

she is aware that her conduct is reasonably certain to cause the result.

A person acts recklessly, or is reckless, with respect to the result of her conduct when she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or 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.

A person acts with criminal negligence, or is criminally negligent, with respect to the result of her conduct when she ought to be aware of a substantial and unjustifiable risk that the result complained of will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard care of that an ordinary person would exercise under all the circumstances, as viewed from the standpoint of the person charged.

A person is criminally responsible as a party to an offense if the offense is committed by her own conduct, by the conduct of another for which she is criminally responsible, or by both.

Each party to an 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, she solicits or encourages or directs or aids or attempts to aid the other person to commit the offense. Mere presence alone will not constitute one a party to an offense.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, then 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.

The term "conspiracy" means an agreement between two or more persons, that they or one or more of them engage in conduct that would constitute a felony. An agreement constituting a conspiracy may be inferred from acts of the parties.

Our law provides that a person commits the offense of Injury to a Child if she intentionally or knowingly causes serious bodily injury to a child.

"Child" means a person 14 years of age or younger.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"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.

Our law provides that a person commits the offense of Manslaughter if she recklessly causes the death of an individual.

A person commits an offense of Criminally Negligent Homicide if she causes the death of an individual by criminal negligence.

Now, if you find from the evidence beyond a reasonable doubt that on or about 25th day of July, 2007 in Galveston County, Texas, the defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, did then and there intentionally or knowingly cause the death of Riley Ann Sawyers, an individual under six years of age, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury, then you will find the Defendant KIMBERLY DAWN TRENOR AKA KIMBERLY

DAWN ZEIGLER guilty of Capital Murder and not consider Part II or III.

If all twelve of you do not unanimously so find or if you have a reasonable doubt thereof, then you will go on to consider Part II.

Part II.

If you find from the evidence beyond a reasonable doubt that on or about 25th day of July, 2007 in Galveston County, Texas, ROYCE CLYDE ZEIGLER, II, did then and there intentionally or knowingly cause the death of Riley Ann Sawyers, an individual under six years of age, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury and you further believe from the evidence beyond a reasonable doubt that on said date in said County and State, the Defendant KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, acting with the intent to promote or assist the commission of Capital Murder by ROYCE CLYDE ZEIGLER, II, solicited or encouraged or directed or aided or attempted to aid the said ROYCE CLYDE ZEIGLER, II, in intentionally or knowingly causing the death of Riley Ann Sawyers, an individual under six years of age, by the said ROYCE CLYDE ZEIGLER, II, throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury, then you will find the Defendant KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER guilty of Capital Murder and not consider Part III.

If all twelve of you do not unanimously so find or if you have a reasonable doubt thereof, then you will go on to consider Part III.

Part III.

If you find from the evidence beyond a reasonable doubt that the defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, entered into a conspiracy with ROYCE CLYDE ZEIGLER, II, to commit the felony offense of Injury to a Child to Riley Ann Sawyers and that on the 25th day of July, 2007 in the County of Galveston and State of Texas, in the attempt to carry out this agreement, if any, ROYCE CLYDE ZEIGLER, II, did intentionally or knowingly cause the death of Riley Ann Sawyers, an individual under six years of age, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury, if he did, and that such offense was committed in furtherance of the unlawful purpose to commit Injury to a Child to Riley Ann Sawyers and was an offense that should have been anticipated by the said KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER as a result of the carrying out of the agreement, though having no intent to commit it, then you will find the Defendant KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER guilty of Capital Murder.

In order to find KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER guilty of Capital Murder, all twelve jurors must unanimously agree as to which one, if any, of the three parts she is guilty. This means that in order to find KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER guilty of Capital Murder, all twelve jurors must unanimously agree as to Part I, or all twelve jurors must unanimously agree to Part II, or all twelve jurors must unanimously agree to Part III. The twelve jurors do not have to agree to more than one part.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you

will acquit the Defendant of Capital Murder as alleged in the indictment and proceed to consider whether the Defendant is guilty of the lesser offense of Manslaughter.

