

FILED this 7 day of July
2012 3:45 PM
CLERK DISTRICT COURT, HAYS CO, TX
By Amador Deputy

CAUSE NO. 11-0101

THE STATE OF TEXAS § IN THE DISTRICT COURT OF
VS. § HAYS COUNTY, TEXAS
CHRISTINA SUZANNE LYONS § 22ND JUDICIAL DISTRICT

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, Christina Suzanne Lyons, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Hays County, Texas, on or about the 25th day of November, 2010. To this charge the defendant has pled not guilty.

You are instructed that the law applicable to this case is as follows:

1.

A person commits the offense of capital murder if the person intentionally ^{BA} ~~and~~ ^{or} knowingly causes the death of an individual under six years of age.

A person commits the offense of injury to a child if the person, with criminal negligence by act, causes serious bodily injury to a child.

2.

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

"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.

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3.

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 the conduct is reasonably certain to cause the result.

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

Voluntary intoxication is not a defense to the commission of any offense.

You are instructed that you may consider all relevant facts and circumstances surrounding the death, if any, and the previous relationship existing between the accused and the deceased, 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.

You are further charged as a part of the law in this case that the State is not required to prove the exact date alleged in the indictment but may prove the offense, if any occurred, to have been committed at any time prior to the presentment of the indictment. The court has taken judicial notice that the indictment in this case was

presented on February 3, 2011. The jury is instructed that it may, but is not required to accept as conclusive any fact judicially noticed.

4.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, Christina Suzanne Lyons, on or about the 25th day of November, 2010, in the County of Hays and State of Texas, as alleged in the indictment, did then and there intentionally or knowingly cause the death of an individual, Benjamin Rhys Spencer, by causing blunt force trauma to the head of aforesaid Benjamin Rhys Spencer, an individual under six years of age, you will find the defendant guilty of capital murder and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will proceed to consider the lesser-included offense of injury to a child by criminal negligence. You will only proceed to consider the lesser-included offense if you have unanimously acquitted the defendant of capital murder.

If you find from the evidence beyond a reasonable doubt that on or about the 25th day of November, 2010, in Hays County, Texas, the defendant, Christina Suzanne Lyons, did then and there with criminal negligence cause serious bodily injury to Benjamin Rhys Spencer, by leaving Benjamin Rhys Spencer with Madison Lyons without supervision, resulting in blunt force trauma to his head, you will find the defendant, Christina Suzanne Lyons, guilty of injury to a child by criminal negligence and so say in your verdict. If you

do not so believe or if you have a reasonable doubt thereof, you will find the defendant not guilty.

5.

In all criminal cases the burden of proof is on the State. 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 his trial. The law does not require a defendant to prove his 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.

It is not required that the prosecution prove guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

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."

6.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he may have heard regarding the case or any witness therein, from any source other than the witness stand.

In deliberating on the cause you are not to refer to or discuss any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury.

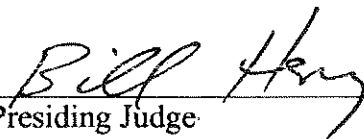
7.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

8.

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; and, you may make reasonable inferences from the evidence presented, but you are bound to receive the law from the court, which is herein given you, and be governed thereby.

After argument of counsel, you will retire and select one of your members as your presiding juror. It is his or her duty to preside at your deliberations and to vote with you in arriving at a verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use one of the forms attached hereto by having your presiding juror sign his or her name to the particular form that conforms to your verdict. Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this case, and restrict your deliberations solely to the issue of guilt or innocence of the defendant.




Presiding Judge
22nd Judicial District Court
Hays County, Texas

CAUSE NO. CR-11-0101

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VS. § HAYS COUNTY, TEXAS
CHRISTINA SUZANNE LYONS § 22ND JUDICIAL DISTRICT

VERDICT OF THE JURY

We, the Jury, find the defendant, Christina Suzanne Lyons, guilty of the offense of Capital Murder.



Presiding Juror

We, the Jury, find the defendant, Christina Suzanne Lyons, "Not Guilty" of Capital Murder.

Presiding Juror

CAUSE NO. CR-11-0101

THE STATE OF TEXAS § IN THE DISTRICT COURT OF
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CHRISTINA SUZANNE LYONS § 22ND JUDICIAL DISTRICT

VERDICT OF THE JURY

**(YOU ARE ONLY TO RENDER A VERDICT ON THIS LESSER-INCLUDED OFFENSE IF YOU
HAVE ACQUITTED THE DEFENDANT OF CAPITAL MURDER.)**

We, the Jury, find the defendant, Christina Suzanne Lyons, guilty of the lesser offense of injury to a child by criminal negligence.

Presiding Juror

We, the Jury, find the defendant, Christina Suzanne Lyons, "Not Guilty" of the lesser offense of injury to a child by criminal negligence.

Presiding Juror