

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA

06-4016CFMB

06-4016CFMD

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HAROLD BAZZEL
CLERK CIRCUIT COURT
BAY COUNTY, FLORIDA

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STATE'S PROPOSED JURY INSTRUCTIONS

THE STATE OF FLORIDA, by and through the undersigned Assistant State Attorney, and pursuant to the Court's Second Amended Uniform Order Setting Cause for Trial and Pre-Trial, hereby submits written proposed jury instructions and verdict forms.

Unless otherwise noted, all jury instructions proposed by the State of Florida are taken from the Florida Standard Jury Instructions in Criminal Cases.

The State notes that no standard jury instruction exists for the crime of Aggravated Manslaughter of a Person under 18. The State has proposed a jury instruction for Aggravated Manslaughter of a Person under 18 tracking Florida Statute §782.07(3), modeled after the instruction approved in Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001), and using definitions from standard jury instruction 16.6 (Neglect of a Child).

The State also requests a special jury instruction regarding pre-existing medical conditions of a victim.

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2007 AUG 23 A 10:44

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STATE'S PROPOSED JURY INSTRUCTIONS

2.1 PRELIMINARY INSTRUCTIONS

Ladies and gentlemen of the jury:

You have been selected and sworn as the jury to try the case of State of Florida v. Henry Dickens, Charles Enfinger, ██████████ Raymond Hauck, ██████████
██████████, Kristin Schmidt and Joseph Walsh II.

This is a criminal case. The defendants have been charged with Aggravated Manslaughter of a Person Under 18. The definition of the elements of Aggravated Manslaughter of a Person Under 18 will be explained to you later.

It is your solemn responsibility to determine if the State has proved its accusation beyond a reasonable doubt against each defendant. Your verdict must be based solely on the evidence, or lack of evidence, and the law.

The information is not evidence and is not to be considered by you as any proof of guilt.

It is the judge's responsibility to decide which laws apply to this case and to explain those laws to you. It is your responsibility to decide what the facts of this case may be, and to apply the law to those facts. Thus, the province of the jury and the province of the court are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice.

Before proceeding further, it will be helpful if you understand how a trial is conducted.

At the beginning of the trial the attorneys will have an opportunity, if they wish, to make an opening statement. The opening statement gives the attorneys a chance to tell you what evidence they believe will be presented during the trial. What the lawyers say is not evidence, and you are not to consider it as such.

Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross-examined by the attorneys. Documents and other exhibits also may be produced as evidence.

After the evidence has been presented, the attorneys will have the opportunity to make their final argument.

Following the arguments by the attorneys, the court will instruct you on the law applicable to the case.

After the instructions are given the alternate jurors will be released and you will then retire to consider your verdict.

You should not form any definite or fixed opinion on the merits of the case until you have heard all the evidence, the argument of the lawyers and the instructions on the law by the judge. Until that time you should not discuss the case among yourselves.

During the course of the trial the court may take recesses, during which you will be permitted to separate and go about your personal affairs. During these recesses you will not discuss the case with anyone nor permit anyone to say anything to you or in your presence about the case. If anyone attempts to say anything to you or in your presence about this case, tell him and/or her that you are on the jury trying the case and ask him and/or her to stop. If he and/or she persist, leave him and/or her at once and immediately report the matter to the bailiff, who will advise me.

The case must be tried by you only on the evidence presented during the trial in your presence and in the presence of the defendant, the attorneys and the judge. Jurors must not conduct any investigation of their own. Accordingly, you must not visit any of the places described in the evidence, and you must not read nor listen to any reports about the case. Further, you must not discuss this case with any person and you must not speak with the attorneys, the witnesses or the defendant about any subject until your deliberations are finished.

Give if defendant requests

In every criminal proceeding a defendant has the absolute right to remain silent. At no time is it the duty of a defendant to prove his and/or her innocence. From the exercise of a defendant's right to remain silent, a jury is not permitted to draw any inference of guilt, and the fact that a defendant did not take the witness stand must not influence your verdict in any manner whatsoever.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections they feel are proper. When an objection is made you should not speculate on the reason why it is made; likewise, when an objection is sustained, or upheld, by me, you must not speculate on what might have occurred had the objection not been sustained, nor what a witness might have said had he and/or she been permitted to answer.

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STATE'S PROPOSED JURY INSTRUCTIONS

2.7 CLOSING ARGUMENT

Both the State and the defendants have now rested their case.

