

NO. 366-81797-2012

THE STATE OF TEXAS § **IN THE 366TH JUDICIAL**
VS. § **DISTRICT COURT OF**
JACKY SCOTT GARRETT § **COLLIN COUNTY, TEXAS**
AKA: SCOTT J. GARRETT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, **JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT**, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 11th day of October, 2011, in Collin County, Texas. To this charge the defendant has pleaded not guilty.

Our law provides that an actor commits murder if he intentionally or knowingly causes the death of an individual.

The word "actor" as used herein, means a person whose criminal responsibility is in issue in a criminal action.

"Individual" means a human being who is alive.

A person commits Capital Murder if he commits murder as defined above, and murders an individual under ten years of age.

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

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 commits the offense of Injury to a Child if he intentionally, knowingly, recklessly or with criminal negligence causes to a child who is younger than fifteen (15) years of age, bodily injury or serious bodily injury.

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

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.

"Child" means a person fourteen (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.

"Conduct" means an act or omission and its accompanying mental state.

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

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 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.

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.

You are instructed that while the indictment alleges that the offense was committed on or about the 11th day of October, 2011 in Collin County, Texas, you are not bound to find that the offense, if any, took place on this specific date, it being sufficient if such time is approximately accurate, and occurring prior to August 2, 2012, the date of the return of the indictment for said offense in this case, and is not barred by the statute of limitations.

There is no statute of limitation for the offense of Capital Murder and Manslaughter. The statute of limitations for Injury to a Child is ten years from the eighteenth birthday of the victim. The statute of limitations for Criminally Negligent Homicide is three years from the date of the commission of the offense.

CAPITAL MURDER

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there intentionally or knowingly cause the death of an individual, namely, Logan Garrett, by stomping, kicking, punching, hitting or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, and the said Logan Garrett was then and there an individual younger than ten (10) years of age, then you will find the defendant guilty of the offense of Capital Murder as charged in the indictment.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Injury to a Child by Intentionally or Knowingly Causing Serious Bodily Injury. If you unanimously

agree that the defendant is guilty of Capital Murder, you need not consider Injury to a Child by Intentionally or Knowingly Causing Serious Bodily Injury, or any other offense.

**INJURY TO A CHILD BY INTENTIONALLY OR KNOWINGLY CAUSING
SERIOUS BODILY INJURY**

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there intentionally or knowingly cause serious bodily injury to Logan Garrett, a child younger than fifteen (15) years of age, by stomping, kicking, punching, hitting, or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Injury to a Child by Intentionally or Knowingly Causing Serious Bodily Injury, a lesser included offense.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Manslaughter. If you unanimously agree that the defendant is guilty of Injury to a Child by Intentionally or Knowingly Causing Serious Bodily Injury, you need not consider Manslaughter, or any other offense.

MANSLAUGHTER

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there recklessly cause the death of an individual, namely, Logan Garrett, by stomping, kicking, punching, hitting or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Manslaughter, a lesser included offense.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Injury to a Child by Recklessly Causing Serious Bodily Injury. If you unanimously agree that the defendant is guilty of Manslaughter, you need not consider Injury to a Child by Recklessly Causing Serious Bodily Injury, or any other offense.

INJURY TO A CHILD BY RECKLESSLY CAUSING SERIOUS BODILY INJURY

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there recklessly cause serious bodily injury to Logan Garrett, a child younger than fifteen (15) years of age, by stomping, kicking, punching, hitting, or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Injury to a Child by Recklessly Causing Serious Bodily Injury, a lesser included offense.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Injury to a Child by Intentionally or Knowingly Causing Bodily Injury. If you unanimously agree that the defendant is guilty of Injury to a Child by Recklessly Causing Serious Bodily Injury, you need not consider Injury to a Child by Intentionally or Knowingly Causing Bodily Injury, or any other offense.

**INJURY TO A CHILD BY INTENTIONALLY OR KNOWINGLY CAUSING
BODILY INJURY**

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there intentionally or knowingly cause bodily injury to Logan Garrett, a child younger than fifteen (15) years of age, by stomping, kicking, punching, hitting, or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Injury to a Child by Intentionally or Knowingly Causing Bodily Injury, a lesser included offense.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Criminally Negligent Homicide. If you unanimously agree that the defendant is guilty of Injury to a Child by Intentionally or Knowingly Causing Bodily Injury, you need not consider Criminally Negligent Homicide, or any other offense.

CRIMINALLY NEGLIGENT HOMICIDE

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there, with criminal negligence, cause the death of an individual, namely, Logan Garrett, by stomping, kicking, punching, hitting or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Criminally Negligent Homicide, a lesser included offense.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Injury to a Child by Criminally Negligently Causing Serious Bodily Injury. If you unanimously agree that the defendant is guilty of Criminally Negligent Homicide, you need not consider Injury to a Child by Criminally Negligently Casusing Serious Bodily Injury, or any other offense

**INJURY TO A CHILD BY CRIMINALLY NEGLIGENTLY CAUSING SERIOUS
BODILY INJURY**

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there, with criminal negligence, cause serious bodily injury to Logan Garrett, a child younger than fifteen (15) years of age, by stomping, kicking, punching, hitting, or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Injury to a Child by Criminally Negligently Causing Serious Bodily Injury, a lesser included offense.

