really think that ought to be out  
22 everywhere. That's my own opinion, but I -- I'm not --  
23 what I won't do is take it out of that line and leave it in  
24 the other places. It's --

25 MR. AMADOR: I don't want it in the other places,

1 either.

2 THE COURT: Okay, all right. So I'll take that out of  
3 everything, including element four.

4 MR. AMADOR: Right.

5 THE COURT: So it will say --

6 MR. AMADOR: You're saying just to take out "because of  
7 opposition to those views?"

8 THE COURT: It will say --

9 MR. DUBOSE: They did not trespass Dennis Hunt because  
10 of opposition to his views.

11 THE COURT: No, number four will say, "The Hillsborough  
12 County law library acted reasonably in trespassing David  
13 Hunt from the property."

14 MR. DUBOSE: Right.

15 THE COURT: Okay? I'm going to get this stuff about  
16 opposition to his views out altogether because it's sort of  
17 a second prong that I don't -- I'd just as soon keep out of  
18 the case. That's just -- it's not -- there's nobody ever -  
19 - this is why this is the way it is, because it's a  
20 noncontent-based restriction. Nobody's claiming that they  
21 kicked Mr. Hunt out of the library because they didn't like  
22 what he was working on.

23 MR. AMADOR: Okay, Judge. I don't have any objection  
24 then.

25 THE COURT: Okay, so let me go back and -- and I --

1 MR. DUBOSE: I can fix mine or you can fix yours, but  
2 we've got to fix this.

3 MR. AMADOR: Fix this one.

4 THE COURT: Yeah. We'll use Mr. Amador's.

5 MR. DUBOSE: Well --

6 THE COURT: But I'm going to fix this. I'm going to  
7 fix this. I'll handle this part; okay? Now as to Mr.  
8 Amador's requested instruction; let's start with the first  
9 one which says "If you find the defendant on the day he was  
10 told to leave the library did not cause a disturbance or  
11 made threats which caused others to be unable to use the  
12 library, you should find the defendant's not guilty." And  
13 I thought about this carefully and I'm not going to read it  
14 and here's why. Because there's -- first of all it  
15 incorporates this "on the day he was told to leave"  
16 concept, which I don't think is the law. I think he could  
17 be reasonably trespassed for things that occurred some  
18 other day. And I know you've previously argued that and I  
19 know you're incorporating your objections here. That's  
20 point one. Point two on this instruction; then it also  
21 says essentially he should find -- the defendant should be  
22 found not guilty if there were no disturbance or threats  
23 which caused others to be unable to use the library. I  
24 think that's also not the law as I see it because if, for  
25 example, -- these are hypothetical facts, but they're

1 similar to the facts in that North District of Illinois  
2 case, which you've cited here and I know that's why you've  
3 cited it. But I don't -- I don't believe that it would be  
4 -- I don't believe the jury has to find that -- that  
5 something Mr. Hunt did effected other people in the  
6 library; okay. I think if a person, for example, were to  
7 tell the librarian with nobody in the library, "I hate you.  
8 I'm going to kill you." You know, serious, serious stuff -  
9 - which I know wasn't -- wasn't here, but if that were done  
10 and no other person in the library was effected by that, I  
11 still think that the law would allow that person to be  
12 trespassed out of there. So I don't believe it's an  
13 element or it's a requirement that other people -- I  
14 understand this Brinkmeier case sort of suggests otherwise,  
15 but -- so that's my ruling on that.

16 MR. AMADOR: And, Judge, if I --

17 THE COURT: You can go ahead and make a record.

18 MR. AMADOR: I'm going to need to -- we're going to  
19 need to keep that in the court file.

20 THE COURT: That's fine.

21 MR. AMADOR: And I'm going to give you another one.

22 THE COURT: Yeah, I have the other one. It's the  
23 second proposed instruction?

24 MR. AMADOR: Yes, I want to -- I want to -- since  
25 that's your ruling, --



1 THE COURT: Right?

2 MR. AMADOR: -- I'm going to add -- I'm going to  
3 prepare another proposed jury instruction that -- that says  
4 made threats -- or made a disturbance or made threats,  
5 period, you should find the defendant not guilty.

6 THE COURT: Okay.

7 MR. AMADOR: I will mark this my third proposed.

8 THE COURT: All right, well -- yeah, let me -- let's  
9 have that. We're all on that sheet.

10 MR. AMADOR: I just took out the "which caused others  
11 to" -- in other words, it's --

12 THE COURT: Right. And --

13 MR. AMADOR: It's just simply my argument that if he  
14 was not -- if he didn't threaten anybody on that day, --

15 THE COURT: Right.

16 MR. AMADOR: -- July 5th --

17 THE COURT: Right. Okay, and even though we haven't  
18 talked about the second one, -- well, I'll say that as to  
19 the third requested instruction, which still includes the  
20 concept of the day of the incident, that that's -- I'm not  
21 going to read that based on my prior rulings. Now we're to  
22 the second one -- and I'm going to put all these in the  
23 court file. Right here. Even though I'm writing on them,  
24 I think that actually will be helpful. The -- the second  
25 proposed jury instruction, he has a constitutional right to

1 enter, remain, and use the library; I have picked up that  
2 concept when I said in my proposed instruction, "Access to  
3 a public library is a right protected by the United States  
4 and Florida constitutions." I think that's the way the  
5 right is described; as access to a public library. "If you  
6 find that on the day the defendant was told to leave" --  
7 and there is the same concept -- "he did not engage in  
8 behavior that interfered with the public's use of the  
9 library," so it's the same issue, slightly differently.  
10 Same rulings on that; okay?

11 MR. AMADOR: And I worded it a little differently and  
12 let me give you another one, so --

13 THE COURT: Yeah.

14 MR. DUBOSE: Judge, are you going to take care of the  
15 verdict form with --

16 THE COURT: No, we need to talk about that. That's why  
17 I told them 15 minutes. Maybe I should have told them 20.

18 MR. AMADOR: Here's -- Here's my --

19 THE COURT: I've got this up in my office.

20 MR. AMADOR: I scratched it up, when I -- I think  
21 that's --

22 THE COURT: Tammy, can you come up here, please?

23 MR. DUBOSE: This, Your Honor. And look it over and  
24 tell me -- I think that's pretty much what he wants.

25 THE COURT: Is this what you want?

1 MR. DUBOSE: He wanted one an occupied and one just  
2 regular, I believe.

3 THE COURT: Yeah. Tammy typed up the verdict form  
4 earlier and you didn't just --

5 MR. AMADOR: We can do it like this or we can have a  
6 special finding of --

7 THE COURT: Let's just do it like this.

8 MR. AMADOR: Okay.

9 THE COURT: So -- because she can type it up just like  
10 this. Can you read that? Make sure you can read that and  
11 then go and type it up, if you can?

