

ORIGINAL

CAUSE NO. CR24,066

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	MILAM COUNTY, TEXAS
SHERILL ANN SMALL	§	20TH JUDICIAL DISTRICT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, SHERILL ANN SMALL, stands charged by indictment with the offense of Capital Murder, alleged to have occurred on or about the 29th day of July, 2013, in Milam County, Texas. To this indictment the Defendant has pleaded "not guilty". You are instructed that the law applicable to this case is as follows:

I.

A person commits the offense of murder if the person intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if she commits murder, as defined above, and murders an individual under ten (10) years of age.

II.

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

A person acts knowingly, or with knowledge, with respect to the nature of her conduct or to circumstances surrounding her conduct when she is aware of the nature of her conduct or that

FILED
At 8:55 o'clock AM
NOV 04 2014
Cindy Fechner
CINDY FECHNER
DISTRICT CLERK, MILAM COUNTY, TEXAS

the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of her conduct when she is aware that her conduct is reasonably certain to cause the result.

III.

You are further instructed that if there is any evidence before you in this case regarding the defendant having committed an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, and even then you may only consider the same in determining identity in connection with the offense, if any, alleged against him in the indictment and for no other purpose.

IV.

Now bearing in mind the foregoing instructions and definitions, if you believe from the evidence beyond a reasonable doubt that on or about the 29th day of July, 2013, in the County of Milam, State of Texas, as alleged in the indictment, the Defendant, SHERILL ANN SMALL, did then and there murder an individual, Alexandria Hill, a person under ten (10) years of age, by blunt force trauma to her head, 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 acquit the defendant of the offense of Capital Murder and go on to consider whether the defendant is guilty of the lesser-included offense of Serious Bodily Injury to a Child.

V.

A person commits the offense of Serious Bodily Injury to a Child if she intentionally or knowingly by act causes a child serious bodily injury.

VI.

“Child” means a person fourteen (14) 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.

VII.

Now, bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, SHERILL ANN SMALL, on or about the 29th day of July, 2013, in the County of Milam and State of Texas, did then and there intentionally or knowingly by an act cause serious bodily injury to Alexandria Hill, a child, by blunt force trauma to her head, you will find the defendant guilty of serious bodily injury to a child intentionally or knowingly committed and so say by your verdict; but if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of serious bodily injury to a child intentionally or knowingly committed and go on to consider whether the defendant is guilty of the lesser-included offense of Criminally Negligent Homicide.

VIII.

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

IX.

A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding her conduct or the result of her conduct when she ought to be aware of a substantial and unjustifiable risk that the circumstances exist or 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.

X.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, SHERILL ANN SMALL, on or about the 29th day of July, 2013 , in the County of Milam, and State of Texas, did then and there cause the death of an individual, Alexandria Hill, by criminal negligence, to wit: blunt force trauma to her head; you will find the defendant guilty of the offense 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 acquit the defendant and say by your verdict "Not Guilty."

XI.

If you find from the evidence that defendant is guilty of neither Capital Murder, nor Serious Bodily Injury to a Child, nor Criminally Negligent Homicide, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict “Not Guilty.”

XII.

You have a right to consider all of the facts that are shown by the evidence, and to draw natural and reasonable inferences from such facts. You alone have the authority and the duty to determine what the facts are in this case.

A grand jury indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the question of guilt of the defendant. The burden of proof in all criminal cases rests upon the State throughout the trial, and never shifts to 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, an 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, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in this 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.

You must not consider facts that have not been introduced into evidence or legal principles not contained in this charge. It is improper for a juror to discuss or consider anything which they know or have learned outside of the testimony presented to you, and the law contained in this charge. If a juror should discover that they have any outside information, they must not mention this information to any other juror, nor consider it themselves in arriving at a verdict.

You shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event ^{she} ~~he~~ is found guilty. 7.7.

Questions and comments of the attorneys do not constitute testimony and must not be considered as evidence. You must also disregard any statement of the attorneys that is inconsistent with the law contained in this charge.

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 the reading of this Charge, you shall not be permitted to separate from each other, nor shall you talk with anyone not of your jury. After argument of counsel, you will retire and select one of your members as your foreman. It is his or her duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you may use one of the blanks attached hereto by having your foreman sign his or her name to the particular blank that conforms to your verdict, but in no event shall he or she sign more than one of such blanks.



JUDGE PRESIDING

CAUSE NO. CR24,066

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

VS.

§

MILAM COUNTY, TEXAS

SHERILL ANN SMALL

§

20TH JUDICIAL DISTRICT

VERDICT OF THE JURY

WE, THE JURY, find the defendant, Sherill Ann Small "guilty" of the offense of Capital Murder as charged in the Indictment.

[Handwritten Signature]

 PRESIDING JUROR

At 4:50 o'clock *[Handwritten]*
 FILED
 NOV 04 2014 *[Handwritten]*
Cindy Beckner
 DISTRICT CLERK, MILAM COUNTY, TEXAS

WE, THE JURY, find the defendant, Sherill Ann Small "guilty" of the lesser-included offense of Serious Bodily Injury To A Child by Intentional or Knowing Act.

PRESIDING JUROR

WE, THE JURY, find the defendant, Sherill Ann Small "guilty" of the lesser-included offense of Criminally Negligent Homicide.

PRESIDING JUROR

WE, THE JURY, find the defendant, Sherill Ann Small, "not guilty".

PRESIDING JUROR