

Date: 1/29/2024 3:15PM
Lee Ann Breeding
Lee Ann Breeding, Presiding Judge

NO. F23-1412-462

THE STATE OF TEXAS

*

IN THE 462ND JUDICIAL

VS.

*

DISTRICT COURT OF

SABRINA HO

*

DENTON COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, SABRINA HO stands charged by Count I in the indictment with the offense of Injury to a Child (Intentionally or Knowingly – Bodily Injury by Omission), alleged to have been committed on or about the 7th day of March, 2022, in Denton County, Texas; by Count II in the indictment with the offense of Injury to a Child (Intentionally or Knowingly – Bodily Injury by Act), alleged to have been committed on or about the 25th day of March, 2022, in Denton County, Texas; by Count III in the indictment with the offense of Injury to a Child (Intentionally or Knowingly– Bodily Injury by Act), alleged to have been committed on or about the 26th day of March, 2022, in Denton County, Texas; by Count IV in the indictment with the offense of Injury to a Child (Intentionally of Knowingly – Bodily Injury by Act), alleged to have been committed on or about the 1st day of April, 2022, in Denton County, Texas; by Count V in the indictment with the offense of Injury to a Child (Intentionally of Knowingly – Serious Bodily Injury by Act), alleged to have been committed on or about the 1st day of April, 2022, in Denton County, Texas; by Count VI in the indictment with the offense of Injury to a Child (Intentionally of Knowingly – Serious Bodily Injury by Omission), alleged to have been committed on or about the 1st day of April, 2022, in Denton County, Texas; and by Count VII in the indictment with the offense of Capital Murder, alleged to have been committed on or about the 1st day of April, 2022, in Denton County, Texas. The defendant has entered a plea of not guilty to all counts.

FILED
DENTON COUNTY, TEXAS
2024 JAN 24 AM 11:09
DAVID TRAN THANH
DISTRICT CLERK
BY: *g* DEPUTY

OFFENSES

A person commits the offense of **Injury to a Child – Bodily Injury by Omission** if a person intentionally, knowingly or recklessly, by omission, engages in conduct that causes bodily injury to a child who is fourteen (14) years of age or younger, and the person has a legal or statutory duty to act, namely, as a parent.

A person commits the offense of **Injury to a Child – Bodily Injury by Act** if a person intentionally, knowingly, recklessly, or by criminal negligence, by act, engages in conduct that causes bodily injury to a child who is fourteen (14) years of age or younger.

A person commits the offense of **Injury to a Child – Serious Bodily Injury by Omission** if a person intentionally, knowingly or recklessly, by omission, engages in conduct that causes serious bodily injury to a child who is fourteen (14) years of age or younger and the person has a legal or statutory duty to act, namely, as a parent.

A person commits the offense of **Injury to a Child – Serious Bodily Injury by Act** if a person intentionally, knowingly, recklessly, or by criminal negligence, by act, engages in conduct that causes serious bodily injury to a child who is fourteen (14) years of age or younger.

A person commits the offense of **Capital Murder** when such person intentionally or knowingly causes the death of an individual that 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 **Manslaughter** if that person recklessly causes the death of an individual.

DEFINITIONS

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

For purposes of an omission that causes an injury to a child, it is an offense if,
The actor has the legal or statutory duty to act or the actor has assumed care custody or control if the actor has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that the actor has accepted responsibility for protection, food, shelter, or medical care for a child.

A child means a person 14 years of age or younger.

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

A person acts knowingly, or with knowledge, with respect to a result of the person's conduct when the person is aware that their conduct is reasonably certain to cause the result.

A person acts recklessly if the person is aware of but consciously disregards a substantial and unjustifiable risk that the person's action will cause the result. 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 his conduct when that person ought to be aware of a substantial and unjustifiable risk that the result 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 of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER

A person is criminally responsible as a party to an offense if the offense is committed by the person's own conduct, or by the conduct of another for which a person is criminally responsible, or 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, a person solicits, encourages, directs, aids or attempts to aid the other person to commit the offense.