12 JUDICIAL ASSISTANT: I can -- is that your writing or -

13 -

14 THE COURT: That wasn't mine.

15 MR. DUBOSE: It's mine, I'm sorry.

16 JUDICIAL ASSISTANT: No, no. I had something, but it  
17 can wait.

18 THE COURT: Okay, all right. So now if -- did you hand  
19 me the other one, Mr. Amador?

20 MR. AMADOR: I didn't.

21 THE COURT: Okay, all right. Call that your fourth.  
22 First, second, third. Here's the court file. You can just  
23 stick it right on top of here. It's going to be making --  
24 the same point, deleting out the one issue, preserving the  
25 other. And so my ruling will be the same on that one.

1 Unless -- you're not writing something different; are you?

2 MR. AMADOR: What I'm writing, Judge, is "was abusive  
3 or threatening, you should find" --

4 THE COURT: Yeah. Okay, so that's the same issue so I  
5 will deny on that one. I'm going to go back and type up  
6 this -- this substantive charge so that we can be real  
7 sure; look at it one last time, all of us.

8 MR. DUBOSE: Okay.

9 THE COURT: And get moving.

10 MR. AMADOR: I'm just going to enter it.

11 THE COURT: All right. So we'll -- we'll bring the  
12 jury back in as soon as I come back with this, depending on  
13 how fast I can type.

14 MR. AMADOR: And here's the other one, Judge.

15 THE COURT: Okay, sit that right on top there.

16 (There was a brief recess after which the proceedings resumed.)

17 THE COURT: Mr. Dubose -- the revised thing with Ms.  
18 Hale that I just did and if anybody has anything they want  
19 me to change, tell me now or that's what I'm going to read.

20 MR. AMADOR: Judge, I'd just like to state for the  
21 record that I would prefer that the standard instruction on  
22 the other elements --

23 THE COURT: Yeah.

24 MR. AMADOR: -- be read.

25 THE COURT: Okay, that's fine. I wasn't going to read

1 your standard under any event. The one that I had proposed  
2 wasn't the standard as well. So it's noted. Okay, verdict  
3 form okay with everybody?

4 MR. AMADOR: Yeah, that's not the one that I saw.

5 THE COURT: Okay, you might not have a copy of it. Why  
6 don't you come up and look at it. I don't know whose  
7 writing that was that was --

8 MR. DUBOSE: It was mine.

9 THE COURT: Yeah.

10 MR. DUBOSE: (Indiscernible). You think -- you think -  
11 - okay, just checking on --

12 THE COURT: Okay, everybody ready to bring the jury  
13 back?

14 MR. DUBOSE: One moment, Judge, if you don't mind. I  
15 just want to get my instructions organized.

16 THE COURT: All right. Okay?

17 MR. DUBOSE: They can come back in now; right? They  
18 can leave if the want?

19 THE COURT: The witnesses -- we're done with the  
20 testimony part. We should have said that. Okay, let's  
21 bring the jury back so we can get moving here. Moving  
22 forward. I'm going to read the closing argument,  
23 preliminary instruction. Now let's see, Mr. -- you didn't  
24 put in any evidence; right? So you go first and last. All  
25 right, so do it that way. Is somebody getting they jury?

1 BAILIFF: Deputy Dixie is.

2 THE COURT: Okay, all right. Great.

3 (The Jury entered the courtroom.)

4 THE COURT: Okay, have a seat everyone. Ladies and  
5 gentlemen, both the State and the defendant have now rested  
6 their cases. The attorneys now will present their final  
7 arguments. Please remember that what they attorneys say is  
8 not evidence. However do listen closely to their  
9 arguments. They are intended to aid you in understanding  
10 the case. Each -- the defendant will present his argument  
11 first and last and the State will be in between those two.  
12 Okay, Mr. Amador?

13 MR. AMADOR: Thank you. Ladies and gentlemen of the  
14 jury, thank you for listening to all of the evidence. It's  
15 been a fairly short trial compared to a lot of others, but  
16 nonetheless a very important trial because this is rights  
17 that Mr. Hunt has. And please, we appreciate you taking  
18 this very seriously.

19 Now Mr. Hunt is not guilty of the crime with which he  
20 is charged. Mr. Hunt has a right under the Florida and  
21 Federal -- U.S. constitution to have access to a public  
22 library. Now that access isn't unfettered as -- means --  
23 that access doesn't mean that there aren't any limitations.  
24 There are time limitations and obviously there are  
25 limitations with respect to behavior, etcetera.

1           The question that the judge is going to present to you,  
2           the issue that you're going to have to determine in this  
3           case is whether the law library acted reasonably when Mr.  
4           Pilver decided that he was going to trespass Mr. Hunt.  
5           You're also going to have to decide whether Mr. Pilver had  
6           the authority to trespass Mr. Hunt. Because from that  
7           witness stand, you heard Ms. Kellaheer say that if -- in the  
8           situation that I gave her, if Mr. Hunt came in and minded  
9           his own business and sat down, did he have the right to  
10          kick him out? And she said, "No." Why? Because Mr. Hunt  
11          has a right to be in the library. So the State hasn't  
12          proven that Mr. Pilver had the authority to trespass Mr.  
13          Hunt. Also the State hasn't proven that the law library  
14          acted reasonably. You have to listen to the evidence.  
15          You've listened to it. You now have to weigh the evidence.  
16          You have to determine what you believe the facts are in  
17          this case. You've heard a lot of people give a lot of  
18          evidence and now you determine what the facts are.

