

**FILED**  
AT 5:20 O'CLOCK P.M.  
OCT 04 2017

DISTRICT CLERK  
Tommy Robinson  
TAYLOR COUNTY, TEXAS  
DEPUTY

CAUSE NUMBER: 27,346-A

THE STATE OF TEXAS

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IN THE DISTRICT COURT

VS.

TAYLOR COUNTY, TEXAS

AMBER RENEE CRAKER

42ND JUDICIAL DISTRICT

**JURY INSTRUCTIONS**

Members of the jury,

The defendant, Amber Renee Craker is accused of the offenses of Capital Murder, Injury to a Child and Tampering with Evidence. The defendant has pleaded "not guilty," to these charges. You have heard all of the evidence that will be produced regarding whether the defendant has been proved guilty.

Both sides will soon present final arguments. Before they do so, I must now give you the instructions you must follow in deciding whether the defendant has been proved guilty or not.

You will have a written copy of these instructions to take with you and to use during your deliberations.

First I will tell you about some general principles of law that must govern your decision in the case. Then, I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that control your deliberations.

**GENERAL PRINCIPLES**

**The Indictment**

The indictment is not evidence of guilt. The indictment is only a document required to bring the case before you. The indictment cannot be considered in any way by the jury. Do not consider the fact that the defendant has been arrested, confined, indicted or otherwise charged. You may not draw any inference of guilt from any of those circumstances.



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## **Presumption of Innocence**

The defendant is presumed innocent of the charges. 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 law does not require a defendant to prove his innocence or produce any evidence at all. 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 presumption of innocence alone is sufficient to acquit the defendant.

## **Burden of Proof**

The burden of proof throughout the trial is always on the state. The defendant does not have the burden to prove anything. The state must prove every element of the offense beyond a reasonable doubt to establish guilt for the offense. If the state proves every element of the offense beyond a reasonable doubt, then you must find the defendant guilty. If the state does not prove every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If, after you have considered all the evidence and these instructions, you have a reasonable doubt about whether the defendant is guilty, you must find the defendant not guilty.

## **Jury as Fact Finder**

As the jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony.

In judging the facts and the believability of the witnesses, you must apply the law provided in these instructions.

## **Evidence**

The evidence consists of the testimony and exhibits admitted in the trial. You must consider only evidence to reach your decision. You must not consider, discuss, or mention anything that is not evidence in the trial. You must not consider or mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.



Statements made by the lawyers are not evidence. The questions asked by the attorneys are not evidence. Evidence consists of the testimony of the witnesses and materials admitted into evidence.

Nothing the judge has said or done in this case should be considered by you as an opinion about the facts of this case or influence you to vote one way or the other.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, you should give those terms the meanings provided in the instructions.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts that have been established by the evidence.

You are to render a fair and impartial verdict based on the evidence admitted in the case under the law that is in these instructions. Do not allow your verdict to be determined by bias or prejudice.

### **Admitted Exhibits**

You may, if you wish, examine exhibits. If you wish to examine an exhibit, the foreperson will inform the court in writing and specifically identify the exhibit you wish to examine. Only exhibits that were admitted into evidence may be given to you for examination.

### **Testimony**

Certain testimony will be read back to you by the court reporter if you request. The court will allow testimony to be read back to the jury only if the jury, in a writing signed by the foreperson, (1) states that it is requesting that testimony be read back, (2) states that it has a disagreement about a specific statement of a witness or a particular point in dispute, and (3) identifies the name of the witness who made the statement. The court will then have the court reporter read back only that part of the statement that is in disagreement.



## **The Verdict**

The law requires that you render a verdict of either “guilty” or “not guilty.” The verdict of “not guilty” simply means that the state’s evidence does not prove the defendant guilty beyond a reasonable doubt.

You may return a verdict only if all twelve of you agree on this verdict.

When you reach a verdict, the foreperson should notify the court.