The attorneys now will present their final arguments. Please remember that what the attorneys say is not evidence. However, do listen closely to their arguments. They are intended to aid you in understanding the case. Each side will have equal time, but the State is entitled to divide this time between an opening argument and a rebuttal argument after the defense has spoken.

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2007 AUG 23 A 10:44

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STATE'S PROPOSED JURY INSTRUCTIONS

3.1 INTRODUCTION TO FINAL INSTRUCTIONS

Members of the jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

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2007 AUG 23 A 10:45
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STATE'S PROPOSED JURY INSTRUCTIONS

3.2 STATEMENT OF CHARGE

Henry Dickens, Charles Enfinger, [REDACTED], Raymond Hauck, [REDACTED], [REDACTED], [REDACTED], Kristin Schmidt and Joseph Walsh II, the defendants in this case, have been accused of the crime of Aggravated Manslaughter of a Person under 18.

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2007 AUG 23 A 10:43

FILED

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06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.4 WHEN THERE ARE LESSER INCLUDED CRIMES OR ATTEMPTS

In considering the evidence, you should consider the possibility that although the evidence may not convince you that a defendant committed the main crime of which he or she is accused, there may be evidence that he or she committed other acts that would constitute a lesser included crime. Therefore, if you decide that the main accusation has not been proved beyond a reasonable doubt, you will next need to decide if the defendant is guilty of any lesser included crime. The lesser crimes indicated in the definition of Aggravated Manslaughter of a Person under 18 are:

Manslaughter

Child Neglect

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BAY COUNTY, FLORIDA

2007 AUG 23 A 10:45

FILED

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06-4016CF

06-4016CF

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BAY COUNTY

2007 AUG 23 A 10:45

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STATE'S PROPOSED JURY INSTRUCTIONS

**3.7 PLEA OF NOT GUILTY; REASONABLE DOUBT;
AND BURDEN OF PROOF**

Each defendant has entered a plea of not guilty. This means you must presume or believe each defendant is innocent. The presumption stays with each defendant as to each material allegation in the information through each stage of the trial unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome a defendant's presumption of innocence the State has the burden of proving the crime with which the defendant is charged was committed and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" are used you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if, after carefully considering, comparing and weighing all the evidence, there is not an abiding conviction of guilt, or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence or the lack of evidence.

If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

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06-4016CFM
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2007 AUG 23 A 10:45

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STATE'S PROPOSED JURY INSTRUCTIONS

3.9 WEIGHING THE EVIDENCE

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence, and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness' testimony agree with the other testimony and other evidence in the case?
6. Has the witness been offered or received any money, preferred treatment or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness' testimony?

8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave in court?
9. Was it proved that the witness had been convicted of a crime?
10. Was it proved that the general reputation of the witness for telling the truth and being honest was bad?

You may rely upon your own conclusion about the witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

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STATE'S PROPOSED JURY INSTRUCTIONS

3.9(a) EXPERT WITNESSES

Expert witnesses are like other witnesses, with one exception - the law permits an expert witness to give his or her opinion.

However, an expert's opinion is only reliable when given on a subject about which you believe him or her to be an expert.

Like other witnesses, you may believe or disbelieve all or any part of an expert's testimony.

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2007 AUG 23 A 10:45
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06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.9(c) DEFENDANT TESTIFYING

A defendant in this case has become a witness. You should apply the same rules to the consideration of the defendant's testimony that you apply to the testimony of the other witnesses.

HAROLD BAZZEL
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2007 AUG 23 A 10:45

FILED

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06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.9(d) DEFENDANT NOT TESTIFYING

The constitution requires the State to prove its accusations against the defendant. It is not necessary for the defendant to disprove anything. Nor is the defendant required to prove [his] [her] innocence. It is up to the State to prove the defendant's guilt by evidence.

A defendant exercised a fundamental right by choosing not to be a witness in this case. You must not view this as an admission of guilt or be influenced in any way by the defendant's decision. No juror should ever be concerned that the defendant did or did not take the witness stand to give testimony in the case.

HAROLD BAZZEL
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2007 AUG 23 A 10:45

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06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.9(e) DEFENDANT'S STATEMENTS

A statement claimed to have been made by a defendant outside of court has been placed before you. Such a statement should always be considered with caution and be weighed with great care to make certain it was freely and voluntarily made.