19                 Now I submit to you that Mr. Pilver has reason to  
20                 exaggerate what occurred. Mr. Pilver has reason to not  
21                 like Mr. Hunt. Mr. Hunt has made complaints against Mr.  
22                 Pilver. Mr. Hunt has -- after Mr. Pilver told him he  
23                 couldn't use the copier, Mr. Hunt got the permission  
24                 (indiscernible) to control something that obviously he  
25                 cannot control. And Mr. Pilver doesn't like the fact that

1 Mr. Hunt has complained about Mr. Pilver's behavior. And  
2 please don't forget, ladies and gentlemen that Mr. Hunt  
3 complained about the very day that Mr. Pilver is saying Mr.  
4 Hunt did something. Mr. Hunt complained about Mr. Pilver's  
5 behavior that day and his aggressive manor. And I ask you,  
6 ladies and gentlemen, to consider the evidence and the  
7 demeanor and what Mr. Hunt told you; what he testified to.  
8 And you decide if Mr. Hunt appears to be a person that is  
9 of the demeanor that Mr. Pilver says he was on that day,  
10 specifically using foul language. I submit to you that  
11 this demeanor here indicates that that's not what Mr. Hunt  
12 is about. Mr. Hunt is about getting justice. Mr. Hunt was  
13 at that library, trying to research case law or law about a  
14 civil lawsuit he had. He was trying to get justice. And  
15 Mr. Hunt felt that when he was trying to be -- when they  
16 tried to kick him out or told him that he needed to leave,  
17 that that wasn't right because it was a violation of his  
18 rights. And ladies and gentlemen, it was a violation of  
19 his rights and you should find that Mr. Hunt is not guilty  
20 of the crime of trespass. Thank you.

21 THE COURT: All right, State?

22 MR. DUBOSE: Thank you, Judge. May it please the Court;  
23 Counsel? Ladies and gentlemen, why are you here today?  
24 Why are you here today? You're here because everyone --  
25 everyone in the United States had the right to work in an



1 environment that is not threatening. And you heard about  
2 constitutional rights to be in a public place. There are  
3 constitutional rights to be in a public place, but they're  
4 not -- they aren't applied to those individuals who pose a  
5 threat to those employees who work in a public place.

6 When you came in here and did Voire Dire, you didn't  
7 hear anyone tell you, "Ladies and gentlemen, you need to  
8 check your common sense right there." When you went back  
9 to the jury room you didn't see a big sign that said, "All  
10 right, now I want you to put all your common sense away and  
11 focus -- you've come into the land of law. You can't think  
12 -- you can't think with your common sense." You didn't  
13 hear anyone say that. So please, today, keep that with you  
14 and think about this from a common sense perspective. For  
15 the individual that you saw testifying on the stand; did he  
16 feel threatened by Mr. Hunt?

17 All right, at the beginning of jury selection, the  
18 judge told you that Mr. Hunt, the defendant, is presumed  
19 innocent -- presumed completely innocent as he sat there  
20 for jury selection. And it was my job -- 100 percent my  
21 job to prove each and every element of the crime charged  
22 beyond and to the exclusion of a reasonable doubt. All of  
23 that's true. The presumption of innocence, however,  
24 started to fall away the moment that Mr. Pilver opened his  
25 mouth. The moment that I started presenting testimony to

1 you, presenting evidence to you about what happened on July  
2 1st and July 5th, that presumption crumbled. And  
3 throughout the presentation of the State's case, it  
4 crumbled all the way so that you could see the truth  
5 underneath that shield of that presumption. You could see  
6 what really happened. You could hear what really happened.  
7 And I agree with Mr. Amador; I want you, when you go to  
8 deliberation to recall, to discuss amongst yourselves the  
9 demeanor and the credibility of the people who sat on that  
10 witness stand, who talked to you today.

11 You had Mr. Pilver, who is the law librarian who has  
12 worked there, now, for nine years. At the time, he told  
13 you it was seven. If Mr. Pilver is so unfit to be an  
14 individual who comes into contact with the public on a  
15 daily basis, would he still be there today for nine years?  
16 If he was so unfit to deal with the public on a regular  
17 basis, on a daily basis, would he still be there today?  
18 Again, don't check your common sense at the door.

19 I want to address with you guys the elements of this  
20 crime. Now you're going to get this; this is part of the  
21 jury instruction packet that the judge will give you at the  
22 end of closing arguments. And it's my job, as I said a  
23 minute ago, to prove each and every one of these beyond a  
24 reasonable doubt. Beyond and to the exclusion of a  
25 reasonable doubt. Now the important thing I didn't say was

1 beyond all or beyond any doubt. Let me give you an  
2 example. If you're going to buy a house and you're looking  
3 at a lot of different houses and you finally decide on one,  
4 it's the one you want. And you think to yourself, "This is  
5 the house that I want to buy. I think I can afford it. I  
6 think it's right for me, it's going to fit my needs." What  
7 is it that will keep you from buying that house? What is  
8 it that will keep you from buying that house? A reasonable  
9 doubt will keep you from buying that house. Not a  
10 speculative doubt, not an imaginary doubt. You can imagine  
11 or you can speculate, "You know, I want to buy this house.  
12 It's going to be the right house for my family, it's going  
13 to accommodate my needs. But we could have another four,  
14 five, six hurricanes hit this year and I can't even get  
15 home insurance. I could lose it." That's speculation. A  
16 reasonable doubt is something you can attach a logical  
17 reason to. "I want to buy this house. I love this house,  
18 but you know what? It's \$400,000 out of our price range."  
19 You shouldn't buy the house. You clearly can't afford the  
20 house. It's that simple; it's easy to attach a reason to  
21 that, making it a reasonable doubt.

22 If you have a doubt in this case, it has to be a doubt  
23 you can attach a reason to.

24 MR. AMADOR: Objection, Your Honor. May we approach?

25 (There was a bench conference had as follows.)

1 MR. AMADOR: (Indiscernible).

2 THE COURT: (Indiscernible.)

3 MR. DUBOSE: (Indiscernible.)

4 THE COURT: (Indiscernible).

5 (The bench conference was concluded.)

6 MR. DUBOSE: Ladies and gentlemen, a reasonable doubt  
7 is a doubt that has a reason; okay? We'll leave it at  
8 that.

9 Now the first element of this crime is that the  
10 defendant willfully remained. Now we're talking about the  
11 defendant on July 5, 2003, and if you will recall that is  
12 the night, or the afternoon -- however you want to see it -  
13 - that the police officer was involved; okay? Now  
14 willfully remained. Later on in the instruction it will  
15 say that willfully means intentionally and purposely. Now  
16 if you have any doubt about that, remember what the officer  
17 said and remember what Mr. Hunt said. The security officer  
18 told him he had to leave. "I'm not leaving." The officer  
19 told him he had to leave. "Not leaving." The officer told  
20 you that he had Mr. Pilver come up and ask him to leave and  
21 he told him why he wanted him to leave; he did not feel  
22 safe with him -- with him there. Not if he wasn't leaving.  
23 There is no question that he willfully remained in the  
24 library that night.

