

NO. 24-039-DCCR-0050

THE STATE OF TEXAS

VS.

JOSHUA THOMAS FULBRIGHT

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IN THE DISTRICT COURT

97TH JUDICIAL DISTRICT

CLAY COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, Joshua Thomas Fulbright, stands charged (1) by Count I in the indictment with the offense of the offense of Capital Murder, alleged to have been committed on or about the 11th day of October, 2018, in Clay County, Texas; and (2) by Count II in the indictment with the first degree offense of Felony Murder alleged to have been committed on or about the 11th day of October, 2018, in Clay County, Texas. The Defendant has entered a plea of not guilty on all counts.

1. Applicable Law

A person commits Capital Murder when such person intentionally or knowingly causes the death of an individual who is under 10 years of age.

A person commits the offense of Felony Murder if the person commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

The offense of Injury to a Child is a felony other than Manslaughter.

A person commits the offense of Injury to a Child—Serious Bodily Injury if a person intentionally, knowingly, or recklessly, causes SBI to a child who is fourteen (14) years of age or younger.

- First-Degree Felony (if intentionally or knowingly causes SBI)
- Second-Degree Felony (if recklessly causes SBI)

A person commits the offense of Manslaughter when he recklessly causes the death of an individual.

2. Term Definitions

“Act” means a bodily movement, whether voluntary or involuntary, and includes speech.

“Actor” means a person whose criminal responsibility is in issue in a criminal action.

“Another” means a person other than the actor.

“Bodily Injury” means physical pain, illness, or any impairment of physical condition.

“Child” (for the purposes of Injury to a Child offenses) means a person 14 years of age or younger.

“Conduct” means an act or omission and its accompanying mental State.

“Individual” means a human being who is alive.

“Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Deadly weapon” means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

3. Mental State Definitions

A person acts “intentionally” or with intent, with respect to a result of his conduct when it is his conscious objective or desire to cause the result.

A person acts “knowingly,” or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

A person acts “recklessly,” or is reckless, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.

4. Causation

A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.

A person is criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that a different offense was committed.

5. Law of Parties

The law of parties is only being applied to the non-homicide offenses of Injury to a Child. A person is criminally responsible as a party to an offense if the offense is committed by his own

conduct, by the conduct of another for which he is criminally responsible, or by both. Each party of the offense may be charged with the commission of the offense.

A person is criminally responsible for an offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense. For a person to be criminally responsible for Felony Murder as a party based on an intent to promote or assist the commission of the offense by the conduct of another, the person must intent to promote or assist the underlying felony, the act that is clearly dangerous to human life, and the death of an individual, and the person must then solicit, encourage, direct, aid, or attempt to aid the other person to commit the offense.

If, in attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy. For this purpose, a "conspiracy" is an agreement between two or more person to commit a felony. Capital Murder and Injury to a Child (Act or Omission) are felony offenses.

Mere presence alone will not make a person a party to an offense.

6. Accomplice Witness Testimony

An accomplice-witness as a matter of law, as the term is used here, means anyone connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime by unlawful act or omission on their part transpiring either before, at the time of, or after the commission of the offense, and whether or not they were present and participated in the commission of the crime.

Now, if you find from the evidence that Sarah Elizabeth Thomas was an accomplice, or if you have a reasonable doubt whether or not Sarah Elizabeth Thomas was an accomplice, then you are further instructed that you cannot convict the Defendant upon Sarah Elizabeth Thomas's testimony, unless you first believe that her testimony is true and shows the guilt of the Defendant as charged in the indictment, and then you cannot convict the Defendant unless Sarah Elizabeth Thomas's testimony is corroborated by other evidence excluding accomplice witness testimony tending to connect the Defendant with the offense charged. The corroboration is not sufficient if it merely shows the commission of an offense, but it must tend to connect the Defendant with its commission, and then from all the evidence, you must believe beyond a reasonable doubt that the Defendant is guilty of the offense charged against him, or if you have a reasonable doubt thereof, you will acquit the Defendant.

7. Application

Capital Murder-Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2018, in Clay County, Texas, the Defendant, Joshua Thomas

Fulbright, did then and there, intentionally OR knowingly cause the death of Scarlett Olivia Antoinet Newsom, an individual under 10 years of age, with his hands and/or by striking Scarlett Olivia Antoinet Newsom with or against a hard or soft object or surface, then you will find the Defendant guilty of Capital Murder, as charged in Count I of the indictment.

If you do not so believe the State has proved beyond a reasonable doubt each of the elements of Capital Murder, or if you have a reasonable doubt thereof, you will next consider whether or not the Defendant is guilty of Count II Felony Murder.

