

Holding: The Court of Appeals reasoned, in part, that Appellant did not suffer actual harm because the jury instructions included alternative manner and means as well as alternative mental states, some of which were correct. *** Thus, the court below determined that any harm was merely theoretical because the jury could have relied on the proper definitions within the charge as a basis to convict Appellant. *** We do not agree entirely with this portion of the Court of Appeals' reasoning. After all, it was at least possible that the jury could have relied on the improper definition in convicting Appellant, notwithstanding the inclusion of the other proper theories and definitions. However, we do agree with the Court of Appeals' ultimate conclusion that, based on a complete review of the record in light of the *Almanza* factors, the trial court's definition of "intentionally," if erroneous, was harmless. *** Indeed, the record reveals that this is an instance in which: (1) the application paragraph of the charge limited the jury's consideration to the appropriate portion of the culpable mental state definitions; (2) the State presented compelling evidence of Appellant's guilt, in contrast to Appellant's defensive evidence which was weak and contradicted by the entire record; and (3) the parties focused their arguments on whether Appellant intended the result in causing Jade's death. Accordingly, in view of the totality of the record as *Almanza* requires, we conclude that Appellant was not actually harmed by the alleged charge error.

([David A. Schulman](#)) I wasn't persuaded that the error was harmless by the majority opinion below, I'm still not convinced.

([John G. Jasuta](#)) Ah the old "yeah, there is error but it's harmless" routine. Instead of asking whether the evidence was "compelling" to the jury, we only ask whether it is "compelling" to this group of judges, none of whom, I would wager, have ever served on a jury. The answer was foregone and absolutely predictable. Why don't we just declare all error harmless and stop the charade. As per Judge Newell's statement, above, we could save a lot of money by replacing enquiry with a rubber stamp.