25 The second element is that he has to willfully remain

1 in the structure of another. Someone else's structure.  
2 Okay, and the jury instruction will say -- it says,  
3 "structure means any building of any kind, either temporary  
4 or permanent, that has as roof over it and the enclosed  
5 space of ground and outbuildings immediately surrounding  
6 that structure." Okay, it's a structure. The library's a  
7 structure. There's no question about that. It's not Mr.  
8 Hunt's structure, he's not the County of Hillsborough.  
9 That element has been proved beyond a reasonable doubt.  
10 You haven't even heard anyone rebut that.

11 The third element; he did these first two things, he  
12 willfully remained in the structure, the Hillsborough  
13 County law library, without being authorized, licensed, or  
14 invited to enter or remain in the structure by a person  
15 authorized by the owner of the structure. Okay, that would  
16 be the Hillsborough County law library and as Ms. Kellaher  
17 indicated, they -- the board of directors of that library -  
18 - are the ones who are authorized to allow people to enter  
19 or remain. Now it is clear, being a public place, that Mr.  
20 Hunt was authorized enter into this building. At one point  
21 he was authorized to enter into the building, just as we  
22 all are authorized to enter into a public library.  
23 However, you'll see subsection B says "after having been so  
24 authorized to enter or remain in a structure, refusing to  
25 comply with a warning by a person authorized by the owner

1 to depart." That would be the warning that he got from the  
2 chief library assistant, David Pilver. Okay, now there's a  
3 question -- Mr. Amador poses a question as to whether or  
4 not Mr. Pilver was authorized to issue that trespass  
5 warning; to say, "I don't feel comfortable with you here.  
6 I don't feel safe. I need you to leave." Ms. Kellahe  
7 told you she talked to Mr. Pilver himself and told him the  
8 procedure he should take, who he should call if he feels  
9 that way. Okay? Now Ms. Kellahe, as Mr. Amador pointed  
10 out -- Mr. Amador said, and I believe this is the correct  
11 statement, that if Mr. Hunt came to the library, didn't  
12 bother anybody, didn't cause any disturbances, should he be  
13 trespassed? She said, "No," and that is absolutely true.  
14 It couldn't be more true. I completely agree with that.  
15 But that's not the facts in this case. He didn't say, "Ms.  
16 Kellahe, if he threatened Mr. Pilver a few days before;  
17 got into an argument. Mr. Pilver called you and told you  
18 he felt threatened -- if that happened and then Mr. Hunt  
19 came back to the library, can he be trespassed?" Well, she  
20 didn't answer that question. The answer to that question  
21 is up to you in element number four.

22 The last element of this crime is that the Hillsborough  
23 County law library acted reasonably in trespassing Dennis  
24 Hunt from the property. Were their actions reasonable  
25 under the circumstances? On July 1, 2005, Mr. Pilver

1 explained to you explicitly as I asked him to do so you  
2 would completely understand the nature of the circumstance  
3 what happened, the exchange that occurred. He explained to  
4 you the history that he's had with Mr. Hunt. He explained  
5 to you that on July 5th when he was working again, after he  
6 had talked to his boss and discussed it with the board of  
7 directors for the library that he saw Mr. Hunt come in.  
8 All right, he saw Mr. Hunt was in the library. At that  
9 time, he made the phone call, had the officers come in, and  
10 asked him to leave. The question before you today is was  
11 that reasonable under the circumstances? Was that  
12 reasonable for him to take that action? And as I told you,  
13 ladies and gentlemen, just as you have a constitutional  
14 right to go into a public library, everyone in every job,  
15 especially public employees, have a right not to have to  
16 work in a threatening environment. Mr. Hunt was on the  
17 stand and he told you about the complaints that he had  
18 made, about the procedures. You heard Ms. Kellaheer tell  
19 you, "Yeah, I've talked to Mr. Hunt." I believe she even  
20 said she read a letter from him. He's had problems before  
21 in the past and he's addressed them through the proper  
22 channels, the channels that we as a society have set up to  
23 address any kind of problems or issues with a library  
24 employee, with a library procedure. He's done it -- he did  
25 it up until this day. He did everything right in

1 addressing those problems up until this day. He was going  
2 to stand his ground this day and he confronted Mr. Pilver  
3 on the first and a few days later he had had enough. He  
4 wasn't going to follow the rules anymore. He wasn't going  
5 to address Ms. Kellaher or the board of directors. He took  
6 things into his own hand and said -- own hands and said,  
7 "I'm not leaving. I'm not leaving. I don't care what you,  
8 officer with the Tampa Police Department say, I'm not  
9 leaving. I don't care what you say I have to do." He  
10 didn't leave. He had to be escorted out of the library.

11 Now also we need to consider that when you consider  
12 whether or not the trespass was reasonable. Did you hear  
13 the officer tell you, "I tazed him or I beat him with my  
14 stick?" No. He said that he asked, "You got to go.  
15 You've got to leave," and he wouldn't do it. I think all  
16 in all it was about four times with two or three different  
17 people he was asked to leave. He wouldn't do it. They  
18 didn't use any kind of excessive force to get him out of  
19 there. They reasonably and quietly escorted him out and  
20 passed by the situation.

21 Ladies and gentlemen, you're here today to do the right  
22 thing. Mr. Pilver is a public employee of the Hillsborough  
23 County law library and he does not need to work in an  
24 environment that is threatening to him or as, to he said,  
25 his coworkers. I ask that you return a guilty verdict in



1 this case; that you follow the law in this case as  
2 explained by the elements that I read to you. When you  
3 apply the facts that you've heard and that you witnessed  
4 yourselves, there will be no doubt in your mind what  
5 happened here. And I ask you to return of guilty in this  
6 case to insure that at least this employee is free from  
7 working in an threatening work environment. Thank you.

8 THE COURT: Okay, Mr. Amador?

9 MR. AMADOR: Thank you, Judge. Ladies and gentlemen,  
10 the definition of reasonable doubt is not what the  
11 prosecution told you it was. You'll hear it from there and  
12 then you'll get a piece of paper that says, "Plea of not  
13 guilty, reasonable doubt, and burden of proof." You can  
14 read it there and nowhere on this sheet of paper does it  
15 say what the prosecution said it says.

16 Now let's talk about some of the comments that he made.  
17 Mr. Hunt did not leave the library that day because he felt  
18 he was wronged. He had the right to stay there that the  
19 constitution gives him. And it was unreasonable for the  
20 library to kick him out. Now no evidence came from here  
21 saying that Mr. Hunt had ever been threatening to any other  
22 employee. And in fact, the evidence from Mr. Pilver was  
23 that Mr. Hunt had never been threatening to him before,  
24 only on this supposed day.