Therefore, you must determine from the evidence that the defendant's alleged statement was knowingly, voluntarily and freely made.

In making this determination, you should consider the total circumstances, including but not limited to

1. whether, when the defendant made the statement, he or she had been threatened in order to get him or her to make it, and
2. whether anyone had promised him or her anything in order to get him or her to make it.

If you conclude the defendant's out of court statement was not freely and voluntarily made, you should disregard it.

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2007 AUG 23 A 10:45

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2007 AUG 23 A 10:45

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STATE'S PROPOSED JURY INSTRUCTIONS

3.10 RULES FOR DELIBERATION

These are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict:

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter.
2. This case must be decided only upon the evidence that you have heard from the testimony of the witnesses [and have seen in the form of the exhibits in evidence] and these instructions.
3. This case must not be decided for or against anyone because you feel sorry for anyone, or are angry at anyone.
4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decision in this case.
5. Your duty is to determine if the defendant has been proven guilty or not, in accord with the law. It is the judge's job to determine a proper sentence if the defendant is guilty.
6. Whatever verdict you render must be unanimous, that is, each juror must agree to the same verdict.

7. It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited by talking to a lawyer about his or her testimony.
8. Your verdict should not be influenced by feelings of prejudice, bias or sympathy. Your verdict must be based on the evidence, and on the law contained in these instructions.

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CLERK OF COURT
BAY COUNTY
FLORIDA

2007 AUG 23 A 10:45

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STATE'S PROPOSED JURY INSTRUCTIONS

7.1 INTRODUCTION TO HOMICIDE

In this case each defendant is accused of Aggravated Manslaughter of a Person under 18.

Aggravated Manslaughter of a Person under 18 includes the lesser crime of Manslaughter, both of which are unlawful.

A killing that is excusable or was committed by the use of justifiable deadly force is lawful.

If you find Martin Lee Anderson was killed by one or more of the defendants, you will then consider the circumstances surrounding the killing in deciding if the killing was Aggravated Manslaughter of a Person under 18, or was Manslaughter, or whether the killing was excusable or resulted from justifiable use of deadly force.

JUSTIFIABLE HOMICIDE
§ 782.02, Fla. Stat.

The killing of a human being is justifiable homicide and lawful if necessarily done while resisting an attempt to murder or commit a felony upon the defendant, or to commit a felony in any dwelling house in which the defendant was at the time of the killing.

EXCUSABLE HOMICIDE
§ 782.03, Fla. Stat.

The killing of a human being is excusable, and therefore lawful, under any one of the following three circumstances:

1. When the killing is committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution and without any unlawful intent, or
2. When the killing occurs by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation, or
3. When the killing is committed by accident and misfortune resulting from a sudden combat, if a dangerous weapon is not used and the killing is not done in a cruel or unusual manner.

"Dangerous weapon" is any weapon that, taking into account the manner in which it is used, is likely to produce death or great bodily harm.

I now instruct you on the circumstances that must be proved before a defendant may be found guilty of Aggravated Manslaughter of a Person under 18, or any lesser included crime.

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06-4016CFMD

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06-4016CFME
06-4016CFMF

2001 AUG 23 A 10:45

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to Henry Dickens, to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. Henry Dickens caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. Henry Dickens was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act

or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

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2007 AUG 23 A 10:46

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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to Henry Dickens, to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of Henry Dickens.

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

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06-4016CFMA
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2007 AUG 23 A 10:46

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STATE'S PROPOSED JURY INSTRUCTIONS

**16.6 NEGLECT OF A CHILD
§ 827.03(3)(c), Fla. Stat.**

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to Henry Dickens, to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. Henry Dickens by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. Henry Dickens was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

"Caregiver" means a parent, adult household member, or other person responsible for a child's welfare.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CF MA

06-4016CF MB

06-4016CF MD

06-4016CF ME

06-4016CF MF

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to Charles Enfinger, to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. Charles Enfinger caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. Charles Enfinger was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an

utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

[REDACTED]
RAYMOND HAUCK

[REDACTED]
KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA
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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to Charles Enfinger, to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of Charles Enfinger.

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
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RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA

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STATE'S PROPOSED JURY INSTRUCTIONS

16.6 NEGLECT OF A CHILD

§ 827.03(3)(c), Fla. Stat.