A person is criminally responsible for an offense committed by the conduct of another if, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, a person fails to make a reasonable effort to prevent commission of the offense.

If, in the 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.

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

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.

AFFIRMATIVE DEFENSE OF FAMILY VIOLENCE

It is a defense to the offense of Injury to a Child by omission that--

1. the person did not by his own act cause serious bodily injury; serious mental deficiency, impairment, or injury; or bodily injury; *and* *CB*
2. the person was a victim of family violence committed by another who is also charged with an offense against the child under title 5 of the Texas Penal Code; and
3. the person did not reasonably believe at the time of the omission that an effort to prevent the other, also charged with an offense against the child, from committing the offense would have an effect; and
4. there is no evidence that on the date prior to the offense proved in this case the person was aware of an incident of injury to the child and failed to report the incident.

Burden of Proof

The family violence defense is an affirmative defense. That means the burden is on the defendant to prove the family violence defense by a preponderance of the evidence.

Definitions

Family Violence

The term "family violence" means an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the family member in fear of imminent physical harm, bodily injury, assault, or sexual assault.

Preponderance of the Evidence

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

APPLICATION PARAGRAPHS

COUNT I

Injury to a Child (Intentionally or Knowingly - Bodily Injury by Omission)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 7th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, did then and there intentionally or knowingly by omission, cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by failing to seek medical attention in a timely manner for injuries to Phoenix Ho's genitals, and SABRINA HO, had a legal or statutory duty to act, namely, as a parent; you will next consider whether the defendant is not guilty because of the Affirmative Defense of Family Violence.

Family Violence Affirmative Defense

To decide the issue of the family violence defense, you must determine whether the defendant has proved, by a preponderance of the evidence, four elements. The elements are that--

1. the defendant did not cause serious bodily injury; serious mental deficiency, impairment, or injury; or bodily injury;
2. the defendant was a victim of family violence, as defined herein, committed by Todd Shaw, who is also charged with Injury to a Child against another person, Phoenix Ho;

3. the defendant did not reasonably believe at the time of the omission that an effort to prevent Todd Shaw from committing the offense against Phoenix Ho would have an effect; and

4. there is no evidence that on the date prior to the offense proved in this case the defendant was aware of an incident of Injury to a Child and failed to report the incident.

If the jury unanimously agrees the defendant has proved, by a preponderance of the evidence, each of the four elements listed in the Affirmative Defense of Family Violence, or you find the state has failed to prove each of the elements of the offense of Injury to a Child (Intentionally or Knowingly – Bodily Injury by Omission) beyond a reasonable doubt, you will next consider whether or not the defendant is guilty of Injury to a Child (Recklessly - Bodily Injury by Omission), a lesser-included offense of the indictment.

If the jury unanimously agrees the state has proved, beyond a reasonable doubt, each of the elements of the offense of Injury to a Child (Intentionally or Knowingly – Bodily Injury by Omission), and you all find the defendant has not proved, by a preponderance of the evidence, each of the four elements of the Affirmative Defense of Family Violence listed above, you will find the defendant "guilty" in Count I of the indictment of the offense of Injury to a Child (Intentionally or Knowingly – Bodily Injury by Omission).

Injury to a Child (Recklessly - Bodily Injury by Omission)

. If you find from the evidence beyond a reasonable doubt that on or about the 7th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, did then and there recklessly by omission, cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by failing to seek medical attention in a timely manner for injuries to Phoenix Ho's genitals, and SABRINA

HO, had a legal or statutory duty to act, namely, as a parent; you must next consider whether the defendant is not guilty because of the Affirmative Defense of Family Violence.