## **Defendant’s Right to Remain Silent**

The defendant has a constitutional right to remain silent. The defendant may testify on her own behalf. The defendant may also choose not to testify. The defendant’s decision not to testify cannot be held against her, and it is not evidence of guilt. You must not speculate, guess, or even talk about what the defendant might have said if she had taken the witness stand or why she did not. The foreperson of the jury must immediately stop any juror from mentioning the defendant’s decision not to testify.

## **Accusation – Capital Murder as alleged in the Count One of the Indictment**

The state accuses the defendant in count one of the indictment of having committed the offense of capital murder. Specifically, the accusation is that the defendant intentionally or knowingly caused the death of Ashley Nevaeh Cate, an individual younger than ten (10) years of age, by cutting her throat with a knife.

## **Relevant Statutes**

A person commits an offense if the person intentionally or knowingly causes the death of an individual under ten years of age.

A person causes the death of another if, but for the person’s conduct, the death of the other would not have occurred.



## **Burden of Proof**

The state must prove, beyond a reasonable doubt, the accusation of capital murder.

## **Definitions**

A person intentionally causes the death of an individual if the person has the conscious objective or desire to cause that death.

A person knowingly causes the death of an individual if the person is aware that her conduct is reasonably certain to cause that death.

## **Applicability to Certain conduct**

The charge of capital murder does not apply to the death of an unborn child if the conduct charged is conduct committed by the mother of the unborn child.

## **Application of Law to Facts**

You must determine whether the state has proved, beyond a reasonable doubt, two elements. The elements are that—

1. the defendant, in Taylor County, Texas, on or about the 18th day of January, 2016, intentionally or knowingly caused the death of Ashley Nevaeh Cate by cutting the throat of Ashley Nevaeh Cate with a knife; and ✓
2. Ashley Nevaeh Cate was under ten years of age. ✓

If you all agree the state has failed to prove, beyond a reasonable doubt, one or more of elements 1 and 2 listed above or you have a reasonable doubt as to whether or not the child was born alive, you must find the defendant “not guilty” of the offense of capital murder as alleged in count one of the indictment.

If you all agree the state has proved, beyond a reasonable doubt elements 1 and 2 listed above and ✓ you believe beyond a reasonable doubt that the child was ✓



born alive,] you must find the defendant "guilty" of the offense of capital murder as alleged in count one of the indictment.

If you have found the defendant guilty of capital murder as alleged in count one of the indictment, you will not consider any part of count two of the indictment which alleges injury to a child, but you will next consider count three of the indictment which alleges tampering with evidence.

If you have found the defendant not guilty of capital murder because you did not find beyond a reasonable doubt that the child was born alive, you will not consider any part of count two of the indictment which alleges injury to a child, but you will next consider count three of the indictment which alleges tampering with evidence.

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If you are unable to agree if the defendant is guilty or not guilty of capital murder, you will next consider count two of the indictment which alleges injury to a child.

~~Two Paragraph One of the Indictment~~ **Accusation – Injury to a child by committing an act as alleged in Count**

The state accuses the defendant in count two paragraph one of the indictment of having committed the offense of injury to a child. Specifically, the accusation is that the defendant, intentionally or knowingly caused serious bodily injury to Ashley Nevaeh Cate, a child fourteen (14) years of age or younger, by cutting her throat.

**Relevant Statutes**

A person commits an offense if the person intentionally or knowingly by an act causes serious bodily injury to a child.

A person intentionally causes serious bodily injury to a child if the person has the conscious objective or desire to cause that serious bodily injury to the child.

A person knowingly causes serious bodily injury to a child if the person is aware that her conduct is reasonably certain to cause that serious bodily injury to the child.



## **Burden of Proof**

The state must prove, beyond a reasonable doubt, the accusation of injury to a child.

## **Definitions**

“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.

## **Applicability to Certain conduct**

The charge of injury to a child does not apply to the injury of an unborn child if the conduct charged is conduct committed by the mother of the unborn child.