Manslaughter has been previously defined for you in this charge.

Now, if you unanimously find from the evidence beyond a reasonable doubt that on or about 25th day of July, 2007 in Galveston County, Texas, the defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, did recklessly cause the death of an individual, namely Riley Ann Sawyers, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury;

OR

if you unanimously find from the evidence beyond a reasonable doubt that the defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, entered into a conspiracy with ROYCE CLYDE ZEIGLER, II, to commit the felony offense of Injury to a Child to Riley Ann Sawyers and that on the 25th day of July, 2007 in the County of Galveston and State of Texas, in the attempt to carry out this agreement, if any, ROYCE CLYDE ZEIGLER, II, did recklessly cause the death of Riley Ann Sawyers, an individual, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury, if he did, and that such offense was committed in furtherance of the unlawful purpose to commit Injury to a Child to Riley Ann Sawyers and was an offense that should have been anticipated by the said KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER as a result of the carrying out of the agreement, though having no intent to commit it, then you will

find the Defendant KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER guilty of the lesser included offense of Manslaughter.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Manslaughter and proceed to consider whether the Defendant is guilty of the lesser included offense of Criminally Negligent Homicide.

Criminally Negligent Homicide has been previously defined for you in this charge.

Now, if you unanimously find from the evidence beyond a reasonable doubt that on or about 25th day of July, 2007 in Galveston County, Texas, the defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, did then and there by criminal negligence, cause the death of an individual, namely Riley Ann Sawyers, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a manner and means unknown to the Grand Jury;

OR

if you unanimously find from the evidence beyond a reasonable doubt that the defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, entered into a conspiracy with ROYCE CLYDE ZEIGLER, II, to commit the felony offense of Injury to a Child to Riley Ann Sawyers and that on the 25th day of July, 2007 in the County of Galveston and State of Texas, in the attempt to carry out this agreement, if any, ROYCE CLYDE ZEIGLER, II, did then and there by criminal negligence, cause the death of Riley Ann Sawyers, an individual, by throwing the said Riley Ann Sawyers onto the floor or by holding the said Riley Ann Sawyers under water or by holding the said Riley Ann Sawyers' mouth and nose against a pillow or by a

manner and means unknown to the Grand Jury, if he did, and that such offense was committed in furtherance of the unlawful purpose to commit Injury to a Child to Riley Ann Sawyers and was an offense that should have been anticipated by the said KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER as a result of the carrying out of the agreement, though having no intent to commit it, then you will find the Defendant KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER guilty of the lesser included offense of Criminally Negligent Homicide.

If you find from the evidence beyond a reasonable doubt that the defendant is guilty of either Capital Murder or Manslaughter or Criminally Negligent Homicide but you have a reasonable doubt as to which of said offenses she is guilty, then you must resolve that doubt in the defendant's favor and find her guilty of the appropriate lesser included offense.

Our law provides that a defendant may testify in her own behalf if she elects to do so. This, however, is a right accorded a defendant and, in the event she elects not to testify, that fact cannot be taken as a circumstance against her. In this case the Defendant has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the Defendant .

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge, then you will acquit the defendant and say by your verdict "Not Guilty."

You are instructed that if there is any testimony before you in this case regarding the Defendant having committed offenses other than the offense alleged against her in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the Defendant committed such other offenses, if any were committed, and

even then you may only consider the same in determining the intent, motive, preparation, plan, or knowledge, if any, of the Defendant in connection with the offenses, if any, alleged against her in the indictment in this case, and for no other purpose.

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 her trial. The law does not require a Defendant to prove her 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 and 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 her and say by your verdict "Not Guilty".

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 question 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.

