

CAUSE NO. 08-173

THE STATE OF TEXAS § IN THE DISTRICT COURT OF
VS. § HAYS COUNTY, TEXAS
RICHARD PEREZ, JR. § 22ND JUDICIAL DISTRICT

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, Richard Perez, Jr., stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Hays County, Texas, on or about the 3rd day of January, 2008. To this charge the defendant has plead 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 and knowingly causes the death of an individual under six years of age.

A person commits the offense of murder if the person intends to cause serious bodily injury and intentionally or knowingly commits an act clearly dangerous to human life that causes the death of an individual.

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

A person commits criminally negligent homicide if he causes the death of an individual by criminal negligence.

FILED this 8th day of June
2008 4:05 PM
CLERK DISTRICT COURT, HAYS CO. TX
By [Signature] Deputy

A person commits the offense of Injury to a Child if the person intentionally, knowingly, recklessly, or with criminal negligence 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.

You are instructed that a parent of a child has the following duties: (1) the duty of care, control, protection, and reasonable discipline of the child; and (2) the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education.

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 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 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 defendant's standpoint.

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.

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.

4.

A.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, Richard Perez, Jr., on or about the 3rd day of January, 2008, 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, Aiden Skyler Perez, by striking the aforesaid Aiden Skyler Perez, an individual under six years of age, on the head with his hands or with an object unknown to the Grand Jurors, 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 offenses of "Murder" and "Injury to a Child—Intentionally or Knowingly Causing Serious Bodily Injury."

B.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of January, 2008, in Hays County, Texas, the defendant, Richard Perez, Jr., did then ~~and~~ ^{and} intend to cause serious bodily injury to Aiden Skyler Perez, and did cause the death of Aiden Skyler Perez by intentionally or knowingly committing an act clearly dangerous to human life, namely, striking Aiden Skyler Perez on the head with his hands or an object unknown to the Grand Jurors, then you will find the defendant guilty of 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—Intentionally or Knowingly Causing Serious Bodily Injury."

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, Richard Perez, Jr., on or about the 3rd day of January, 2008, in the County of Hays and State of Texas, did then and there intentionally or knowingly cause serious bodily injury to Aiden Skyler Perez, a child 14 years of age or younger, by striking the head of the said Aiden Skyler Perez with his hands or an object unknown to the Grand Jurors, you will find the defendant guilty of Injury to a Child—Intentionally or Knowingly Causing Serious Bodily Injury 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 offenses of “Manslaughter” and “Injury to a Child – Recklessly Causing Serious Bodily Injury.”

C.

Now, if you find from the evidence beyond a reasonable doubt, that on or about the 3rd day of January, 2008, in Hays County, Texas, the defendant, Richard Perez, Jr., did then and there recklessly cause the death of Aiden Skyler Perez, by striking Aiden Skyler Perez on the head with his hands or an object unknown to the Grand Jurors, then you will find the defendant guilty of manslaughter 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 – Recklessly Causing Serious Bodily Injury.”

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, Richard Perez, Jr., on or about the 3rd day of January, 2008, in the County of Hays and State of Texas, did then and there recklessly cause serious bodily injury to Aiden Skyler Perez, a child 14 years of age or younger, by striking the head of the said Aiden Skyler Perez with his hands or an object unknown to the Grand Jurors, you will find the defendant guilty of Injury to a Child—Recklessly Causing Serious Bodily Injury 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 offenses of “Criminally Negligent Homicide” and “Injury to a Child – Causing Serious Bodily Injury by Criminal Negligence.”

D.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of January, 2008, in Hays County, Texas, the defendant, Richard Perez, Jr., did then and there with criminal negligence cause the death of Aiden Skyler Perez, by striking Aiden Skyler Perez on the head with his hands or an object unknown to the Grand Jurors, then you will find the defendant guilty of criminally negligent homicide 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 — Causing Serious Bodily Injury by Criminal Negligence."

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, Richard Perez, Jr., on or about the 3rd day of January, 2008, in the County of Hays and State of Texas, did then and there, with criminal negligence, cause serious bodily injury to Aiden Skyler Perez, a child 14 years of age or younger, by striking the head of the said Aiden Skyler Perez with his hands or an object unknown to the Grand Jurors, you will find the defendant guilty of Injury to a Child—Causing Serious Bodily Injury with Criminal Negligence and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, ~~you will~~  you will acquit the defendant and say by your verdict 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.

In a criminal case the law permits a defendant to testify in his own behalf but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not consider the fact that the defendant did not testify as a circumstance against him; and you will not in your retirement to consider your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

8.