25 Now let's talk about Ms. Kellaher. Well, before we do

1 that, let's talk about Mr. Pilver because Mr. Pilver said,  
2 "Oh, yeah. I got authority to trespass Mr. Hunt." "Who  
3 did you get that from?" "Oh, the board." "Did the board  
4 meet between January -- July 1 and July 5?" "Oh, no, no.  
5 It was Mr. Spradlin who told me." "Mr. Spradlin's not on  
6 the board." "Oh, no. it was Ms. Kellaheer who is the head  
7 of the board that told me and I talked to her and she told  
8 me." This is what he said there. And what does Ms.  
9 Kellaheer say? She said that she told him that if he felt  
10 threatened and this whole conversation -- my entire cross  
11 examination of Ms. Kellaheer is not about some hypothetical  
12 situation, it's about what happened then. She said that  
13 she told Mr. Pilver that if he felt threatened, that he  
14 should go in the back room and call security. And then I  
15 asked her, "Well, Ms. Kellaheer, do you think that if Mr.  
16 Hunt came in and minded his own business and went and sat  
17 down, that Mr. Pilver could kick him out?" And she said,  
18 "No." Ladies and gentlemen, that's clear. Because what  
19 Mr. Pilver did on -- Mr. Hunt did on July 5 was go into the  
20 library to use it as he's always used it, bothering noone,  
21 minding his own business, and he had a right to be there.  
22 It was -- number one, Mr. Pilver didn't have authority,  
23 according to Ms. Kellaheer's testimony, to trespass him.  
24 And number two, it was unreasonable for Mr. Pilver to  
25 trespass Mr. Hunt because Mr. Hunt didn't do anything to

1 him. Now if you want to believe that Mr. Hunt did  
2 something to him on the day that Mr. Pilver says that  
3 happened, you still have to find that Mr. Hunt did  
4 something to cause Mr. Pilver, on the day that he was  
5 trespassed, to be fearful -- reasonably fearful. And you  
6 heard that -- from Mr. Pilver that Mr. Hunt did nothing but  
7 go in and go to his cubicle --

8 MR. DUBOSE: Your Honor, may we approach?

9 THE COURT: Yes.

10 (There was a bench conference as follows.)

11 MR. DUBOSE: He's just given a misstatement of law  
12 about having to do something on that day.

13 THE COURT: What?

14 MS. HALE: Yes, Your Honor. He stated that --

15 MR. DUBOSE: That he had to commit a disturbance on  
16 that day.

17 MS. HALE: That's what he just told the jury that they  
18 would have to have found; that he was threatened on that  
19 day, on July 5th in order to find him guilty.

20 MR. AMADOR: (Indiscernible).

21 MS. HALE: He's --

22 MR. DUBOSE: We take it out and play it back real  
23 quick.

24 THE COURT: Well, do you want

25 MR. AMADOR: (Indiscernible) that they have to prove

1 that Mr. Pilver (indiscernible) is it reasonable, based on  
2 what she said, that --

3 THE COURT: That's what I thought you said, which I  
4 thought you were allowed to argue. Which you are.

5 MR. AMADOR: Thank you.

6 (The bench conference was concluded.)

7 MR. AMADOR: Now ladies and gentlemen, as I was saying,  
8 you have to find -- based on what Ms. Kellaheer said about  
9 the July 5th scenario that I posed to her, where she said,  
10 "No, Mr. Pilver didn't have the right to kick him out --  
11 Mr. Hunt out," you have to find that Mr. Pilver acted  
12 reasonable when he kicked Mr. Hunt out. And you have to  
13 find that he acted reasonably and he was in -- he  
14 reasonably he was in fear when Mr. Hunt came in and sat  
15 down at a desk, minding his own business. And we all know  
16 that that's unreasonable because we all know that if you  
17 accept what Mr. Pilver says, even then Mr. Hunt didn't do  
18 anything to cause Mr. Pilver to be in reasonable fear on  
19 the date that he was trespassed from that place. And I  
20 submit to you that --

21 MR. DUBOSE: Objection, Judge. May we approach?

22 THE COURT: Yes.

23 (There was a bench conference as follows.)

24 MR. DUBOSE: Where is this reasonable fear coming from?  
25 They have to find reasonable fear?

1 THE COURT: This is very close, but I think it's  
2 admissible.

3 MR. DUBOSE: Reasonable fear?

4 THE COURT: I think he's --

5 MR. DUBOSE: This is not manslaughter.

6 THE COURT: State's got to prove that the library had a  
7 reason.

8 MR. DUBOSE: Well, what he's saying, right up to the  
9 line, is --

10 MR. AMADOR: He told them they have to find reasonable  
11 fear, Judge.

12 THE COURT: Well, I don't think -- that's why I say, I  
13 don't think they have to find it. That's not --

14 MR. DUBOSE: As long as you -- as long as you discuss  
15 it in jury instructions, I don't care.

16 THE COURT: The instructions are what they are. But  
17 he's entitled to argue that.

18 MR. DUBOSE: You're saying he's entitled to argue  
19 (indiscernible)?

20 THE COURT: He's -- no, he's entitled to argue that  
21 what they did was not reasonable.

22 MR. DUBOSE: But he just told them he -- I have to  
23 prove that he reasonably feared. That's what he said.

24 THE COURT: I'm -- I'm --

25 MR. AMADOR: No, I said that his fear -- they have to

1 find whether his fear in trespassing based on what she  
2 said.

3 THE COURT: Well, it's confusing the issue. What  
4 you're saying is confusing and I'm going to read the law  
5 the way -- the way it is.

6 MR. DUBOSE: Okay.

7 MR. AMADOR: Okay.

8 THE COURT: If you -- if it --

9 (The bench conference was concluded.)

10 MR. AMADOR: And ladies and gentlemen, I submit to you  
11 that the version of events that Mr. Pilver says occurred is  
12 suspect. And I submit to you that you should consider the  
13 testimony of Mr. Hunt and think about what he said and  
14 consider his demeanor in doing so. Ladies and gentlemen,  
15 this State hasn't proven it's case. The State hasn't  
16 proven that the law library acted reasonably. It's own  
17 witness stated that, and that's Ms. Kellaheer. And also the  
18 State hasn't proven that Mr. Pilver was authorized to  
19 trespass Mr. Hunt because Ms. Kellaheer said that. And no -  
20 - at no time did Ms. Kellaheer say what Mr. Pilver said she  
21 said. And I suggest to you that that alone shows, among  
22 the other issues like the complaints that were lodged  
23 against Mr. Pilver -- that shows that his testimony is  
24 suspect. You should find Mr. Hunt not guilty because he is  
25 not guilty. Thank you.