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to Charles Enfinger, to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. Charles Enfinger by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. Charles Enfinger was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

"Caregiver" means a parent, adult household member, or other person responsible for a child's welfare.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

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IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to [REDACTED] to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. [REDACTED] caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. [REDACTED] was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act

or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.:

06-4016

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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BAY COUNTY

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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to [REDACTED] to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of [REDACTED]

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

16.6 NEGLECT OF A CHILD

§ 827.03(3)(c), Fla. Stat.

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to [REDACTED] to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. [REDACTED] by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. [REDACTED] was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

"Caregiver" means a parent, adult household member, or other person responsible for a child's welfare.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to Raymond Hauck, to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. Raymond Hauck caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. Raymond Hauck was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an

utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

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Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to Raymond Hauck, to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of Raymond Hauck.

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
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CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

16.6 NEGLECT OF A CHILD

§ 827.03(3)(c), Fla. Stat.

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to Raymond Hauck, to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. Raymond Hauck by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. Raymond Hauck was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

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I will now define what is meant by the term “culpable negligence”: Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

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OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

██████████
RAYMOND HAUCK

████████████████████
KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to ██████████ to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. ██████████ caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. ██████████ was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an

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“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

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Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

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CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.:

06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA

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BAY COUNTY

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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to [REDACTED] to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of [REDACTED].

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS

PATRICK GARRETT

RAYMOND HAUCK

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06-4016CFMA

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STATE'S PROPOSED JURY INSTRUCTIONS

16.6 NEGLECT OF A CHILD

§ 827.03(3)(c), Fla. Stat.

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to [REDACTED] to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. [REDACTED] by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. [REDACTED] was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

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IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to [REDACTED], to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. [REDACTED] caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. [REDACTED] was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an

utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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BAY COUNTY
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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to [REDACTED], to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of [REDACTED]

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
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JOSEPH WALSH II

06-4016CF
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STATE'S PROPOSED JURY INSTRUCTIONS

16.6 NEGLECT OF A CHILD

§ 827.03(3)(c), Fla. Stat.

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to [REDACTED] to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. [REDACTED] by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. [REDACTED] was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

"Caregiver" means a parent, adult household member, or other person responsible for a child's welfare.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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HAROLD BAZZEE
CLERK OF CIRCUIT COURT
BAY COUNTY, FLORIDA

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to Kristin Schmidt, to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. Kristin Schmidt caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. Kristin Schmidt was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to Kristin Schmidt, to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of Kristin Schmidt.

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

**16.6 NEGLECT OF A CHILD
§ 827.03(3)(c), Fla. Stat.**

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to Kristin Schmidt, to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. Kristin Schmidt by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. Kristin Schmidt was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

"Caregiver" means a parent, adult household member, or other person responsible for a child's welfare.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016C

v.

HENRY DICKENS
CHARLES ENFINGER

[REDACTED]

RAYMOND HAUCK

[REDACTED]

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016C

06-4016CFMG

[REDACTED]

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[REDACTED]

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HAROLD S. SMITH
CLERK CIRCUIT COURT
BAY COUNTY

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STATE'S PROPOSED JURY INSTRUCTIONS

**AGGRAVATED MANSLAUGHTER OF A PERSON UNDER 18
§782.07(3) and §827.03(3)**

As to Joseph Walsh II, to prove the crime of Aggravated Manslaughter of a Person under 18, the State must prove the following four elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. Joseph Walsh II caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.
3. Joseph Walsh II was a caregiver for Martin Lee Anderson.
4. Martin Lee Anderson was under the age of 18 years.

However, the defendant cannot be guilty of Aggravated Manslaughter of a Person under 18 if the killing was either justifiable or excusable homicide as I have previously explained those terms.

A person who causes the death of a person under the age of 18 by culpable negligence by neglect of a child commits Aggravated Manslaughter of a Person under 18.

I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable

negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child;

or

2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

“Child” means any person under the age of 18 years.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Citations of authority:

Florida Statute §782.07(3)

Florida Statute §827.03(3)

Standard Instruction 16.6 (Neglect of a Child)

Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001)

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

[REDACTED]
RAYMOND HAUCK

[REDACTED]
KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA

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BAY COUNTY
CLERK OF COURT

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STATE'S PROPOSED JURY INSTRUCTIONS

**7.7 MANSLAUGHTER
§ 782.07, Fla. Stat.**

As to Joseph Walsh II, to prove the lesser-included crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Martin Lee Anderson is dead.
2. The death of Martin Lee Anderson was caused by the culpable negligence of Joseph Walsh II.