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

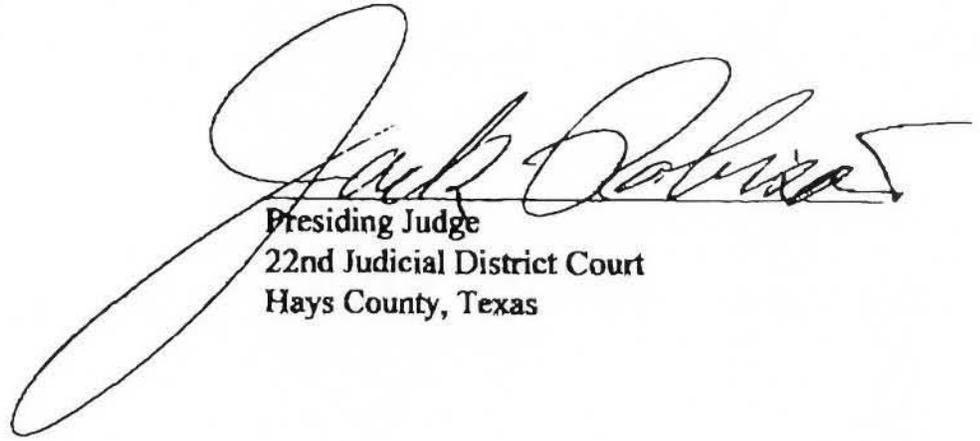
share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not 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.

9.

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 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.



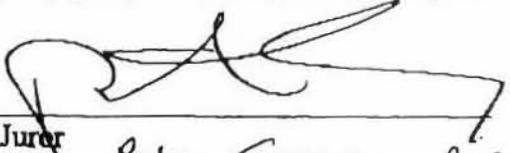
Jack Roberts
Presiding Judge
22nd Judicial District Court
Hays County, Texas

CAUSE NO. CR-08-173

THE STATE OF TEXAS § IN THE DISTRICT COURT OF
VS. § HAYS COUNTY, TEXAS
RICHARD PEREZ, JR. § 22ND JUDICIAL DISTRICT

VERDICT OF THE JURY

We, the Jury, find the defendant, Richard Perez, Jr., guilty of the offense of Capital Murder.



Presiding Juror Peter Carney, Jr.

We, the Jury, find the defendant, Richard Perez, Jr., "Not Guilty" of Capital Murder.

Presiding Juror

*Received & found to
be unanimous 4:00pm 6-8-9.
Jad [Signature]*

CAUSE NO. CR-08-173

THE STATE OF TEXAS

§

IN THE DISTRICT COURT OF

VS.

§

HAYS COUNTY, TEXAS

RICHARD PEREZ, JR.

§

22ND JUDICIAL DISTRICT

We, the Jury, find the defendant, Richard Perez, Jr., guilty of the offense of Murder.

Presiding Juror

We, the Jury, find the defendant, Richard Perez, Jr., "Not Guilty" or Murder.

Presiding Juror

CAUSE NO. CR-08-173

THE STATE OF TEXAS § **IN THE DISTRICT COURT OF**
VS. § **HAYS COUNTY, TEXAS**
RICHARD PEREZ, JR. § **22ND JUDICIAL DISTRICT**

We, the Jury, find the defendant, Richard Perez, Jr., guilty of the lesser offense of Injury to a Child—Intentionally or Knowingly Causing Serious Bodily Injury.

Presiding Juror

We, the Jury, find the defendant, Richard Perez, Jr., "Not Guilty" or Injury to a Child—Intentionally or Knowingly Causing Serious Bodily Injury.

Presiding Juror

CAUSE NO. CR-08-173

THE STATE OF TEXAS § **IN THE DISTRICT COURT OF**
VS. § **HAYS COUNTY, TEXAS**
RICHARD PEREZ, JR. § **22ND JUDICIAL DISTRICT**

We, the Jury, find the defendant, Richard Perez, Jr., guilty of the lesser offense of Injury to a Child—Recklessly Causing Serious Bodily Injury.

Presiding Juror

We, the Jury, find the defendant, Richard Perez, Jr., "Not Guilty" Injury to a Child—Recklessly Causing Serious Bodily Injury.

Presiding Juror

CAUSE NO. CR-08-173

THE STATE OF TEXAS § **IN THE DISTRICT COURT OF**
VS. § **HAYS COUNTY, TEXAS**
RICHARD PEREZ, JR. § **22ND JUDICIAL DISTRICT**

We, the Jury, find the defendant, Richard Perez, Jr., guilty of the lesser offense of Cimirnally Negligent Homicide.

Presiding Juror

We, the Jury, find the defendant, Richard Perez, Jr., "Not Guilty" or Cimirnally Negligent Homicide.

Presiding Juror

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THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
VS.	§	HAYS COUNTY, TEXAS
RICHARD PEREZ, JR.	§	22ND JUDICIAL DISTRICT

We, the Jury, find the defendant, Richard Perez, Jr., guilty of the lesser offense of Injury to a Child—Causing Serious Bodily Injury with Criminal Negligence.

Presiding Juror

We, the Jury, find the defendant, Richard Perez, Jr., "Not Guilty" Injury to a Child—Causing Serious Bodily Injury with Criminal Negligence.

Presiding Juror