## **Application of Law to Facts**

You must determine whether the state has proved, beyond a reasonable doubt, five elements. The elements are that—

1. the defendant, in Taylor County, Texas, on or about the 18th day of January, 2016, cut Ashley Nevaeh Cate’s throat; and
2. the defendant by cutting Ashley Nevaeh Cate’s throat caused injury to Ashley Nevaeh Cate; and
3. Ashley Nevaeh Cate was a child fourteen years old or younger; and
4. the injury caused to Ashley Nevaeh Cate was serious bodily injury; and



5. the defendant –

- a. intended to cause serious bodily injury to Ashley Nevaeh Cate; or
- b. knew she would cause serious bodily injury to Ashley Nevaeh Cate.

You must all agree on elements 1 through 5 listed above, but you do not have to agree on the culpable mental states listed in elements 5.a and 5.b above.

If you all agree the state has failed to prove, beyond a reasonable doubt, one or more of elements 1, 2, 3, 4 and 5 listed above or you have a reasonable doubt as to whether or not the child was born alive, you must find the defendant “not guilty” of the offense of injury to a child as alleged in count two paragraph one of the indictment.

If you all agree the state has proved, beyond a reasonable doubt elements 1, 2, 3, 4 and 5 listed above and you believe beyond a reasonable doubt that the child was born alive, you must find the defendant “guilty” of injury to a child as alleged in count two paragraph one of the indictment.

If you have found the defendant guilty of injury to a child as alleged in count two paragraph one of the indictment, you will not consider the remainder of count two of the indictment which alleges injury to a child by omission, but you will consider count three of the indictment which alleges tampering with evidence.

If you have found the defendant not guilty of injury to a child because you did not find beyond a reasonable doubt that the child was born alive, you will not consider the remainder of count two of the indictment which alleges injury to a child by omission, but you will next consider count three of the indictment which alleges tampering with evidence.

If you are unable to agree if the defendant is guilty or not guilty of injury to a child as alleged in count two paragraph one of the indictment, you will next consider count two paragraph two of the indictment which alleges injury to a child by omission.





**Accusation – Injury to a child by omission as alleged in Count Two Paragraph Two of the Indictment**

The state accuses the defendant in count two paragraph two of the indictment of having committed the offense of injury to a child. Specifically, the accusation is that the defendant, being a parent of Ashley Nevaeh Cate, a child fourteen (14) years old or younger, intentionally or knowingly caused serious bodily injury to Ashley Nevaeh Cate by failing to seek medical attention to facilitate the birth of Ashley Nevaeh Cate.

**Relevant Statutes**

A person commits an offense if the person intentionally or knowingly by omission causes serious bodily injury to a child.

A person's omission that causes serious bodily injury to a child may constitute an offense only if the person is the parent of the child and the omission violates a duty the person has as a parent.

The parent of a child has the statutory duty –

1. of care, control, protection, and reasonable discipline of the child;  
and
2. to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education.

A person intentionally causes serious bodily injury to a child if the person has the conscious objective or desire to cause that serious bodily injury to the child.

A person knowingly causes serious bodily injury to a child if the person is aware that her conduct is reasonably certain to cause that serious bodily injury to the child.

**Burden of Proof**

The state must prove, beyond a reasonable doubt, the accusation of injury to a child.



## **Definitions**

“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.

## **Applicability to Certain conduct**

The charge of injury to a child does not apply to the injury of an unborn child if the conduct charged is conduct committed by the mother of the unborn child.

## **Application of Law to Facts**

You must determine whether the state has proved, beyond a reasonable doubt, five elements. The elements are that—

1. the defendant –
  - a. was the parent of Ashley Nevaeh Cate; and
  - b. therefore had a duty to provide medical care to Ashley Nevaeh Cate; and
  - c. failed to provide such medical care; and
2. the defendant, in Taylor County Texas, on or about the 18<sup>th</sup> day of January, 2016, by this failure to provide medical care caused bodily injury to Ashley Nevaeh Cate; and
3. Ashley Nevaeh Cate was a child fourteen years old or younger; and
4. the bodily injury caused was serious bodily injury; and
5. the defendant –
  - a. intended to cause serious bodily injury to Ashley Nevaeh Cate; or



b. knew she would cause serious bodily injury to Ashley Nevaeh Cate.  
You must all agree on elements 1 through 5 listed above, but you do not have to agree on the culpable mental states listed in elements 5.a and 5.b above.

