

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

State of Florida
Plaintiff,

Case Number: 01-2021-CF-003691-A

Division I

vs.

Andre Abrams Sr.
Defendant.

_____/

MOTION FOR VIEW BY JURY

COMES NOW the State, by and through the undersigned counsel, pursuant to the general powers of this Court to regulate the course of trial, and the presentment of all relevant evidence. The State submits that this matter is reasonably expected to arise at trial and that the interests of justice require that the matter be addressed before the jury trial.

As grounds for this motion the State would show as follows:

1. When a court determines that it is proper for the jury to view a place where the offense may have been committed or other material events may have occurred, it may order the jury to be conducted in a body to the place, in custody of a proper officer. Florida Statutes, 918.05.
2. This idea has been extended to include allowing the jury to visit a location where they may view pertinent evidence which, for physical reasons, cannot be brought into the courtroom. See *Dodd v. State*, 209 So.2d 666 (Fla. 1968).
3. Evidence in the form of a XM-42 Lite Flamethrower, was recovered from the possession of the Defendant, and was secured by law enforcement following the commission of this crime.
4. The State would contend that this item is an essential part of the State's case and does intend to introduce it into evidence.

5. The State intends provide testimony from the victims and/or witnesses that said item produces as physical flame, and that this action occurred on the date and time of the incident.
6. The physical characteristics and properties of the XM-42 Lite Flamethrower, including the flames it produces, the heat accompanying the flames, the distance it can project a flame, and the intensity of those components, are relevant considerations for the jury.
7. The State submits that demonstrations of this nature are permissible, if the underlying testimony supporting the facts, have already been placed before the trier of fact. “A jury view is intended to assist the jury in understanding and applying the evidence presented at trial. *See McCollum v. State*, 74 So.2d 74 (Fla.1954); *Washington v. State*, 86 Fla. 533, 98 So. 605 (1923). Section 918.05, Florida Statutes, permits a view of the crime scene by the jury where the trial court determines that the demonstration will be beneficial to the case.” *Billie v. State*, 863 So. 2d 323, 333 (Fla. Dist. Ct. App. 2003).¹
8. The State submits that this evidence could only be displayed in an external (outdoor) environment, and it is necessary for the ends of justice that the jury be able to view this evidence.
9. The State of Florida, such that the jury which may be empaneled to try this case will be able to observe these characteristics, would request that the jury be allowed to travel to the rear of the courthouse for a contained physical demonstration of the item in question, by a member of the Alachua County Fire Rescue (*John Adler, Alachua County Fire Marshal, or a member of his staff*).
10. A viewing of this nature will assist in resolving questions of fact which may arise during jury deliberations such that juror experimentation and manipulation of a dangerous item in evidence need not be sent back with them for consideration. “We deny relief as to this judicial-bias claim because the judge, sitting as the factfinder, merely examined an item in evidence (i.e., the Glock G30) and drew nonscientific

¹ “The purpose of a jury view is to assist the jury in analyzing and applying the evidence presented at trial. A motion for a jury view may be granted if it appears that a useful purpose would be served.” *Thomas v. State*, 748 So. 2d 970, 983 (Fla. 1999); *Rankin v. State*, 143 So. 2d 193, 195 (Fla. 1962) (observing that a jury view) “is designed to aid the jurors in analyzing and applying the evidence”.

conclusions from his manual manipulation of the weapon, which were consistent with the testimony of the firearms experts. *Cf.* Fla. R.Crim. P. 3.400(a)(3) (“The court may permit the jury, upon retiring for deliberation, to take to the jury room ... all things received in evidence other than depositions.”). *See Lynch v. State*, 2 So.3d 47, 79 (Fla. Sup. Ct. 2008)²

WHEREFORE, the State respectfully request that the Court grants its Motion for view by jury and to allow the jury in the case of State of Florida v. Andre Abrams Sr. to travel to and/or observe a demonstration of the evidence in use during the course of the trial scheduled to commence on the 3rd day of March, 2025.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Aubroncee S. Martin, Attorney for the Defendant, by email/eservice, this 28th day of February 2025.

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s/ Frank Slavichak
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² Several jurisdictions that have addressed the issue of permissible juror experimentation have generally concluded that recreation or testing of testimony adduced at trial on objective evidence items is acceptable. “Jurors, during deliberations, may engage in experiments which amount to no more than a careful evaluation of the evidence presented at trial.” *Castillo v. Visual Health & Surgical Ctr., Inc.*, 972 So.2d 254, 255–56 (Fla. 4th DCA 2008) (citations omitted) (quoting 89 C.J.S. Trial § 798 (2007)) (citing Carol J. Miller, Annotation, *Propriety of Juror’s Tests or Experiments in Jury Room*, 31 A.L.R.4th 566 (1984)), *review denied*, No. SC08–425, 2008 WL 3545601 (Fla. Aug. 14, 2008).