During your deliberations in this case, you must not consider, discuss, or relate any matters not in evidence before you. You should not consider or mention any personal knowledge or

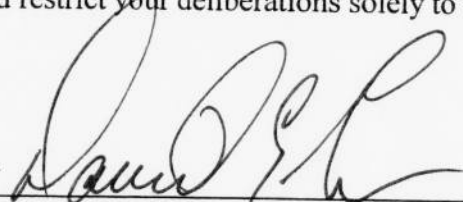
information you may have about any fact or person connected with this case which is not shown by the evidence.

After you have retired to your jury room, you should select one of your members as your foreperson. It is his or her duty to preside at your deliberations, vote with you and, when you have unanimously agreed upon a verdict, to certify to your verdict by signing the same as foreperson.

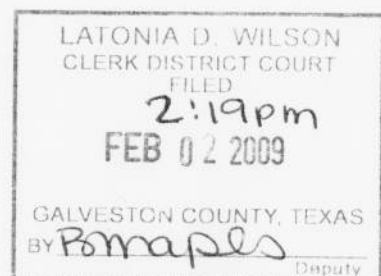
You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the testimony, but you are bound to receive the law from the Court, which is herein given to you, and be governed thereby.

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 this Court in writing through 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 foreman will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as foreperson.

Suitable forms for your verdict are hereto attached; your verdict must be in writing and signed by your foreperson. Your sole duty at this time is to determine whether the Defendant is guilty or not guilty under the indictment in this case; and restrict your deliberations solely to the issue of whether the Defendant is guilty or not guilty.



JUDGE PRESIDING



NO. 07CR3755

THE STATE OF TEXAS

§

IN THE DISTRICT COURT OF

VS.

§

GALVESTON COUNTY, TEXAS

KIMBERLY DAWN TRENOR
AKA KIMBERLY DAWN ZEIGLER

§

10TH JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY
DAWN ZEIGLER, guilty of Capital Murder as alleged in the indictment.

Randall L. Zeigler

FOREPERSON OF THE JURY

LATONIA D. WILSON
CLERK DISTRICT COURT
FILED
6:08 pm
FEB 02 2009
GALVESTON COUNTY, TEXAS
BY *B. Maple*
Deput

We, the Jury, find the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY
DAWN ZEIGLER, guilty of the lesser included offense of Manslaughter.

FOREPERSON OF THE JURY

We, the Jury, find the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY
DAWN ZEIGLER, guilty of the lesser included offense of Criminally Negligent Homicide.

FOREPERSON OF THE JURY

We, the Jury, find the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY
DAWN ZEIGLER, Not Guilty.

FOREPERSON OF THE JURY

NO. 07CR3755

| | | |
|---|---|--------------------------|
| THE STATE OF TEXAS | § | IN THE DISTRICT COURT OF |
| VS. | § | GALVESTON COUNTY, TEXAS |
| KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER | § | 10TH JUDICIAL DISTRICT |

SPECIAL ISSUE

A "deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury, or anything that, in the manner of its use or intended use, is capable of causing death or serious bodily injury.

If you have found by your verdict that the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, is guilty of the felony offense of Manslaughter or Criminally Negligent Homicide, then you are instructed to answer the following issue:

Do you, the Jury, unanimously and affirmatively find beyond a reasonable doubt, either

Special Issue I

That the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER, used or exhibited during the commission of the offense for which she has been found guilty (either Manslaughter or Criminally Negligent Homicide) a deadly weapon, to wit: hand or hands?

Or

Special Issue II

That as a party to the offense, the Defendant, KIMBERLY DAWN TRENOR AKA KIMBERLY DAWN ZEIGLER knew that a deadly weapon, to-wit: hand or hands, would be used or exhibited during the commission of the offense (either Manslaughter or Criminally Negligent Homicide) of which she has been found guilty?

All twelve jurors must unanimously agree as to Special Issue I, or all twelve jurors must unanimously agree to Special Issue II. The twelve jurors do not have to agree to more than one Special Issue.

ANSWER: _____ We do so unanimously and affirmatively find

_____ We do not so affirmatively find

FOREPERSON OF THE JURY