

## SUPREME COURT OF FLORIDA

# In re Standard Jury Instructions in Criminal Cases—Instruction in Manslaughter Cases

911 So. 2d 1220 (Fla. 2005) · Decided September 8, 2005

### SUMMARY

The Florida Supreme Court authorized publication of a modified comment to Florida Standard Jury Instruction (Criminal) 7.7, “Manslaughter.” The comment directs trial judges to study *Eversley v. State* when causation is at issue, and the appendix sets out the amended manslaughter instruction.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                              |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Florida                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Pariente, C.J.; Wells, J.; Anstead, J.; Lewis, J.; Quince, J.; Cantero, J.; Bell, J.                                                                                                                                                                         |
| JURISDICTION          | Florida                                                                                                                                                                                                                                                      |
| DECIDED               | September 8, 2005                                                                                                                                                                                                                                            |
| DISPOSITION           | approved                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | The Supreme Court of Florida considered a proposed amendment to Florida Standard Jury Instruction (Criminal) 7.7, Manslaughter, submitted by the Supreme Court Committee on Standard Jury Instructions in Criminal Cases in response to the Court's request. |
| PRECEDENTIAL VALUE    | Published Supreme Court of Florida opinion authorizing and modifying a standard criminal jury instruction.                                                                                                                                                   |

### TOPICS

standard jury instructions

jury instructions

lesser included offense instructions

criminal procedure

### PRACTICE AREAS

criminal procedure

jury instructions

### QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida should authorize publication of the proposed amendment to Florida Standard Jury Instruction (Criminal) 7.7, Manslaughter.

2. When should trial judges consider a special causation instruction in a manslaughter case?

## HOLDINGS

1. The Supreme Court of Florida authorized publication of Florida Standard Jury Instruction (Criminal) 7.7, Manslaughter, as modified by the Court.
2. The amended manslaughter instruction became effective on the date the opinion became final.
3. In a manslaughter case in which causation is an issue, trial judges should carefully study *Eversley v. State* to determine whether a special jury instruction on causation is needed.

## KEY QUOTATIONS

*“We hereby authorize the publication of the new comment to the jury instructions as modified by the Court and set forth in the appendix to this opinion.”* (911 So. 2d 1220)

*“Trial judges should carefully study *Eversley v. State*, 7k8 So.2d 968 (Fla.1999), in any manslaughter case in which causation is an issue to determine if a special jury instruction on causation is needed.”* (1221)

## FACTUAL BACKGROUND

The Supreme Court Committee on Standard Jury Instructions in Criminal Cases proposed an amendment to the manslaughter instruction. The amendment added a comment concerning the need to study *Eversley v. State* when causation is disputed and also included revised instruction language. No comments were received after publication of the proposal.

## PROCEDURAL HISTORY

The committee proposed adding a comment directing trial judges to study *Eversley v. State* in manslaughter cases involving causation. The proposal was published in *The Florida Bar News*, no comments were received, and the Court authorized publication of the amended instruction as modified.

## DISPOSITION

approved

## CASES CITED

- *Eversley v. State*, 748 So. 2d 963 (Fla. 1999)
- *Hedges v. State*, 172 So.2d 82k (Fla.1965)

## OPINION

In re Standard Jury Instructions in Criminal Cases-Instruction in Manslaughter Cases  
911 So. 2d 1220

PER CURIAM.

PER CURIAM. In response to the request of this Court, the Supreme Court Committee on

Standard Jury Instructions in Criminal Cases has proposed an amendment to current Florida Standard Jury Instruction (Criminal) 7.7, “Manslaughter.” The proposed amendment adds a comment to the manslaughter instruction directing trial judges to carefully study *Eversley v. State*, 748 So.2d 963 (Fla.1999), in any manslaughter case in which causation is an issue. We have jurisdiction. See art. V, § 2(a), Fla. Const. The proposed comment was published in the February 15, 2005, edition of The Florida Bar News. No comments were received. We hereby authorize the publication of the new comment to the jury instructions as modified by the Court and set forth in the appendix to this opinion. New language is indicated by underlining. The amended language shall become effective on the date this opinion becomes final. It is so ordered. PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur.

\*1221APPENDIX

#### MANSLAUGHTER

§ 782.07, Fla. Stat. To prove the crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. (Victim) is dead.

Give 2a, 2b, or 2c depending upon allegations and proof

2. a (Defendant) intentionally caused the death of (victim).

b. (Defendant) intentionally procured the death of (victim). c. The death of (victim) was caused by the culpable negligence of (defendant). However, the defendant cannot be guilty of manslaughter if the killing was either justifiable or excusable homicide as I have previously explained those terms. Give only if 2b alleged and proved To “procure” means to persuade, induce, prevail upon or cause a person to do something. Give only if 2c alleged and proved 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 for 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. Give only if 2(a) alleged and proved, and manslaughter is being defined as a lesser included offense of first degree premeditated murder In order to convict of manslaughter by intentional act, it is not necessary for the State to prove that the defendant had a premeditated intent to cause death. Comment In the event of any reinstruction on manslaughter, the instructions on justifiable and excusable homicide as previously given should

be given at the same time. *Hedges v. State*, 172 So.2d 82k (Fla.1965). In appropriate cases, an instruction on transferred intent should be given. Trial judges should carefully study *Ev-ersley v. State*, 7k8 So.2d 968 (Fla.1999), in any manslaughter case in which causation is an issue to determine if a special jury instruction on causation is needed. This instruction was adopted in 1981 and amended in 1985,1992, and 1994.

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