Family Violence Affirmative Defense

To decide the issue of the family violence defense, you must determine whether the defendant has proved, by a preponderance of the evidence, four elements. The elements are that--

1. the defendant did not cause serious bodily injury; serious mental deficiency, impairment, or injury; or bodily injury;
2. the defendant was a victim of family violence, as defined herein, committed by Todd Shaw, who is also charged with Injury to a Child against another person, Phoenix Ho;
3. the defendant did not reasonably believe at the time of the omission that an effort to prevent Todd Shaw from committing the offense against Phoenix Ho would have an effect; and
4. there is no evidence that on the date prior to the offense proved in this case the defendant was aware of an incident of Injury to a Child and failed to report the incident.

If the jury unanimously agrees the defendant has proved, by a preponderance of the evidence, each of the four elements listed in the Affirmative Defense of Family Violence, or you find the state has failed to prove each of the elements of the offense of Injury to a Child (Recklessly – Bodily Injury by Omission) beyond a reasonable doubt, you will find the defendant “not guilty” of Count I in the indictment.

If the jury unanimously agrees the state has proved, beyond a reasonable doubt, each of the elements of the offense of Injury to a Child (Recklessly – Bodily Injury by Omission), and the jury

finds the defendant has not proved, by a preponderance of the evidence, each of the four elements of the Affirmative Defense of Family Violence listed above, you will find the defendant "guilty" in Count I of the indictment of Injury to a Child (Recklessly – Bodily Injury by Omission), a lesser-included offense of Count I in the indictment.

COUNT II

Injury to a Child (Intentionally or Knowingly – Bodily injury by Act)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 25th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 25th day of March, 2022, in Denton County, Texas did then and there intentionally or knowingly cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's face with Todd Shaw's hand or with an unknown object or by causing Phoenix Ho's face to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 25th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from intentionally or knowingly causing bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's face with Todd Shaw's hand or with an unknown object or by causing Phoenix Ho's face to strike an unknown object; you will find the defendant "guilty" of Injury to a Child (Intentionally or Knowingly - Bodily Injury by Act), 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 Injury to a Child (Intentionally or Knowingly - Bodily Injury by Act) as charged in Count II of the Indictment, 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 - Bodily Injury by Act), a lesser-included offense of the indictment.

Injury to a Child (Recklessly – Bodily injury by Act)

If you find from the evidence beyond a reasonable doubt that on or about the 25th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 25th day of March, 2022, in Denton County, Texas did then and there recklessly cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho’s face with Todd Shaw’s hand or with an unknown object or by causing Phoenix Ho’s face to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 25th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from recklessly causing bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho’s face with Todd Shaw’s hand or with an unknown object or by causing Phoenix Ho’s face to strike an unknown object; then you will find the defendant “guilty” of Injury to a Child (Recklessly - Bodily Injury by Act), a lesser-included offense of Count II of the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant “not guilty” of the offense of Injury to a Child, as charged in Count II of the indictment.

COUNT III

Injury to a Child (Intentionally and Knowingly –Bodily Injury by Act)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 26th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 26th day of March, 2022, in Denton County, Texas did then and there intentionally or knowingly cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's collarbone with Todd Shaw's hand or with an unknown object or by causing Phoenix Ho's collarbone to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 26th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from intentionally or knowingly causing bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's collarbone with Todd Shaw's hand or with an unknown object or by causing Phoenix Ho's collarbone to strike an unknown object; you will find the defendant "guilty" of Injury to a Child (Intentionally or Knowingly - Bodily Injury by Act), as charged in Count III of the indictment.

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 - Bodily Injury by Act) as charged in Count III of the Indictment, 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 - Bodily Injury by Act), a lesser-included offense of Count III of the indictment.

Injury to a Child (Recklessly – Bodily injury by Act)

If you find from the evidence beyond a reasonable doubt that on or about the 26th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 26th day of March, 2022, in Denton County, Texas did then and there recklessly cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho’s collarbone with Todd Shaw’s hand or with an unknown object or by causing Phoenix Ho’s collarbone to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 26th day of March, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from recklessly causing bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho’s collarbone with Todd Shaw’s hand or with an unknown object or by causing Phoenix Ho’s collarbone to strike an unknown object; then you will find the defendant “guilty” of Injury to a Child (Recklessly - Bodily Injury by Act), the lesser-included offense of Count III of the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant “not guilty” to the offense of Injury to a Child, as charged in Count III of the indictment.

