

ARSON
N.J.S.A. 2C:17-1d (first degree)

Count ___ of the indictment charges the defendant with arson in violation of a statute which reads as follows: “Any person who, directly or indirectly, pays or accepts or offers to pay or accept any form of consideration including, but not limited to, money or any other pecuniary benefit, regardless of whether any consideration is actually exchanged for the purpose of starting a fire or causing an explosion in violation of this section commits a crime. . .”

In order to find the defendant guilty of arson, the State must prove each of the following elements beyond a reasonable doubt:

(1) that the defendant, directly or indirectly, paid, accepted or offered to pay or accept any form of consideration, regardless of whether any consideration is actually exchanged; and

(2) that the defendant paid, accepted or offered to pay or accept this consideration for the purpose of [starting a fire] [causing an explosion].

"Consideration" is something of value. In this case, the State alleges that the consideration was [describe the alleged consideration].

The first element that the State must prove beyond reasonable doubt is that the defendant, either directly or indirectly, [paid] [accepted][offered to pay or accept] any form of consideration¹ or inducement, including, but not limited to, money or any other pecuniary benefit.

The second element the State must prove beyond a reasonable doubt is that when the defendant [paid] [accepted][offered to pay or accept] this money (or any other pecuniary or non-pecuniary benefit) it was for the purpose of [starting a fire] [causing an explosion] in violation of the arson statute.

[CHARGE THIS SENTENCE IF APPLICABLE]

(The [fire need not have been started] [explosion need not have been caused], as the law

¹ "Consideration" has been defined as something of value (such as an act, a forbearance, or a return promise) received by a promisor from a promisee. Black's Law Dictionary (7th ed. 1999).

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requires only that the State prove that [starting a fire] [causing an explosion] was the defendant's purpose when [paying] [accepting] [offering to pay] [offering to accept] the consideration.)

[CHARGE THE ELEMENTS OF N.J.S.A. 2C:17-1a OR b WHICH, UNDER THE FACTS, BRING THE DEFENDANT'S PURPOSE TO COMMIT ARSON WITHIN VIOLATION OF ANY ONE OR BOTH OF THOSE SECTIONS.]²

A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or believes or hopes that they exist. "With purpose," "designed," "with design," or equivalent terms have the same meaning. Purpose is a condition of the mind that cannot be seen and can only be determined by inferences drawn from the defendant's conduct, words or acts. It is not necessary for the State to prove the existence of such a mental state by direct evidence such as a statement by the defendant that he/she had a particular purpose. It is within the power of the jury to find that the proof of purpose has been furnished beyond a reasonable doubt by inferences which you may draw from the nature of the acts and the circumstances surrounding the conduct of the defendant as they have been presented in the evidence you have heard and seen in this case. In other words, the State must prove that when the defendant [paid] [accepted][offered to pay][offered to accept] money (or any other pecuniary or non-pecuniary benefit), it was his/her purpose or conscious object to start or cause a fire (or explosion).

If the State has failed to prove any of the elements as I have described them to you beyond a reasonable doubt, you must find the defendant not guilty of arson. If the State has proven every element beyond a reasonable doubt, you must find the defendant guilty of arson.³

² See the aggravated arson and arson charges.

³ If, under the facts of your case, arson, aggravated arson or failure to report a fire is a lesser included offense, adapt your charge accordingly.