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**Case Name:** [Gary Patrick Reeves v. The State of Texas](#)

- OFFENSE: Murder
- COUNTY: Harris
- COURT OF APPEALS: Houston [1st] 2012
- C/A CITATION: Unpublished
- C/A RESULT: Conviction Reversed
- CCA. CASE No. PD-1711-12      DATE OF OPINION: September 18, 2013
- DISPOSITION: Court of Appeals Affirmed
- OPINION: [Cochran, J.](#)      VOTE: 9-0
- TRIAL COURT: 174th D/C; Ruben Guerrero
- LAWYERS: [Terrence Gaiser](#) (Defense);

 **322.01 Court's Charge / [Almanza Rule](#) / Harmless Error Analysis:** Appellant was charged with the murder of his friend, Jeromie Jackson. At trial, Appellant admitted that he stabbed Jeromie, but claimed he did so in self defense. The trial judge instructed the jury on the issue of self defense, but, over Appellant's objection, he also instructed the jury on provocation as a qualification on the self-defense issue. The jury rejected Appellant's self-defense claim, found him guilty of murder. On appeal, Appellant raised one claim: The trial judge erred by including the provocation instruction over his timely objection. The Court of Appeals agreed, and, finding that Appellant had suffered some harm under [Almanza v. State](#), reversed the conviction and ordered a new trial. The Court of Criminal Appeals granted the SPA's petition to review only the Court of Appeals's determination that Appellant suffered harm from the inclusion of the provocation instruction.

**Holding:** In this case, (1) the State misspoke about the law of provocation and then told the jury to pay careful attention to the erroneous instruction, and (2) the evidence concerning self defense was hotly contested and Appellant's version of events was, at a minimum, plausible, and, if believed, exonerating. After considering all four of the [Almanza](#) factors, we conclude that Appellant suffered some harm when the jury was instructed on the provocation doctrine absent any evidentiary support. We therefore affirm the judgment of the Court of Appeals.