1 THE COURT: All right. Ladies and gentlemen of the  
2 jury, I thank you for your attention during this trial.  
3 Please pay attention to the instructions I am about to give  
4 you. The defendant in this case has been accused of the  
5 crime of trespass in an occupied structure after warning.  
6 To prove the crime of trespass in a structure, the State  
7 must prove the following four elements beyond a reasonable  
8 doubt. One, the defendant willfully remained, two, in the  
9 structure of another, three, without being authorized,  
10 licensed or invited to enter or remain in the structure by  
11 a person authorized by the owner of the structure or be  
12 after having been so authorized to enter or remain in the  
13 structure, refusing to comply with a warning by a person  
14 authorized by the owner to depart. Four, the Hillsborough  
15 County law library acted reasonably in trespassing Dennis  
16 Hunt from the property.

17 Authority to enter or remain in the structure need not  
18 be given in express words. It may be implied from the  
19 circumstances. It is lawful to enter or remain in a  
20 structure of another of, under all the circumstances, a  
21 reasonable person would believe that he had the permission  
22 of the owner or occupant. Willfully means intentionally or  
23 purposely. Structure means any building of any kind,  
24 either temporary or permanent, that has a roof over it and  
25 the enclosed space of ground and outbuildings immediately

1 surrounding that structure. Access to a public library is  
2 a right protected by the United States and Florida  
3 constitutions. This right prohibits a public library from  
4 unreasonably trespassing someone from its property. This  
5 right does not prohibit a public library from trespassing  
6 someone from its property so long as the library acted  
7 reasonably.

8 The punishment provided by law for the crime of  
9 trespass in a structure is greater if the trespass is  
10 committed under certain aggravating circumstances.  
11 Therefore if you find the defendant guilty of trespass in a  
12 structure, you must then consider whether the State has  
13 further proved those circumstances. If you find that at  
14 the time of the trespass there was a human being in the  
15 structure, you should find him guilty of trespass in a  
16 structure with a human being in the structure. If you find  
17 that the defendant committed the trespass in a structure  
18 without any aggravating circumstances, you should find him  
19 guilty only of trespass in a structure.

20 The defendant has entered a plea of not guilty. This  
21 means you must presume or believe the defendant is  
22 innocent. The presumption stays with the defendant as to  
23 each material allegation through each stage of the trial,  
24 unless it has been overcome by the evidence to the  
25 exclusion of and beyond a reasonable doubt. To overcome



1 the defendant's presumption of innocence, the State has the  
2 burden of proving the following: The crime with which the  
3 defendant is charged was committed and the defendant is the  
4 person who committed the crimes. The defendant is not  
5 required to present evidence or prove anything.

6 Whenever the words "reasonable doubt" are used, you  
7 must consider the following. A reasonable doubt is not a  
8 mere possible doubt, a speculative, imaginary, or forced  
9 doubt. Such a doubt must not influence you to return a  
10 verdict of not guilty if you have an abiding conviction of  
11 guilt. On the other hand, if after carefully considering,  
12 comparing, and weighing all the evidence there is not an  
13 abiding conviction of guilt, or if having a conviction, it  
14 is one which is not stable or one which waivers and  
15 vacillates, then the charge is not proved beyond every  
16 reasonable doubt and you must find the defendant not guilty  
17 because the doubt is reasonable. It is to the evidence  
18 introduced in this trial and to it alone that you are to  
19 look for that proof.

20 A reasonable doubt as to the guilt of the defendant may  
21 arise from the evidence, conflict in the evidence, or the  
22 lack of evidence. If you have a reasonable doubt, you  
23 should find the defendant not guilty. If you have no  
24 reasonable doubt, you should find the defendant guilty.

25 It is up to you to decide what evidence is reliable.

1 You should use your commons sense in deciding which is the  
2 best evidence and which evidence should not be relied upon  
3 in considering your verdict. You may find some of the  
4 evidence not reliable or less reliable than other evidence.  
5 You should consider how the -- how the witnesses acted, as  
6 well as what they said. Some things you should consider  
7 are: Did the witness seem to have an opportunity to see  
8 and know the things about which the witness testified; did  
9 the witness seem to have an accurate memory; was the  
10 witness honest and straightforward in answering the  
11 attorneys' questions; did the witness have some interest in  
12 how the case should be decided; does the witness' testimony  
13 agree with the other testimony and other evidence in the  
14 case; did the witness at some other time make a statement  
15 that is inconsistent with the testimony he or she gave in  
16 court? You may rely upon your own conclusion about the  
17 witness. A juror may believe or disbelieve all of any part  
18 of the evidence or testimony of any witness.

19 The defendant in this case has become a witness. You  
20 should apply the same rules to consideration of the  
21 defendant's testimony that you apply to the testimony of  
22 the other witnesses.

23 These are some general rules that apply to your  
24 discussions. You must follow these rules in order to  
25 return a lawful verdict. One, you must follow the law as

1 it is set out in these instructions. If you fail to follow  
2 the law, your verdict will be a miscarriage of justice.  
3 There is no reason for failing to follow the law in this  
4 case. All of us are depending upon you to make a wise and  
5 legal decision in this matter. Two, this case must be  
6 decided only upon the evidence that you have heard from the  
7 testimony of the witnesses and have seen in the form of the  
8 exhibits in evidence and these instructions. Three, this  
9 case must not be decided for or against anyone because you  
10 feel sorry for anyone or are angry at anyone. Four,  
11 remember the lawyers are not on trial. Your feelings about  
12 them should not influence your decision in this case.  
13 Five, your duty is to determine if the defendant has been  
14 proven guilty or not in accord with the law. It is the  
15 judge's job to determine a proper sentence if the defendant  
16 is guilty. Six, whatever verdict you render must be  
17 unanimous. That is, each jury must agree to the same  
18 verdict. Seven, it is entirely proper for a lawyer to talk  
19 to a witness about what testimony the witness would give if  
20 called to the courtroom. The witness should not be  
21 discredited by talking to a lawyer about his or her  
22 testimony. Eight, your verdict should be -- should not be  
23 influenced by feelings of prejudice, bias or sympathy.  
24 Your verdict must be based on the evidence and on the law  
25 contained in these instructions.

1           Deciding a verdict is exclusively your job. I cannot  
2 participate in that decision in any way. Please disregard  
3 anything I may have said or done that made you think I  
4 preferred one verdict over another.

