

EXHIBIT AS

SUPREME COURT OF NEW SOUTH WALES

MFI

42

JUDGE

GRAHAM BARR J.

R

v

K.M. FOLBIGG

CASE No.

70046/02

DATE

19.5.03

RETURN TO

To remain on Court file.

ASSOCIATE



R v Kathleen Megan FOLBIGG

Written Directions

Murder

Murder is committed when –

- the act of the accused causes the death of the deceased, and
- at the time of the act or omission the accused –
 - (a) intends to kill, or
 - (b) intends to do grievous bodily harm, or
 - (c) fully realises that the deceased will probably die but goes on and takes the risk.

Note

Grievous bodily harm means really serious bodily injury.

Manslaughter

Manslaughter is committed when –

- the act of the accused causes the death of the deceased,
- the act is unlawful, and
- the act is dangerous.

Notes

1. It is unlawful to apply force or restraint to a person without permission.
2. An act is dangerous if a reasonable person in the position of the accused would realise that it exposed somebody to an appreciable risk of serious injury.
3. The accused does not have to realise that the act is dangerous.

Malicious infliction of grievous bodily harm with intent to do grievous bodily harm

The offence of malicious infliction of grievous bodily harm with intent to do grievous bodily harm is committed when –

- the accused inflicts grievous bodily harm upon a person, and
- in doing so the accused intends to cause grievous bodily harm.

Note

Grievous bodily harm means really serious bodily injury.

R v Kathleen Megan FOLBIGG

Questions for the Jury

COUNT 1: MURDER OR MANSLAUGHTER OF CALEB

1. Are you satisfied beyond reasonable doubt that the accused did an act that caused the death of Caleb?

If the answer is yes, go to question 2.

If the answer is no, find the accused not guilty.

2. Are you satisfied beyond reasonable doubt that when she did the act the accused either

(a) intended to kill Caleb, or

(b) intended to do him really serious bodily injury, or

(c) fully realised that if she did the act death would probably follow but went on with the act and took the risk?

If the answer to (a), (b) or (c) is yes, find the accused guilty of murder.

If the answer to all of (a), (b) and (c) is no, find the accused not guilty of murder and go to question 3.

3. Was the act unlawful?

If the answer is yes, go to question 4.

4. Was the act dangerous?

If the answer is yes, find the accused guilty of manslaughter.

If the answer is no, find the accused not guilty.

**COUNT 2: MALICIOUS INFLICTION OF GRIEVOUS BODILY HARM UPON
PATRICK WITH INTENT TO DO GRIEVOUS BODILY HARM**

5. Are you satisfied beyond reasonable doubt that the accused inflicted really serious bodily injury upon Patrick?

If the answer is yes, go to question 6.

If the answer is no, find the accused not guilty.

6. Are you satisfied beyond reasonable doubt that when she inflicted the injury the accused intended to do Patrick really serious bodily injury?

If the answer is yes, find the accused guilty.

If the answer is no, find the accused not guilty.

COUNT 3: MURDER OR MANSLAUGHTER OF PATRICK

on 13 February 1991

7. Are you satisfied beyond reasonable doubt that the accused did an act that caused the death of Patrick?

If the answer is yes, go to question 8.

If the answer is no, find the accused not guilty.

8. Are you satisfied beyond reasonable doubt that when she did the act the accused either

(a) intended to kill Patrick, or

(b) intended to do him really serious bodily injury, or

(c) fully realised that if she did the act death would probably follow but went on with the act and took the risk?

If the answer to (a), (b) or (c) is yes, find the accused guilty of murder.

If the answer to all of (a), (b) and (c) is no, find the accused not guilty of murder and go to question 9.

9. Was the act unlawful?

If the answer is yes, go to question 10.

10. Was the act dangerous?

If the answer is yes, find the accused guilty of manslaughter.

If the answer is no, find the accused not guilty.

COUNT 4: MURDER OR MANSLAUGHTER OF SARAH

11. Are you satisfied beyond reasonable doubt that the accused did an act that caused the death of Sarah?

If the answer is yes, go to question 12.

If the answer is no, find the accused not guilty.

12. Are you satisfied beyond reasonable doubt that when she did the act the accused either

(a) intended to kill Sarah, or

(b) intended to do her really serious bodily injury, or

(c) fully realised that if she did the act death would probably follow but went on with the act and took the risk?

If the answer to (a), (b) or (c) is yes, find the accused guilty of murder.

If the answer to all of (a), (b) and (c) is no, find the accused not guilty of murder and go to question 13.

13. Was the act unlawful?

If the answer is yes, go to question 14.

14. Was the act dangerous?

If the answer is yes, find the accused guilty of manslaughter.

If the answer is no, find the accused not guilty.

COUNT 5: MURDER OR MANSLAUGHTER OF LAURA

15. Are you satisfied beyond reasonable doubt that the accused did an act that caused the death of Laura?

If the answer is yes, go to question 16.

If the answer is no, find the accused not guilty.

16. Are you satisfied beyond reasonable doubt that when she did the act the accused either

(a) intended to kill Laura, or

(b) intended to do her really serious bodily injury, or

(c) fully realised that if she did the act death would probably follow but went on with the act and took the risk?

If the answer to (a), (b) or (c) is yes, find the accused guilty of murder.

If the answer to all of (a), (b) and (c) is no, find the accused not guilty of murder and go to question 17.

17. Was the act unlawful?

If the answer is yes, go to question 18.

18. Was the act dangerous?

If the answer is yes, find the accused guilty of manslaughter.

If the answer is no, find the accused not guilty.