COUNT IV

Injury to a Child (Intentionally and Knowingly –Bodily Injury by Act)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to

promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 1st day of April, 2022, in Denton County, Texas did then and there intentionally or knowingly cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's face with an unknown object or by causing Phoenix Ho's face to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from intentionally or knowingly causing bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's face with an unknown object or by causing Phoenix Ho's face to strike an unknown object, you will find the defendant guilty of Injury to a Child (Intentionally or Knowingly - Bodily Injury by Act), as charged in Count IV of the indictment.

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 - Bodily Injury by Act) as charged in Count IV of the Indictment, 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 - Bodily Injury by Act), a lesser-included offense of Count IV of the indictment.

Injury to a Child (Recklessly – Bodily injury by Act)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 1st day of

April, 2022, in Denton County, Texas did then and there recklessly cause bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's face with an unknown object or by causing Phoenix Ho's face to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from recklessly causing bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's face with an unknown object or by causing Phoenix Ho's face to strike an unknown object, you will find the defendant "guilty" of Injury to a Child (Recklessly - Bodily Injury by Act), a lesser-included offense of Count IV of the indictment,

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant "not guilty" of Injury to a Child by Act as charged in Count IV of the indictment.

COUNT V

Injury to a Child (Intentionally and Knowingly – Serious Bodily Injury by Act)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 1st day of April, 2022, in Denton County, Texas did then and there intentionally or knowingly caused serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's abdomen with an unknown object or by causing Phoenix Ho's abdomen to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from intentionally or knowingly causing serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's abdomen with an unknown object or by causing Phoenix Ho's abdomen to strike an unknown object; or

If you believe from the evidence beyond a reasonable doubt that, the defendant, SABRINA HO, on or about the 1st day of April, 2022, in Denton County, Texas, entered into a conspiracy, as that term is previously defined, with Todd Shaw to commit a felony, namely, Injury to a Child, and pursuant thereto they did carry out, or attempt to carry out such conspiracy, and that in the course of committing or attempting to commit the offense of Injury to a Child, Todd Shaw intentionally or knowingly caused serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's abdomen with an unknown object or by causing Phoenix Ho's abdomen to strike an unknown object, and that act was committed in furtherance of the conspiracy and should have been anticipated by the Sabrina Ho as a result of carrying out the conspiracy, if any, you will find the defendant "guilty" of Injury to a Child (Intentionally or Knowingly - Serious Bodily Injury by Act, as charged in Count V of the indictment.

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 by Act) as charged in Count V of the Indictment, 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 by Act), a lesser-included offense of Count V of the indictment.

Injury to a Child (Recklessly – Serious Bodily Injury by Act)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 1st day of April, 2022, in Denton County, Texas did then and there recklessly cause serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's abdomen with an unknown object or by causing Phoenix Ho's abdomen to strike an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from recklessly causing serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's abdomen with an unknown object or by causing Phoenix Ho's abdomen to strike an unknown object; or

If you believe from the evidence beyond a reasonable doubt that, the defendant, SABRINA HO, on or about the 1st day of April, 2022, in Denton County, Texas, entered into a conspiracy, as that term is previously defined, with Todd Shaw to commit a felony, namely, Injury to a Child, and pursuant thereto they did carry out, or attempt to carry out such conspiracy, and that in the course of committing or attempting to commit the offense of Injury to a Child, Todd Shaw recklessly caused serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by striking Phoenix Ho's abdomen with an unknown object or by causing Phoenix Ho's abdomen to strike an unknown object, and that act was committed in furtherance of the conspiracy and should have been anticipated by the Sabrina Ho as a result of carrying out the conspiracy, if any, you will

find the defendant “guilty” of the lesser-included offense of Count V of the Indictment, Injury to a Child (Recklessly - Serious Bodily Injury by Act).

