

**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.

DATE 10-12-07 <sup>FILED</sup> TIME 9:52 AM

HAROLD BAZZEL  
CLERK OF CIRCUIT COURT

BY *Colin Lipz*

### 3.2 STATEMENT OF CHARGE

Henry Dickens, Charles Enfinger, [REDACTED], Raymond Hauck, [REDACTED]  
[REDACTED] Henry McFadden Jr., 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.

### **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

Neglect of a Child

Culpable Negligence

### **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.

### 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.

### **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.

### **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.

### **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.



### **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.

## **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.

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

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.

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 was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.

**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 directly and proximately 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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of 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.

## **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.

**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

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

1. Henry Dickens exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.



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

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.

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 was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.

## **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 directly and proximately 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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

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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.

## **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.

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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.

## **8.9 CULPABLE NEGLIGENCE**

### **§ 784.05, Fla. Stat.**

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

1. Charles Enfinger exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

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**§782.07(3) and §827.03(3)**

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.

As to Patrick Garrett, 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. Patrick Garrett was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

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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.

## **7.7 MANSLAUGHTER**

### **§ 782.07, Fla. Stat.**

As to Patrick Garrett, 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 directly and proximately caused by the culpable negligence of Patrick Garrett.

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

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

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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.



## 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] is 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.

**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

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

1. [REDACTED] exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

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

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.

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 was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.

**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 directly and proximately 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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of 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.

## **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.

“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.

**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

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

1. Raymond Hauck exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

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

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.

As to Charles Helms, Jr., 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 Helms, Jr. was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.

**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 directly and proximately 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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of 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.

## 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.

**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

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

1. [REDACTED] exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

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

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.

As to Henry McFadden, Jr., 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 McFadden, Jr. was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.

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

As to Henry McFadden, Jr., 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 directly and proximately caused by the culpable negligence of Henry McFadden, Jr.

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

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of 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.

## **16.6 NEGLECT OF A CHILD**

### **§ 827.03(3)(c), Fla. Stat.**

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

As to Henry McFadden, Jr, 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 McFadden, Jr. 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 McFadden, Jr. 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.



**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

As to Henry McFadden, Jr., to prove the lesser-included crime of Culpable Negligence, the State must prove the following two elements beyond a reasonable doubt:

1. Henry McFadden, Jr. exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

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

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.

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 was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.

## **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 directly and proximately 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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of 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.

## **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.

**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

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

1. Kristin Schmidt exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. She did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

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

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.

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 was a caregiver for Martin Lee Anderson.
3. Martin Lee Anderson was under the age of 18 years.
4. The defendant directly and proximately caused the death of Martin Lee Anderson by neglecting Martin Lee Anderson through culpable negligence.

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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of justifiable or excusable homicide as I have previously explained those terms.

“culpable negligence” is defined as follows: 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.

“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.



## **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 directly and proximately 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.

“directly caused the death” means that but for the culpable negligence of the defendant, Martin Lee Anderson would not have died.

Culpably negligent conduct can directly cause the death of an individual if the culpably negligent conduct aggravates a pre-existing medical condition and as a consequence, the pre-existing medical condition causes the death of an individual.

However, a defendant cannot directly cause the death of an individual if the death of the individual would have occurred, in any event, regardless of the culpably negligent conduct of the defendant.

“proximately caused the death” means that (1) the death of the victim was reasonably foreseeable; so that it can be said that the death of the victim is not beyond the scope of any fair assessment of the danger created by the defendant’s conduct, and (2) the conduct does not fall within the definition of 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.

## **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.

“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.

**8.9 CULPABLE NEGLIGENCE**  
**§ 784.05, Fla. Stat.**

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

1. Joseph Walsh II exposed Martin Lee Anderson to personal injury or inflicted actual personal injury on Martin Lee Anderson.
2. He did so through culpable negligence.

Actual injury is not required.

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 for human life, or for 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 shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

### **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.

### **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:

IN THE CIRCUIT COURT OF THE FOURTEENTH 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

HENRY MCFADDEN, JR.  
KRISTIN SCHMIDT  
JOSEPH WALSH II

06-4016CFMF

06-4016CFMG

06-4016CFMH


**VERDICT FORM**

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

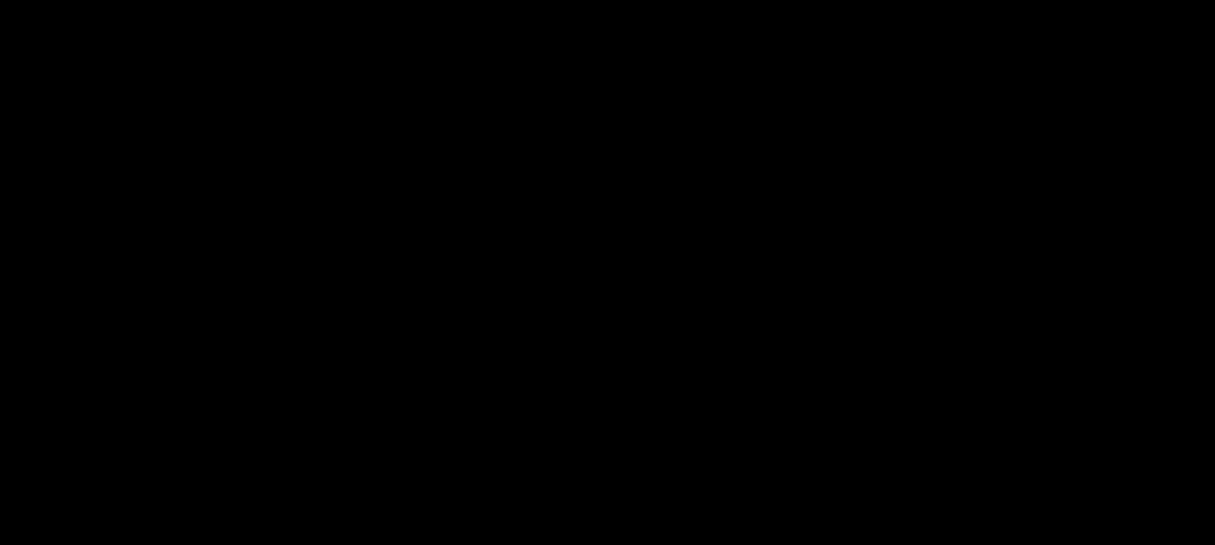
- A. The defendant is guilty of Aggravated Manslaughter of a Person under 18, as charged.
- B. The defendant is guilty of Manslaughter.
- C. The defendant is guilty of Neglect of a Child.
- D. The defendant is guilty of Culpable Negligence.
- E. The defendant is not guilty.

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 Neglect of a Child.
- D. The defendant is guilty of Culpable Negligence.
- E. 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 Neglect of a Child.
  - D. The defendant is guilty of Culpable Negligence.
  - E. The defendant is not guilty.
- 

As to defendant Henry McFadden, Jr., 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 Neglect of a Child.
- D. The defendant is guilty of Culpable Negligence.
- E. 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 Neglect of a Child.
- D. The defendant is guilty of Culpable Negligence.
- E. 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 Neglect of a Child.
- D. The defendant is guilty of Culpable Negligence.
- E. The defendant is not guilty.

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

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Foreperson of the Jury

### **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.

### **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.