Or,

Felony Murder-Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2018, in Clay County, Texas, the Defendant, Joshua Thomas Fulbright, did then and there, commit the felony of Injury to a Child by intent to commit serious bodily injury to an individual, namely, Scarlett Olivia Antoinet Newsom, a child under the age of 14, by striking Scarlett Olivia Antoinet Newsom with or against a soft or hard object or surface, and in the course of and in furtherance of the felony, the Defendant intentionally or knowingly committed an act clearly dangerous to human life, striking Scarlett Olivia Antoinet Newsom with or against a soft or hard object or surface, that caused the death of Scarlett Olivia Antoinet Newsom, then you will find the Defendant guilty of Felony Murder, as charged in Count II of the indictment.

If you do not so believe the State has proved beyond a reasonable doubt each of the elements of Count II Felony Murder, or if you have a reasonable doubt thereof, you will next consider whether or not the Defendant is guilty of Manslaughter, a lesser-included offense.

Or,

Manslaughter- Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2018, in Clay County, Texas, the Defendant, Joshua Thomas Fulbright, did then and there recklessly cause the death of Scarlett Olivia Antoinet Newsom, by striking Scarlett Olivia Antoinet Newsom with his hands and/or by striking Scarlett Olivia Antoinet Newsom with or against a soft or hard object or surface, then you will find the Defendant guilty of Manslaughter, a lesser-included offense.

If you do not so believe the State has proved beyond a reasonable doubt each of the elements of Manslaughter, or if you have a reasonable doubt thereof, you will next consider whether or not the Defendant is guilty of Injury to a Child intentionally or knowingly causes SBI to a child under fourteen (14) years of age, a lesser-included offense.

Or,

Injury to a Child (Intentionally or Knowingly- SBI) -Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2018, in Clay County, Texas,

the Defendant, Joshua Thomas Fulbright, did then and there, acting alone or as a party, as that term has been previously defined, with Sarah Newsom, intentionally or knowingly cause serious bodily injury to Scarlett Olivia Antoinet Newsom, a child 14 years of age or younger, by striking Scarlett Olivia Antoinet Newsom with his hand and/or striking Scarlett Olivia Antoinet Newsom with or against a soft or hard object or surface, then you will find the Defendant guilty of Injury to a Child, a lesser-included offense, or

If you do not so believe the State has proved beyond a reasonable doubt each of the elements of Injury to a Child (Intentionally or Knowingly- Serious Bodily Injury), or if you have a reasonable doubt thereof, you will next consider whether or not the Defendant is guilty of Injury to a Child (Recklessly- Serious Bodily Injury), a lesser-included offense.

Or,

Injury to a Child (Recklessly -SBI)- Now if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2018, in Clay County, Texas, the Defendant, Joshua Thomas Fulbright, did then and there, acting alone or as a party, as that term has been previously defined, with Sarah Newsom, recklessly causing serious bodily injury to Scarlett Olivia Antoinet Newsom, a child 14 years of age or younger, by striking Scarlett Olivia Antoinet Newsom with his hand and/or by striking her in the face with an unknown hard or soft object or against a hard or soft surface, then you will find the Defendant guilty of Injury to a Child, a lesser-included offense, or

If you do not so believe the State has proved beyond a reasonable doubt each of the elements of Injury to a Child (Recklessly- Serious Bodily Injury),

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant and say by your verdict "Not Guilty."

8. Special Issue No. 1

If you find the Defendant guilty of one of the above offenses, the Court instructs you to answer the following Special Issue. In that connection, the Court gives you the following definitions:

You are instructed that "deadly weapon" means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

"Serious Bodily Injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted use or impairment of the function of any bodily member or organ.

9. Additional Instructions

You are charged that it is the law that the State is not required to prove the exact date of the alleged offenses. However, the State must prove that the killing occurred prior to the 10th day of February, 2025.

You may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense, if any.

10. Presumption of Innocence and Burden of Proof

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at such person's trial. The law does not require a Defendant to prove said Defendant's innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the Defendant, unless the jurors are satisfied beyond a reasonable doubt of the Defendant's guilt after careful and impartial consideration of all the evidence in the case.

The prosecution has the burden of proving the Defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt. The State is not required to prove that a person is guilty beyond all doubt; the State must simply exclude all reasonable doubt about the person's guilt. If it fails to do so, you must acquit the Defendant.

In the event you have a reasonable doubt as to the Defendant's guilt after considering all the evidence before you, and these instructions, you will acquit the Defendant and say by your verdict not guilty.

11. Free and Voluntary

You have heard evidence that the Defendant made statements to law enforcement. If you find that the Defendant did make the statements, you may consider that statement against the Defendant only if you resolve a preliminary question in favor of the State. A statement of an accused may be considered against the accused only if the statement was freely and voluntarily made without compulsion or persuasion. Therefore, you may consider any statement you believe the Defendant made only if you all agree the State has proved, beyond a reasonable doubt, that the Defendant made the statement freely and voluntarily without compulsion or persuasion. Unless you find the State has proved, beyond a reasonable doubt, that the statements made to law enforcement were in fact made and they were made freely and voluntarily, you must not consider the statements for any purpose.