5           You may find the defendant guilty as charged or not  
6 guilty. If you return a verdict of guilty, it should be  
7 for the highest offense which has been proven beyond a  
8 reasonable doubt. If you find that no offense has been  
9 proven beyond a reasonable doubt, then of course your  
10 verdict must be not guilty. Only one verdict may be  
11 returned as to any crime charged. This verdict must be  
12 unanimous. That is, all of you must agree to the same  
13 verdict. The verdict must be in writing and for your  
14 convenience, the necessary form of verdict has been  
15 prepared for you. It is as follows -- and you'll have a  
16 copy with you in the jury room. "State of Florida versus  
17 Dennis Hunt. Verdict Form. We, the Jury, find as follows,  
18 as to the defendant in this case (check only one): A, the  
19 defendant is guilty of trespass in an occupied structure;  
20 B, the defendant is not guilty of trespass in an occupied  
21 structure." Then it says "A, the defendant is guilty of  
22 trespass in structure; B, the defendant is not guilty of  
23 trespass in structure. So say we all dated this" -- and  
24 you fill in the date -- "day of June, 2005." The  
25 foreperson signs it. You are to check only one of these

1 four choices.

2 In just a few moments you will be taken to the jury  
3 room by the court deputy. The first thing you should do is  
4 elect a foreperson who will preside over your  
5 deliberations like a chairperson of the meeting. It is the  
6 foreperson's job to sign and date the verdict form when all  
7 of you have agreed to a verdict in this case, and will  
8 bring the verdict form back to the courtroom when you  
9 return. Your verdict finding the defendant either guilty  
10 of not guilty must be unanimous. The verdict must be the  
11 verdict of each juror, as well as the jury as a whole.

12 In closing, let me remind you that it is important that  
13 you follow the law as spelled out in these instructions.

14 In deciding your verdict, there are no other laws that  
15 apply to this case. Even if you do not like the laws that  
16 must be applied, you must use them. For two centuries we  
17 have agreed to a constitution and to live by the law. No  
18 one of us has the right to violate rules we all share. Any  
19 comments from Counsel; additional instructions? Request?

20 MR. AMADOR: Judge, if we could approach?

21 THE COURT: All right.

22 (There was a bench conference as follows.)

23 MR. AMADOR: I just wanted to (indiscernible) and also  
24 if (indiscernible) in the reading the instruction, it sort  
25 of leads (indiscernible).

1 MR. DUBOSE: The library (indiscernible).

2 MR. AMADOR: (Indiscernible).

3 THE COURT: Did we tell the jury that the Hillsborough  
4 County law library is a public law library? I will. I'll  
5 do it right now.

6 MR. DUBOSE: Is that an element of the crime?

7 THE COURT: No.

8 MR. AMADOR: Is it an element of the crime?

9 THE COURT: I'm not going to say it anyway. It doesn't  
10 matter. All right, have a seat.

11 MR. AMADOR: I --

12 THE COURT: It doesn't matter. Just --

13 (The bench conference was concluded.)

14 THE COURT: Ladies and gentlemen, I'll also add -- for  
15 you information -- the Hillsborough County law library is a  
16 public library. All right, that having been said, we're at  
17 the point in the case where we dismiss our alternate. We  
18 only have a jury of six people who deliberate. One of you  
19 is the alternate and that is Ms. Chester. Thank you for  
20 being here. Your service is not -- is not useless. We  
21 usually use an alternate, believe it or not. So you're  
22 free to go. Thank you, again, and you can stay if you  
23 want. But if you don't, you don't have to.

24 Okay, everyone else? What's going to happen now is  
25 Deputy Frazier's going to take you back to the jury room

1 and you're going to deliberate. And there is a buzzer on  
2 there, you'll see on the wall. You've already been in  
3 there. You spent a lot of time in there? Okay, so you  
4 know about that. All right. For the record, I am handing  
5 the bailiff the verdict form and the jury instructions that  
6 I just read. Thank you very much.

7 (The Jury exited the courtroom.)

8 (There was a brief recess after which the proceedings resumed.)

9 THE COURT: Okay, let's bring the jury in.

10 (The Jury entered the courtroom.)

11 THE COURT: All right, go ahead and have a seat once  
12 you reach your spot. Has the jury reached a verdict?

13 MR. HOLMES: We have, Your Honor.

14 THE COURT: Okay, hand that to the bailiff, please.  
15 Thank you. Okay, stand up, please, Mr. Hunt. Mr. Amador.  
16 The Clerk will publish the verdict.

17 CLERK: State of Florida versus Dennis Hunt, case  
18 number 03-18502, Division E. We, the Jury, find as follows  
19 as to the defendant in this case: The defendant is guilty  
20 of trespass in an occupied structure. So say we all dated  
21 this 8th day of June, 2005. Foreperson of the jury, Dwayne  
22 Holmes.

23 THE COURT: Okay, have a seat please. Ladies and  
24 gentlemen, I wish to thank you for your time and  
25 consideration of this case. I also wish to advise you --

1 pardon me. Do you wish to poll the jury, Mr. Amador?

2 MR. AMADOR: Yes, Judge.

3 THE COURT: Okay. Mr. Larose, is that your verdict?

4 MR. LAROSE: Yes.

5 THE COURT: Ms. Vernon, is that your verdict?

6 MS. VERNON: Yes.

7 THE COURT: Mr. Holmes, is that your verdict?

8 MR. HOLMES: Yes.

9 THE COURT: Ms. Farmer, is that your verdict?

10 MS. FARMER: Yes.

11 THE COURT: Mr. Lee, is that your verdict?

12 MR. LEE: Yes.

13 THE COURT: And Ms. Almeda, is that your verdict?

14 MS. ALMEDA: Yes.

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



1 speak about a jury's work. Although you are at liberty to  
2 speak with anyone about your deliberations, you are also at  
3 liberty to refuse to speak to anyone. A request may come  
4 from those who are simply curious or from those who might  
5 to seek to find fault with you. It will be up to you to  
6 decide whether to preserve your privacy as a juror.

7 And on behalf of myself, everyone here in this  
8 courtroom, and the other judges here in the Thirteenth  
9 Circuit, we certainly thank you for your jury service. You  
10 don't have to be called again for jury service for another  
11 year in state court. You could be called in Federal court  
12 at any time. And that having been said, you are now --  
13 you've completed your jury service. Thank you very much.  
14 We do very much appreciate it.

15 (The Jury was dismissed and exited the courtroom.)

16 THE COURT: Okay, the jury's out of the courtroom. Is  
17 there any reason sentence should not be imposed at this  
18 time?