If you do not so find, or if you have a reasonable doubt, or if you are unable to agree, then you will next consider whether the defendant is guilty of the lesser included offense of Injury to a Child by Criminally Negligently Causing Bodily Injury. If you unanimously agree that the defendant is guilty of Injury to a Child by Criminally Negligently Causing Serious Bodily Injury, you need not consider Injury to a Child by Criminally Negligently Causing Bodily Injury.

**INJURY TO A CHILD BY CRIMINALLY NEGLIGENTLY CAUSING BODILY
INJURY**

Now, if you find from the evidence beyond a reasonable doubt that on or about the 11th day of October, 2011, in Collin County, Texas, the defendant, JACKY SCOTT GARRETT AKA: SCOTT J. GARRETT, did then and there, with criminal negligence, cause bodily injury to Logan Garrett, a child younger than fifteen (15) years of age, by stomping, kicking, punching, hitting, or striking Logan Garrett in the abdomen, or by blunt force to the abdomen in a manner unknown to the Grand Jury, then you will find the defendant guilty of the offense of Injury to a Child by Criminally Negligently Causing Bodily Injury, a lesser included offense.

Unless you so find from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof that the defendant is guilty of any offense defined in this charge, you should acquit the defendant and say by your verdict "not guilty".

GENERAL INSTRUCTIONS

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a defendant, and, in the event he elects not to testify, that fact cannot be taken as a circumstance against him. 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.

You are instructed that the Grand Jury indictment is not evidence of guilt. It is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon whether the defendant is guilty or not guilty.

In all criminal cases, the burden of proof is on the State throughout the trial and never shifts to the accused person. 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.

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.

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 him 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 issue of opportunity, intent, knowledge, absence of mistake or accident, and to rebut defensive theories, and for no other purpose.

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

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 any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting its outcome. The Court has not intended to express any opinion respecting 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 not supported by the evidence, or statements of laws made by counsel not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

When words are used in this charge in a sense which vary from the meaning commonly understood, you will be given a proper legal definition, which you are bound to follow and accept in place of any other meaning.

After you have retired to your jury room, you should elect one of your members as your presiding juror. It is his or her duty to preside at your deliberations, vote with you, see that your deliberations are conducted in an orderly manner and in accordance with the instructions in this charge, write out and hand to the bailiff any communications concerning the case which you desire to have delivered to the Court, and, when you have unanimously agreed upon a verdict, to certify your verdict by signing the same as presiding juror.

After you have retired to consider your verdict, no one has any authority to communicate with you except the bailiff of this Court. You should not discuss the case with anyone, not even with other members of the jury, unless all of you are present and assembled in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home, or elsewhere, please so inform the judge.

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.

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.

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

You are further instructed that you should not question the Bailiff concerning the testimony or the law of the case, nor should you discuss the case in his presence. If you have any questions, you should reduce them to writing, to be signed by your presiding juror, and present them to the Court.

If the jurors disagree as to the statement of any witnesses, they may, upon applying to the Court, have read to them from the Court Reporter's notes that part of such witness's testimony on the point in dispute. A request to have the Court Reporter's notes read cannot be complied with unless the jury disagrees as to the statement of the witness. Therefore, it will be necessary, if you desire to hear any portion of the testimony of any witness, for you to certify that you are in disagreement as to the statement of a witness, and you should request that part of the testimony on the point in dispute, and only on that point which is in dispute.

Suitable forms for your verdict are attached hereto. Your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause and you are to restrict your deliberations solely to that issue. When you have made that determination, you will advise the bailiff at the door of the jury room that you have reached a verdict, and then return into the Court with your verdict.

SIGNED this the 10th day of July, 2014.

A handwritten signature in black ink, appearing to read "John R. Roach, Jr.", written over a horizontal line.

JOHN R. ROACH, JR.
JUDGE PRESIDING

VERDICT FORM

We, the Jury, find the defendant guilty of the offense of Capital Murder as charged in the indictment.


PRESIDING JUROR


PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Injury to a Child by Intentionally or Knowingly Causing Serious Bodily Injury, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Manslaughter, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Injury to a Child by Recklessly Causing Serious Bodily Injury, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Injury to a Child by Intentionally or Knowingly Causing Bodily Injury, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Criminally Negligent Homicide, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Injury to a Child by Criminally Negligently Causing Serious Bodily Injury, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant guilty of the offense of Injury to a Child by Criminally Negligently Causing Bodily Injury, a lesser included offense.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

OR,

We, the Jury, find the defendant not guilty.

PRESIDING JUROR

PRESIDING JUROR (Printed Name)

SPECIAL ISSUE

If you have found the defendant guilty of any offense above, you are further instructed to answer the following special issue:

Do you find beyond a reasonable doubt that the defendant used or exhibited a deadly weapon during the commission of the offense for which you have found him guilty?

Select one answer. "We Do" or "We Do Not."

In answering this question, you are instructed that a "Deadly Weapon" means 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. You are further instructed that your answer to this special issue must be unanimous.

"We Do."

ANSWER: We Do


PRESIDING JUROR

OR,

"We Do Not."

ANSWER: _____

PRESIDING JUROR