You Decide

6.5 Givens Miller, an eighteen-year-old, 210-pound football player, had a disagreement with his parents following a high school football game. Givens's father, George, responded by taking away Givens's cell phone and car keys. Givens repeatedly shouted at his parents, telling his father to "take your G.D. money and 'f---' yourself with it." He then baited George, uttering "What the 'f---,' man. I'm going to—you going to hit me, man? Are you going to hit me? What the 'f---,' man."

George responded, "No, I'm not going to hit you," and shoved Givens away from him. Givens kicked and punched George in his side; and as Givens charged toward him, George punched Givens in the face. George then threw two more punches. Givens testified that at the time of the incident, he "was all jazzed up" from the game and "in an aggressive mood" and "kind of wanted to hit [George]" and he "kind of wanted [George] to hit [him]." Givens "suffered dental fractures and loose teeth. He also received two blows to the head, and testified that he may have lost consciousness for a brief moment." At the close of evidence, George objected to the jury charge because the court did not include an instruction on the defense of consent.

Was the judge correct in not issuing an instruction on consent? See *Miller v. State*, 312 S.W.3d 209 (Tex. Ct. App. 2010).

You can find the answer at study.sagepub.com/lippmaness2e