

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA,

CRIMINAL DIVISION "W"  
CASE NO. 502010CF005829AXXXMB

vs.

JOHN B. GOODMAN,

Defendant.

FILED  
2014 MAR 27 PM 4:28  
SHARON R. BOCK, CLERK  
PALM BEACH COUNTY  
CIRCUIT CRIMINAL

**ORDER AMENDING JURY INSTRUCTION ON THE FAILURE TO  
RENDER AID ENHANCEMENT FOR COUNT 1 AND COUNT 2**

**THIS CAUSE** came before the Court on Defendant's "Motion to Prohibit State's Use of the 'Failure to Render Aid' Enhancement for the DUI Manslaughter and Vehicular Homicide Charges or Alternatively to Require Jury Instructions that Said Enhancement Requires Willful Criminal Intent," filed February 19, 2014. After a review of the Motion, the argument of counsel at the hearing held on March 24, 2014, and relevant case law, the court makes the following findings of fact and conclusions of law:

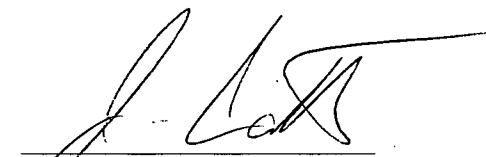
The State of Florida charged Defendant by Information with DUI Manslaughter and Failure to Render Aid (Count 1) and Vehicular Homicide-Fail to Give Aid/Information (Count 2). In his Motion, Defendant requests the Court amend Florida Standard Jury Instructions 7.8 and 7.9 which are applicable to Count 1 and Count 2, respectively. Specifically, Defendant seeks modification of the term "willfully."

With respect to Florida Standard Jury Instruction 7.8, the State concedes subsection (4)(a) requires amendment to read that Defendant "knew that the accident occurred, ...." The Court agrees with this amendment due to the recent decision of the Fourth District Court of Appeal in the case of *Dorsett v. State*, 38 Fla. L. Weekly D233a (Fla. 4th DCA 2013), *rev. granted*, 122 So. 3d 869 (Fla. 2013), which imposed a knowledge requirement that the accident occurred. Less

clear is the necessity of amending subsection (4)(b) since *Dorsett* did not impact the holding of *State v. Mancuso*, 652 So. 2d 370 (Fla. 1995), which determined “knew or should have known” language was proper for a defendant’s knowledge of the resulting injury. Since the opinion in *Mancuso* did not resolve whether the knowledge requirement related to the accident itself, the *Dorsett* court requested the Florida Supreme Court revisit this issue. Therefore, since *Mancuso* is still good law if and until the Florida Supreme Court resolves this matter upon review of *Dorsett*, the Court declines to strike the language of “or should have known” from subsection(4)(b) for the knowledge requirement of any resulting injury as a result of the accident. With respect to Standard Jury Instruction 7.9 for Count 2, the Court strikes at the urging of the parties, the sentence “[h]owever, the State is not required to prove the Defendant knew that the accident resulted in injury or death.”

Accordingly, Defendant’s Motion to Prohibit State’s Use of the ‘Failure to Render Aid’ Enhancement for the DUI Manslaughter and Vehicular Homicide Charges or Alternatively to Require Jury Instructions that Said Enhancement Requires Willful Criminal Intent is hereby **GRANTED IN PART AND DENIED WITHOUT PREJUDICE.**

**DONE AND ORDERED,** in Chambers at West Palm Beach, Palm Beach County, Florida this 27<sup>th</sup> day of March, 2014.



JEFFREY COLBATH  
CIRCUIT JUDGE

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