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant “not guilty” of the offense Injury to a Child by Act as charged in Count V of the indictment.

COUNT VI

Injury to a Child (Intentionally and Knowingly – Serious Bodily Injury by Omission)

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, did then and there intentionally or knowingly by omission, cause serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by failing to protect Phoenix ^{Ho} or by failing to seek medical attention in a timely manner, and SABRINA HO, had a legal or statutory duty to act, namely, as a parent; you must next consider whether the defendant is not guilty because of the Affirmative Defense of Family Violence. CB

Family Violence Affirmative Defense

To decide the issue of the family violence defense, you must determine whether the defendant has proved, by a preponderance of the evidence, four elements. The elements are that--

1. the defendant did not cause serious bodily injury; serious mental deficiency, impairment, or injury; or bodily injury;
2. the defendant was a victim of family violence, as defined herein, committed by Todd Shaw, who is also charged with Injury to a Child against another person, Phoenix Ho;

3. the defendant did not reasonably believe at the time of the omission that an effort to prevent Todd Shaw from committing the offense against Phoenix Ho would have an effect; and

4. there is no evidence that on the date prior to the offense proved in this case the defendant was aware of an incident of Injury to a Child and failed to report the incident.

If the jury unanimously agrees the defendant has proved, by a preponderance of the evidence, each of the four elements listed in the Affirmative Defense of Family Violence, or you find the state has failed to prove each of the elements of the offense of Injury to a Child (Intentionally or Knowingly – Serious Bodily Injury by Omission) beyond a reasonable doubt, you will next consider whether or not the defendant is guilty of Injury to a Child (Recklessly – Serious Bodily Injury by Omission), a lesser-included offense of the indictment.

If the jury unanimously agrees the state has proved, beyond a reasonable doubt, each of the elements of the offense of Injury to a Child (Intentionally or Knowingly – Serious Bodily Injury by Omission), and you find the defendant has not proved, by a preponderance of the evidence, each of the four elements of the Affirmative Defense of Family Violence listed above, you will find the defendant "guilty" in Count VI of the indictment of the offense of Injury to a Child (Intentionally or Knowingly – Serious Bodily Injury by Omission).

Injury to a Child (Recklessly – Serious Bodily Injury by Omission)

. If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, did then and there recklessly by omission, cause serious bodily injury to Phoenix Ho, a child 14 years of age or younger, by failing to protect Phoenix Ho or by failing to seek medical attention in a timely manner, and

SABRINA HO, had a legal or statutory duty to act, namely, as a parent; you must next consider whether the defendant is not guilty because of the Affirmative Defense of Family Violence.

Family Violence Affirmative Defense

To decide the issue of the family violence defense, you must determine whether the defendant has proved, by a preponderance of the evidence, four elements. The elements are that--

1. the defendant did not cause serious bodily injury; serious mental deficiency, impairment, or injury; or bodily injury;
2. the defendant was a victim of family violence, as defined herein, committed by Todd Shaw, who is also charged with Injury to a Child against another person, Phoenix Ho;
3. the defendant did not reasonably believe at the time of the omission that an effort to prevent Todd Shaw from committing the offense against Phoenix Ho would have an effect; and
4. there is no evidence that on the date prior to the offense proved in this case the defendant was aware of an incident of Injury to a Child and failed to report the incident.

If the jury unanimously agrees the defendant has proved, by a preponderance of the evidence, each of the four elements listed in the Affirmative Defense of Family Violence, or the jury finds the state has failed to prove each of the elements of the offense of Injury to a Child (Recklessly – Serious Bodily Injury by Omission) beyond a reasonable doubt, you will find the defendant “not guilty” of Count VI in the indictment.