19 MR. AMADOR: No.

20 THE COURT: All right, what sentence does the State  
21 recommend in this case?

22 MR. DUBOSE: Judge, I leave that largely to the  
23 discretion of the Court. I believe you've heard all the  
24 facts in the case and know the basis for everything. I'd  
25 ask that at the minimum, the Court order some sort of stay

1 away from Mr. Pilver. Other than that, Judge, you know, he  
2 doesn't have any prior criminal record so I won't be asking  
3 for adjudication. But I'll leave whatever terms of that in  
4 your -- terms of any probation to your discretion. I will  
5 point out to the Court, though, that this was a first  
6 degree misdemeanor he was convicted of. It's not -- it's  
7 not the lesser second, Your Honor.

8 THE COURT: Okay. Mr. Amador or Mr. Hunt, either one  
9 or both?

10 MR. AMADOR: Yes, Judge. I do have a statement. I'd  
11 ask that the Court impose a sentence that Judge Nazaretian  
12 imposed in the original trial, which I believe was a  
13 withhold and court costs. I don't believe that there's any  
14 facts that are any different --

15 THE COURT: Yeah, well --

16 MR. AMADOR: -- today than they were.

17 THE COURT: I think if Judge Nazaretian was hearing the  
18 case again, he would -- he might legally be required to  
19 give the same sentence, not a more severe sentence. But a  
20 different judge hearing the case could -- could give up to  
21 a year in the county jail, I guess. I'm not going to do  
22 that, but -- I think the -- here's what I'm not going to  
23 do, and this is going to be controversial, but I'm not  
24 going to order Mr. Hunt to stay out of the county law  
25 library. By the same token, if he goes back there, he may

1 be trespassed again. If they chose to trespass him out of  
2 the county law library again, that's their decision. We  
3 could be right back here. We could be right back in front  
4 of a jury addressing whether it is reasonable within his  
5 constitutional rights to be trespassed after essentially  
6 not being in that library for about two years; right? He  
7 hasn't been back in about two years?

8 MR. AMADOR: Right.

9 THE COURT: So -- I'm going to essentially leave that  
10 to them. And I'll also leave it to Mr. Hunt. If he wants  
11 to go back there and test this, he can certainly do it.  
12 I'm not saying it's legal or illegal for them to trespass  
13 him out again. I don't know. But that having been said,  
14 I'll withhold adjudication, assess court costs, and impose  
15 a \$250 fine and that can be -- if he can't afford the fine,  
16 he can convert that to community hours. And if he wants to  
17 do community hours, he can do that at the rate of 10 to 1.  
18 No probation. No probation. If he wants to convert the  
19 fine and court costs to community hours, just let me know  
20 and I'll -- you know, I'll enter an order to that effect.  
21 Or he can pay the fine and do the court costs, whatever  
22 he'd like to do is fine with me.

23 MR. AMADOR: You said 10 to 1?

24 THE COURT: Yep, 10 to 1. \$250 fine.

25 CLERK: Judge, you can't fine on a withhold.

1 THE COURT: Oh, I can't fine -- that's right, I can't  
2 fine on a withhold. I can -- what are the court costs  
3 then? I make the court costs --

4 CLERK: They're \$185. You can make them --

5 THE COURT: Just do the math. What is it? \$250, \$185.  
6 I always forget that.

7 MR. DUBOSE: \$335.

8 THE COURT: Okay, so I impose court costs of \$335 in  
9 this case, convert to community hours 10 to 1 if he wants  
10 to do that. Okay, anything else on this?

11 MR. AMADOR: No, Judge. I -- well, obviously we're  
12 going to appeal the sentence. I would ask that the Court -  
13 - I guess once I file my notice of appeal with the Court,  
14 entertain a motion to --

15 THE COURT: Yeah, once --

16 MR. AMADOR: -- stay the --

17 THE COURT: Once you file it. But I think the way -- I  
18 think the way it works now is there's a different --  
19 correct me if I'm wrong, isn't there a different group of  
20 lawyers that handle that or --

21 MR. AMADOR: Well, I will file the notice of appeal.  
22 I'm required to do all of these initial packet and then the  
23 Public Defender's Office will be appointed to Mr. Hunt.  
24 And then they have to make a decision whether to have a  
25 conflict or not.

1 THE COURT: Yeah, and -- and that's where, on the  
2 appeal, the State can then argue there is no such  
3 constitutional right that I have come up with in this case  
4 or --

5 MR. AMADOR: Right.

6 THE COURT: And then maybe some Florida court can  
7 decide that. And that should be very interesting. I've  
8 tried to do the best I could to get it set up so that these  
9 legal issues could be clearly --

10 MR. AMADOR: I appreciate that.

11 THE COURT: -- reviewed and somebody smarter than me  
12 will tell you what the -- what the law is.

13 MR. DUBOSE: Judge, just for the record. I know that  
14 your expertise is not in math, but that's \$435, not \$335.

15 THE COURT: Thank you. \$435. \$435 court costs. All  
16 right, thank you, everyone. We'll see you whenever we see  
17 you.

18 MR. AMADOR: Judge, before you leave, --

19 THE COURT: Yeah?

20 MR. AMADOR: -- do you want to inquire as to whether  
21 Mr. Hunt is indigent or not so that I can prepare an order?

22 THE COURT: Well, has anything changed with you? I  
23 mean, raise your right hand. Do you swear to tell the  
24 truth, the whole truth, and nothing but the truth so help  
25 you God?

1 MR. HUNT: Yes, I do.

2 THE COURT: Anything changed with your financial status  
3 since when you filled out your Public Defender paperwork,  
4 whenever you did it?

5 MR. HUNT: No, it has not.

6 THE COURT: Okay, then I guess that's good enough.

7 MR. AMADOR: Thank you, Judge.

8 THE COURT: All right, thank you.

9 MS. HALE: Thank you, Your Honor.

10 THE COURT: Thanks.

11 (The proceedings were concluded.)

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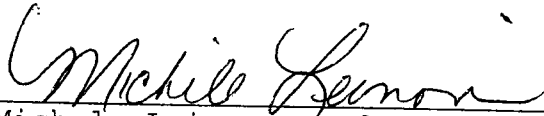
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**C E R T I F I C A T E**

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, Michele Leinonen, certify that the foregoing transcription is true and correct of the proceedings in this matter, taken by way of electronic recording.

  
Michele Leinonen, Electronic Court Reporter  
Record Transcripts Incorporated

Dated this October 14, 2005