If you all agree the state has failed to prove, beyond a reasonable doubt, one or more of elements 1, 2, 3, 4 and 5 listed above or you have a reasonable doubt as to whether or not the child was born alive, you must find the defendant "not guilty" of the offense of injury to a child as alleged in count two paragraph two of the indictment.

If you all agree the state has proved, beyond a reasonable doubt elements 1, 2, 3, 4 and 5 listed above and you believe beyond a reasonable doubt that the child was born alive, you must find the defendant guilty of injury to a child as alleged in count two paragraph two of the indictment.

If you are unable to agree if the defendant is guilty or not guilty of injury to a child as alleged in count two paragraph two of the indictment, you will next consider count three of the indictment which alleges tampering with evidence.

Whether you have found the defendant guilty or not guilty of injury to a child as alleged in count two paragraph two of the indictment, you will next consider count three of the indictment which alleges tampering with evidence.

### **Accusation – Tampering with evidence as alleged in Count Three of the Indictment**

The state accuses the defendant in count three paragraph two of the indictment of having committed the offense of tampering with evidence. Specifically, the accusation is that the defendant, knowing an offense had been committed, to wit: abuse of a human corpse, concealed a human corpse with intent to impair its availability as evidence in any subsequent investigation or official proceeding related to the offense.

### **Relevant Statutes**

A person commits an offense if, knowing that an offense has been committed, alters, destroys or conceals anything with intent to impair its availability as evidence in any subsequent investigation or official proceeding related to that offense.



A person commits the offense of abuse of a human corpse if the person, without legal authority, knowingly treats in an offensive manner a human corpse.

### **Burden of Proof**

The state must prove, beyond a reasonable doubt, the accusation of tampering with evidence.

### **Definitions**

“Official proceeding” means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

A person knows that an offense has been committed if the person is aware that an offense has been committed.

A person acts with intent to impair the availability of the thing as evidence in the investigation or official proceeding if the person has the conscious desire to impair the availability of the thing as evidence in an investigation or official proceeding.

### **Application of Law to Facts**

You must decide whether the state has proved, beyond a reasonable doubt, three elements. The elements are that –

1. the defendant, in Taylor County, Texas on or about the 18<sup>th</sup> day of January, 2016, concealed a human corpse by hiding it in a trashcan; and
2. the defendant knew the offense of abuse of a human corpse had been committed; and
3. the defendant intended to impair the availability of the human corpse as evidence in any subsequent investigation or official proceeding related to the offense.



If you all agree the state has failed to prove, beyond a reasonable doubt, one or more of elements 1, 2 and 3 listed above, you must find the defendant "not guilty" of tampering with evidence as alleged in count three paragraph two of the indictment.

If you all agree the state has proved, beyond a reasonable doubt, each of the three elements above, you must find the defendant "guilty" of tampering with evidence as alleged in count three paragraph two of the indictment.

## **RULES THAT CONTROL DELIBERATIONS**

You must follow these rules while you are deliberating and until you reach a verdict. After the closing arguments by the attorneys, you will go into the jury room.

Your first task will be to pick your foreperson. The foreperson should conduct the deliberations in an orderly way. Each juror has one vote, including the foreperson. The foreperson must supervise the voting, vote with other members on the verdict, and sign the verdict sheet.

While deliberating and until excused by the court, all jurors must follow these rules:

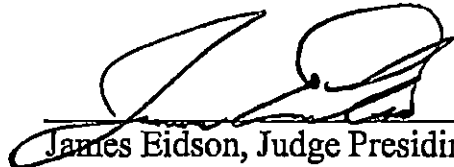
1. You must not discuss this trial with any court officer, or the attorneys, or anyone not on the jury.
2. You must not discuss this case unless all of you are present in the jury room. If anyone leaves the room, then you must stop your discussions about the case until all of you are present again.
3. You must communicate with the judge only in writing, signed by the foreperson and given to the judge through the officer assigned to you.
4. You must not conduct any independent investigations, research, or experiments.
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict.