If the jury unanimously agrees the state has proved, beyond a reasonable doubt, each of the elements of the offense of Injury to a Child (Recklessly – Serious Bodily Injury by Omission), and the jury finds the defendant has not proved, by a preponderance of the evidence, each of the four

elements of the Affirmative Defense of Family Violence listed above, you will find the defendant "guilty" in Count VI of the indictment of Injury to a Child (Recklessly – Serious Bodily Injury by Omission), a lesser-included offense of Count VI in the indictment.

COUNT VII

Capital Murder

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw on or about the 1st day of April, 2022, in Denton County, Texas did then and there intentionally or knowingly caused the death of Phoenix Ho, a child younger than 10 years age, by striking Phoenix Ho with an unknown object, by causing Phoenix Ho to strike an unknown object, or by shaking Phoenix Ho; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from intentionally or knowingly causing the death of Phoenix Ho, a child younger than 10 years age, by striking Phoenix Ho with an unknown object, by causing Phoenix Ho to strike an unknown object, or by shaking Phoenix Ho; or

If you believe from the evidence beyond a reasonable doubt that, the defendant, SABRINA HO, on or about the 1st day of April, 2022, in Denton County, Texas, entered into a conspiracy, as that term is previously defined, with Todd Shaw to commit a felony, namely, Injury to a Child, and pursuant thereto they did carry out, or attempt to carry out such conspiracy, and that in the course of committing or attempting to commit the offense of Injury to a Child, Todd Shaw

intentionally or knowingly caused the death of Phoenix Ho, a child younger than 10 years age, by striking Phoenix Ho with an unknown object, by causing Phoenix Ho to strike an unknown object, or by shaking Phoenix Ho, and that act was committed in furtherance of the conspiracy and should have been anticipated by the Sabrina Ho as a result of carrying out the conspiracy, if any, you will find the defendant “guilty” of Capital Murder, as charged in Count VII of the indictment.

If you do not believe the state has proved beyond a reasonable doubt each of the elements of Capital Murder as charged in Count VII of the Indictment, or if you have a reasonable doubt thereof, you will next consider whether or not the defendant is guilty of Felony Murder, a lesser-included offense of Count VII of the indictment.

Felony Murder

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw did then and there commit or attempt to commit injury to a child by intentionally, knowingly, recklessly, or with criminal negligence causing bodily injury to Phoenix Ho, a child fourteen years of age or younger, by act, to wit: by striking Phoenix Ho with an unknown object, by causing Phoenix Ho to strike an unknown object, or by shaking Phoenix Ho; and in the course of and in furtherance of the commission or attempt, Todd Shaw committed or attempted to commit an act clearly dangerous to human life that caused the death of Phoenix Ho; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent

the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from committing or attempting to commit injury to a child by intentionally, knowingly, recklessly, or with criminal negligence causing bodily injury to Phoenix Ho, a child fourteen years of age or younger, by act, to wit: by striking Phoenix Ho with an unknown object, by causing Phoenix Ho to strike an unknown object, or by shaking Phoenix Ho; and in the course of and in furtherance of the commission or attempt, Todd Shaw committed or attempted to commit an act clearly dangerous to human life that caused the death of Phoenix Ho; or

If you believe from the evidence beyond a reasonable doubt that, the defendant, SABRINA HO, on or about the 1st day of April, 2022, in Denton County, Texas, entered into a conspiracy, as that term is previously defined, with Todd Shaw to commit a felony, namely, Injury to a Child, and pursuant thereto they did carry out, or attempt to carry out such conspiracy, and that in the course of committing or attempting to commit the offense of Injury to a Child, Todd Shaw did then and there commit or attempt to commit injury to a child by intentionally, knowingly, recklessly, or with criminal negligence causing bodily injury to Phoenix Ho, a child fourteen years of age or younger, by act, to wit: by striking Phoenix Ho with an unknown object, by causing Phoenix Ho to strike an unknown object, or by shaking Phoenix Ho; and in the course of and in furtherance of the commission or attempt, Todd Shaw committed or attempted to commit an act clearly dangerous to human life that causes the death of Phoenix Ho, and that act was committed in furtherance of the conspiracy and should have been anticipated by the Sabrina Ho as a result of carrying out the conspiracy, if any, you will find the defendant “guilty” of Felony Murder, a lesser-included offense of count VII of the indictment.