12. Evidentiary Instructions

For your further guidance in arriving at a verdict in this case you are instructed as follows:

A grand jury indictment is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the issue of guilt of the Defendant. The burden of proof in all criminal cases rests upon the State throughout the trial, and never shifts to the Defendant.

At times throughout the trial, the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to be concerned with the reasons for such rulings and are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court neither determines what weight should be given such evidence nor passes on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same. As to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or act to indicate any opinion respecting any matter of fact in this case, and if you have observed anything which you may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

If there is any testimony before you in this case regarding the Defendant's having committed any crime, wrong, or act other than the offense alleged against him in the indictment in this case, you cannot consider that testimony for any purpose unless you find and believe beyond a reasonable doubt that the Defendant committed such other crime, wrong, or act. Even then, you may only consider it in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or state of mind of the Defendant, if any, and for no other purpose.

You are instructed that any statements of counsel made during the course of the trial or during arguments not supported by the evidence or statements of law made by counsel, not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

13. Deliberations and Verdict

After you retire to the jury room, you should select one of your members as Presiding Juror. It is the Presiding Juror's duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as Presiding Juror.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired you may communicate with the Court in writing. The communication must be signed by the Presiding Juror and delivered to the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Presiding Juror will certify thereto by signing the appropriate form attached to this charge as Presiding Juror.

During your deliberations, you are entitled to view any or all exhibits admitted as evidence in this case.

In answering the issues submitted to you, you must not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion, or public feelings.

While you should consider only the evidence, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts which have been established by the evidence.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, of course, you should give those terms the meanings provided in the instructions.

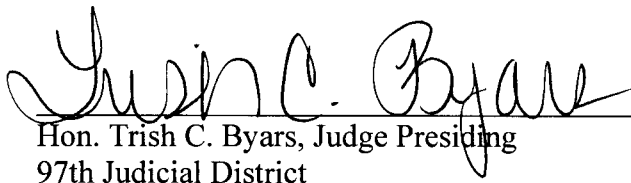
During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate with anyone any information about this case or to conduct any research about this case until I accept your verdict.

You are instructed that it is the purpose of the law to try a case solely on the law and the evidence. During your deliberations in this case you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence. Do not let bias, sympathy, or prejudice play any part in your deliberations.

If you need to communicate with me during your deliberations, the presiding juror should write the message, ring the jury call button on the wall, and give your written message to the bailiff. I will either reply in writing or bring you back into the court to answer your message.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight, if any, to be given to their testimony, but you are bound to receive the law from the Court, which is herein given, and be governed thereby.

Signed this 5th day of March, 2025.


Hon. Trish C. Byars, Judge Presiding
97th Judicial District
Clay County, Texas

NO. 24-039-DCCR-0050

THE STATE OF TEXAS-

VS.

JOSHUA THOMAS FULBRIGHT

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IN THE 97TH JUDICIAL DISTRICT

COURT OF

CLAY COUNTY, TEXAS

VERDICT FORMS

We, the jury, unanimously find the Defendant, Joshua Thomas Fulbright, GUILTY of the offense of Capital Murder, Count I as charged in the indictment.


PRESIDING JUROR (signature)


PRESIDING JUROR (Print Name)

-OR-

We, the jury, unanimously find the Defendant, Joshua Thomas Fulbright, GUILTY of the offense of Felony Murder, Count II as charged in the indictment.

PRESIDING JUROR (signature)

PRESIDING JUROR (Print Name)

-OR-

We, the jury, unanimously find the Defendant, Joshua Thomas Fulbright, GUILTY of the offense of Manslaughter, a lesser-included offense.

PRESIDING JUROR (signature)

PRESIDING JUROR (Print Name)

-OR-

We, the jury, unanimously find the Defendant, Joshua Thomas Fulbright, GUILTY of the offense of Injury to a Child -Intentional or Knowingly SBI, a lesser-included offense.

PRESIDING JUROR (signature)

PRESIDING JUROR (Print Name)

-OR-

We, the jury, unanimously find the Defendant, Joshua Thomas Fulbright, GUILTY of the offense of Injury to a Child -Recklessly SBI, a lesser-included offense.

PRESIDING JUROR (signature)

PRESIDING JUROR (Print Name)

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We, the jury, unanimously find the Defendant NOT GUILTY and acquit the Defendant.

PRESIDING JUROR (signature)

PRESIDING JUROR (Print Name)

THE STATE OF TEXAS

VS.

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IN THE 97TH JUDICIAL DISTRICT

COURT OF

CLAY COUNTY, TEXAS

SPECIAL ISSUE VERDICT FORM

Special Issue No. 1

Do you find from the evidence beyond a reasonable doubt that the Defendant used or exhibited a deadly weapon, to wit: the Defendant's hand and/or a soft or hard object or surface, if he did, during the commission of the offense alleged in the indictment?

ANSWER: "We do" or "We do not"

ANSWER: We do


PRESIDING JUROR (signature)

Erin Engelhardt
PRESIDING JUROR (Print Name)