Your sole duty at this point is to determine whether the defendant has been proved guilty. You must restrict your deliberations to this matter.

After you have arrived at your verdict, you are to use one of the forms attached to these instructions. You should have your foreperson sign his or her name to the particular form that conforms to your verdict.

After the closing arguments by the attorneys, you will begin your deliberations to decide your verdict.

  
James Eidson, Judge Presiding

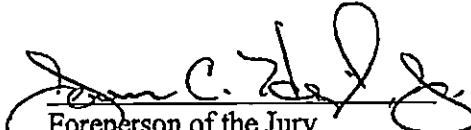


CAUSE NUMBER: 27,346-A

THE STATE OF TEXAS                   §           IN THE DISTRICT COURT OF  
VS.                                       §           TAYLOR COUNTY, TEXAS  
AMBER RENEE CRAKER               §           42ND JUDICIAL DISTRICT

**VERDICT—GUILTY OF CAPITAL MURDER AS ALLEGED IN COUNT ONE OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, guilty of capital murder as alleged in count one of the indictment.

  
Foreperson of the Jury

JEROME C. HEJL, JR  
Printed Name of Foreperson

**-OR-**

**VERDICT—NOT GUILTY OF CAPITAL MURDER AS ALLEGED IN COUNT ONE OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, not guilty of capital murder as alleged in count one of the indictment.

\_\_\_\_\_  
Foreperson of the Jury

\_\_\_\_\_  
Printed Name of Foreperson

**-AND-**



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County District Clerks Office

**VERDICT—GUILTY OF INJURY TO A CHILD AS ALLEGED IN COUNT TWO -  
PARAGRAPH ONE OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, guilty of injury to a child as alleged in count two paragraph one of the indictment.

\_\_\_\_\_  
Foreperson of the Jury

\_\_\_\_\_  
Printed Name of Foreperson

**-OR-**

**VERDICT—GUILTY OF INJURY TO A CHILD AS ALLEGED IN COUNT TWO -  
PARAGRAPH TWO OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, guilty of injury to a child as alleged in count two paragraph two of the indictment.

\_\_\_\_\_  
Foreperson of the Jury

\_\_\_\_\_  
Printed Name of Foreperson

**-OR-**

**VERDICT—NOT GUILTY OF INJURY TO A CHILD AS ALLEGED IN COUNT TWO  
OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, not guilty of injury to a child as alleged in count two of the indictment.

\_\_\_\_\_  
Foreperson of the Jury

\_\_\_\_\_  
Printed Name of Foreperson

**-AND-**

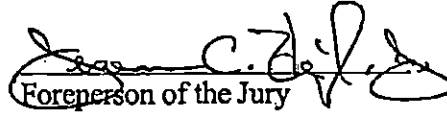
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**VERDICT—GUILTY OF TAMPERING WITH EVIDENCE AS ALLEGED IN COUNT THREE - OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, guilty of tampering with evidence as alleged in count three paragraph two of the indictment.

  
Foreperson of the Jury

Jerome C. Hest Jr  
Printed Name of Foreperson


-OR-

**VERDICT—NOT GUILTY OF TAMPERING WITH EVIDENCE AS ALLEGED IN COUNT THREE OF THE INDICTMENT**

We, the jury, find the defendant, Amber Renee Craker, not guilty of tampering with evidence as alleged in count three of the indictment.

\_\_\_\_\_  
Foreperson of the Jury

\_\_\_\_\_  
Printed Name of Foreperson

**STATE OF TEXAS**  
**COUNTY OF TAYLOR**  
CERTIFIED TO BE A TRUE AND CORRECT COPY  
OF THE ORIGINAL IN MY CUSTODY  
GIVEN UNDER MY HAND AND SEAL OF OFFICE  
DATED 11/10/10 A.D., 2010  
TAMMY ROBINSON  
DISTRICT CLERK OF TAYLOR COUNTY, TEXAS  
BY  DEPUTY