If you do not believe the state has proved beyond a reasonable doubt each of the elements of Felony Murder a lesser-included of Count VII of the Indictment, 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 of Count VII of the indictment.

Manslaughter

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Todd Shaw in committing the offense, and Todd Shaw did then and there recklessly cause the death of Phoenix Ho; or

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of April, 2022, in Denton County, Texas the defendant, SABRINA HO, having a legal duty to prevent the commission of the offense and acting with intent to promote or assist its commission, failed to make a reasonable effort to prevent Todd Shaw from recklessly causing the death of Phoenix Ho; or

If you believe from the evidence beyond a reasonable doubt that, the defendant, SABRINA HO, on or about the 1st day of April, 2022, in Denton County, Texas, entered into a conspiracy, as that term is previously defined, with Todd Shaw to commit a felony, namely, Injury to a Child, and pursuant thereto they did carry out, or attempt to carry out such conspiracy, and that in the course of committing or attempting to commit the offense of Injury to a Child, Todd Shaw did then and there recklessly cause the death of Phoenix Ho, you will find the defendant “guilty” of Manslaughter, a lesser-included offense of Count VII the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant “not guilty” of the offense charged in Count VII of the indictment.

INSTRUCTIONS

You are charged as the law in this case that the state is not required to prove the exact date of the alleged offenses. However, the state must prove that each alleged offense, if any, occurred prior to April 21, 2023, the presentment date of the indictment.

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 that is not shown by the evidence.

You are instructed not to let bias, sympathy, or prejudice play any role in your deliberations.

You are instructed that if there is any testimony before you in this case regarding the defendant’s having committed offenses other than the offense alleged against her in the indictment in this case, you cannot consider said testimony for any other 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 state of mind of the defendant and child, or the previous and subsequent relationship between the defendant and the child, if any, in connection with the offense, if any, alleged against her in the indictment in this case, and for no other purpose.

You have heard evidence that the defendant made statements to law enforcement. If you find 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 that they were made freely and voluntarily, you must not consider the statements for any purpose.

You are further instructed that an indictment is no evidence of guilt. Therefore, you are instructed in this case that the indictment herein shall not be considered by the jury as any evidence of guilt, if any.

Our law provides that a defendant may testify if he elects to do so; but, in the event a defendant does not testify, the fact that he did not testify cannot be considered as evidence or circumstance against him or anyone else. You are instructed that you cannot, and must not, refer to or allude to the election of any defendant to not testify when you enter your deliberations, or take such election into consideration for any purpose whatever as evidence or a circumstance against 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 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 does not determine what weight should be given such evidence; nor does it pass 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 think or surmise the opinion of the court to be. The Court has no right by any word or any act to indicate any desire respecting its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

You are instructed that any statements of counsel, made during the course of the trial or during argument are not evidence.

You are limited in your deliberations as jurors on the verdict of guilt or innocence. You are to consider and discuss only the facts and circumstances as were admitted into evidence. You should not consider nor discuss facts and circumstances that are not in evidence, nor should you make deductions therefrom and in connection with this, you are instructed that no juror may lawfully relate any fact or circumstance of which he or she may claim to have knowledge which has not been admitted into evidence before you. If any evidence has been withdrawn from the jury by the Court, you will not discuss or consider it for any purpose.

All persons are presumed to be innocent and no person may be convicted of any 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.

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.

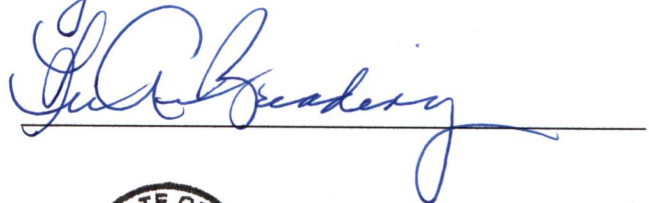
The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

You will make no further finding in this case except to show in the blank on the form of verdict whether the defendant is guilty beyond a reasonable doubt, or not guilty, as you may find and determine from the law and the evidence in this case.