However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms.

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

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STATE'S PROPOSED JURY INSTRUCTIONS

16.6 NEGLECT OF A CHILD

§ 827.03(3)(c), Fla. Stat.

(Without Great Bodily Harm, Permanent Disability, or Permanent Disfigurement)

As to Joseph Walsh II, to prove the lesser-included crime of Neglect of a Child, the state must prove the following three elements beyond a reasonable doubt:

1. Joseph Walsh II by culpable negligence failed or omitted to provide Martin Lee Anderson with the care, supervision, and services necessary to maintain the victim's physical or mental health, or failed to make a reasonable effort to protect Martin Lee Anderson from abuse, neglect, or exploitation by another person.
2. Joseph Walsh II was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

"Child" means any person under the age of 18 years.

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I will now define what is meant by the term "culpable negligence": Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any

conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known or reasonably should have known, was likely to cause death or great bodily harm.

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

06-4016CFMA
06-4016CFMB

[REDACTED]
RAYMOND HAUCK

[REDACTED]
06-4016CFMD

[REDACTED]
KRISTIN SCHMIDT
JOSEPH WALSH II

[REDACTED]
06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

PREEXISTING MEDICAL CONDITION

You have heard evidence of a preexisting medical condition of Martin Lee Anderson. Defendants take their victims as they find them and cannot be excused from guilt because of a victim's condition alone.

Citations of authority:

Weir v. State, 777 So.2d 1073, 1075 (Fla. 4th DCA 2001)
Swan v. State, 382 So.2d 485, 487 (Fla. 1975)

HAROLD BAZZEL
CLERK CIRCUIT COURT
BAY COUNTY, FLORIDA

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IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

06-4016CFMA
06-4016CFMB

[REDACTED]
RAYMOND HAUCK

[REDACTED]
06-4016CFMD

[REDACTED]
KRISTIN SCHMIDT
JOSEPH WALSH II

[REDACTED]
06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.11 CAUTIONARY INSTRUCTION

Deciding a verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think I preferred one verdict over another.

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HAROLD BAZZEL
CLERK CIRCUIT COURT
BAY COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

[REDACTED]
RAYMOND HAUCK

[REDACTED]
KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA
06-4016CFMB
06-4016CFMC
06-4016CFMD

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STATE'S PROPOSED JURY INSTRUCTIONS

3.12 VERDICT

You may find the defendant guilty as charged in the information or guilty of such lesser included crime as the evidence may justify or not guilty.

If you return a verdict of guilty, it should be for the highest offense which has been proven beyond a reasonable doubt. If you find that no offense has been proven beyond a reasonable doubt, then, of course, your verdict must be not guilty.

Only one verdict may be returned as to the crime charged. This verdict must be unanimous, that is, all of you must agree to the same verdict. The verdict must be in writing and for your convenience the necessary forms of verdict have been prepared for you. They are as follows:

HAROLD BAZZEL
CLERK CIRCUIT COURT
BAY COUNTY, FLORIDA

2007 AUG 23 A 10:48

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IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMA

06-4016CFMB

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HAROLD BAZZEL
CLERK OF COURT
BAY COUNTY
FLORIDA

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STATE'S PROPOSED JURY INSTRUCTIONS

VERDICT FORM

As to defendant Henry Dickens, we, the jury, find as follows: (check only one)

- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.

As to defendant Charles Enfinger, we, the jury, find as follows: (check only one)