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. You can believe or disbelieve all or any part of any testimony of any witness or witnesses but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.

After you retire to your jury room you should select one of your members as your 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, and signing the same as Presiding Juror.

SIGNED this the 22nd day of January, 2024



Judge Lee Ann Breading
2nd Judicial District Court
Denton County, Texas

VERDICT FORM

COUNT I

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Intentionally or Knowingly– Bodily Injury by Omission), as alleged in Count I of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the lesser-included offense of Injury to a Child (Recklessly– Bodily Injury by Omission), a lesser-included offense in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Injury to a Child -Bodily Injury by Omission, as alleged in Count I of the indictment.


PRESIDING JUROR

VERDICT FORM

COUNT II

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Intentionally or Knowingly– Bodily Injury by Act), as alleged in Count II of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Recklessly– Bodily Injury by Act), a lesser-included offense in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Injury to a Child – Bodily Injury by Act, as alleged in Count II of the indictment.

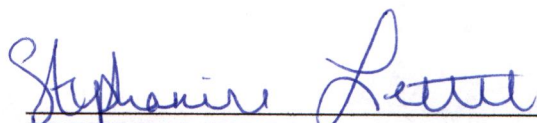
PRESIDING JUROR

VERDICT FORM

COUNT III

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Intentionally or Knowingly – Bodily Injury by Act), as alleged in Count III of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Recklessly – Bodily Injury by Act), a lesser-included offense in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Injury to a Child – Bodily Injury by Act, as alleged in Count III of the indictment.


PRESIDING JUROR

VERDICT FORM

COUNT IV

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Intentionally or Knowingly– Bodily Injury by Act), as alleged in Count IV of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Recklessly– Bodily Injury by Act), a lesser-included offense in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Injury to a Child – Bodily Injury by Act, as alleged in Count IV of the indictment.

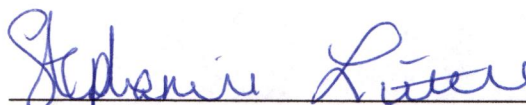
PRESIDING JUROR

VERDICT FORM

COUNT V

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Intentionally or Knowingly– Serious Bodily Injury by Act), as alleged in Count V of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Recklessly– Serious Bodily Injury by Act), a lesser-included offense in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Injury to a Child – Serious Bodily Injury by Act, as alleged in Count V of the indictment.

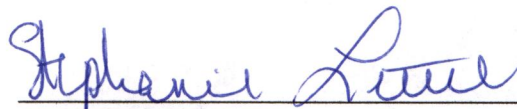
PRESIDING JUROR

VERDICT FORM

COUNT VI

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Intentionally or Knowingly– Serious Bodily Injury by Omission), as alleged in Count VI of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Injury to a Child (Recklessly– Serious Bodily Injury by Omission), a lesser-included offense in Count VI of the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Injury to a Child – Serious Bodily Injury by Omission, as alleged in Count VI of the indictment.

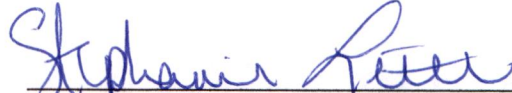
PRESIDING JUROR

VERDICT FORM

COUNT VII

(Presiding Juror to sign only one)

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Capital Murder, as alleged in Count VII of the indictment.



PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Felony Murder, a lesser-included offense in Count VII of the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, guilty of the offense of Manslaughter, a lesser-included offense in Count VII of the indictment.

PRESIDING JUROR

We, the jury, find the defendant, SABRINA HO, not guilty of the offense of Capital Murder, as alleged in Count VII of the indictment.

PRESIDING JUROR