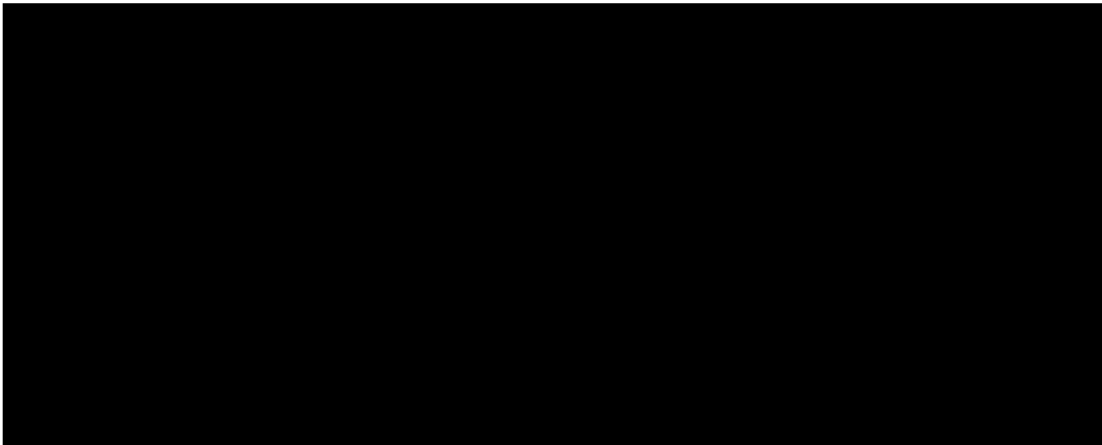
- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.

As to defendant [REDACTED] we, the jury, find as follows: (check only one)

- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.

As to defendant Raymond Hauck, we, the jury, find as follows: (check only one)

- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.



As to defendant [REDACTED] we, the jury, find as follows: (check only one)

- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.

As to defendant Kristin Schmidt, we, the jury, find as follows: (check only one)

- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.

As to defendant Joseph Walsh II, we, the jury, find as follows: (check only one)

- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Child Neglect.
- D. The defendant is not guilty.

SO SAY WE ALL, dated this _____ day of October, 2007.

Foreperson of the Jury

IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

06-4016CFMA
06-4016CFMB

RAYMOND HAUCK

06-4016CFMD

KRISTIN SCHMIDT
JOSEPH WALSH II

06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.12(b) SINGLE COUNT, MULTIPLE DEFENDANTS

The defendants have been tried together; however, you must consider each defendant and the evidence applicable to him or her separately. You may find any defendant guilty or not guilty. However, your verdict as to one defendant must not affect your verdict as to the others.

HAROLD BAZZEL
CLERK CIRCUIT COURT
BAY COUNTY, FLORIDA

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IN THE CIRCUIT COURT OF THE FOURTEEN JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO.: 06-4016CF

v.

HENRY DICKENS
CHARLES ENFINGER

06-4016CFMA
06-4016CFMB

[REDACTED]
RAYMOND HAUCK

06-4016CFMD

[REDACTED]
KRISTIN SCHMIDT
JOSEPH WALSH II

[REDACTED]
06-4016CFMG
06-4016CFMH

STATE'S PROPOSED JURY INSTRUCTIONS

3.13 SUBMITTING CASE TO JURY

In just a few moments you will be taken to the jury room by the bailiff. The first thing you should do is elect a foreperson who will preside over your deliberations, like a chairperson of a meeting. It is the foreperson's job to sign and date the verdict form when all of you have agreed on a verdict in this case and to bring the verdict back to the courtroom when you return.

Your verdict finding each defendant either guilty or not guilty must be unanimous. The verdict must be the verdict of each juror, as well as of the jury as a whole.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdict. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For two centuries we have lived by the constitution and the law. No juror has the right to violate rules we all share.

HAROLD BAZZEL
CLERK CIRCUIT COURT
BAY COUNTY, FLORIDA

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I HEREBY CERTIFY that a copy of the foregoing has been furnished to Hoot Crawford, attorney for Henry Dickens, at 748 Jenks Avenue, P.O. Box 1103, Panama City, Florida 32402; Walter B. Smith, Deputy Public Defender, attorney for Charles Enfinger, at 115 East 4th Street, P.O. Box 580, Panama City, Florida 32402-0580; Robert Sombathy, attorney for [REDACTED] at P.O. Box 430, Panama City, Florida 32402; James H. White, Jr., attorney for Raymond Hauck, at 229 McKenzie Avenue, Panama City, Florida 32401; [REDACTED] 327, Panama City, Florida 32402-0327; Jonathan Dingus, attorney for [REDACTED] [REDACTED] at 527 Jenks Avenue, Panama City, Florida 32401; Ashley Benedik, attorney for Kristin Schmidt, at 1004 Jenks Avenue, Panama City, Florida 32401; and Robert Pell, attorney for Joseph Walsh II, at 514 Magnolia Avenue, P.O. Box 651, Panama City, Florida 32401, via U.S. mail, on this 22nd day of August, 2007.

MARK A. OBER
STATE ATTORNEY



Michael C. Sinacore
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Florida Bar #0868523