

ATTEMPTED SUICIDE - I
[TO AVOID PROSECUTION AS CONSCIOUSNESS OF GUILT]¹

[Use when the defendant has denied any suicide attempt or asserts as a general denial that no suicide attempt occurred or offers an explanation that the act was not an attempted suicide]

There has been some testimony in the case from which you may infer that the defendant attempted suicide after the alleged commission of the crime(s). The defendant denies that he/she attempted suicide [or, the defendant denies that the act constituted an attempted suicide. (**Charge if appropriate: set forth explanation suggested by the defense**)]. The question of whether the defendant attempted suicide after the commission of the alleged crime(s) is another question of fact for your determination. A suicide attempt to avoid arrest or prosecution may, in some circumstances, reveal a defendant's consciousness of guilt.²

However, a defendant's psychological, social or financial situation may underlie a suicide attempt.³ [**Charge if appropriate:** If you accept any explanation offered by the defense, you may not infer consciousness of guilt from the evidence of what the State alleges was a suicide attempt.] If you find that the defendant, fearing that an accusation or arrest would be made against him/her on the charge(s) involved in the indictment⁴, attempted suicide for the purpose of evading the accusation or arrest on [that] [those] charge(s), then you may consider such attempted suicide in connection with all the other evidence in the case, as an indication or proof of consciousness of guilt.

Accusation and the threat of prosecution and punishment may impel a defendant to attempt suicide. Alternatively, an urge to confess or repent for a guilty deed may materialize as an admission by suicidal conduct. However, other factors may motivate or contribute to an accused's decision to attempt suicide. Instead of seeking to avoid punishment, a defendant who attempts suicide may, for

¹ Pursuant to State v. Mann, 132 N.J. 410, 423 (1993), "a trial court ordinarily should hold an [N.J.R.E. 104(a)] hearing to determine whether evidence of a defendant's suicide attempt is sufficient to support a reasonable inference that the suicide attempt was prompted by a desire to avoid the ordeal of prosecution and punishment or was otherwise evidence of consciousness of guilt."

² State v. Mann, ibid.

³ Ibid.

⁴ If evidence of an alleged suicide attempt occurs after indictment or during the course of a trial, please modify the language of this charge to reflect that the evidence is being introduced as consciousness of guilt to avoid the consequences of the pending indictment or prosecution.

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reasons unrelated to the crime(s) charged, decide to attempt to end his/her life. Furthermore, in some cases, whether a defendant actually attempted suicide may not be clear. Some other explanation may exist for any actions taken or wounds sustained by a defendant.⁵

You must first find whether or not an actual suicide attempt occurred.⁶ If you find that it did, you must next consider whether that attempt was made to avoid the burdens of prosecution and punishment.⁷ You should also determine whether the defendant's attempted suicide demonstrated consciousness of guilt.⁸ [**Charge if appropriate:** If you accept any explanation offered by the defense, you may not infer consciousness of guilt from the evidence of an alleged suicide attempt.⁹]

If you find that the defendant, fearing that an accusation or arrest would be made against him/her on the charge(s) involved in the indictment, attempted suicide for the purpose of evading the accusation or arrest on that charge, then you may consider such attempted suicide in connection with all the other evidence in the case, only as an indication of consciousness of guilt and for no other purpose.¹⁰ If, on the other hand, you determine that no suicide attempt occurred (**or, charge if appropriate:** you accept any explanation offered by the defendant), you may not infer consciousness of guilt from the evidence of an alleged suicide attempt and may not use that evidence against the defendant for any purpose.¹¹

⁵ Id. at 422-23.

⁶ Id. at 424.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Id. at 421 (quoting the Model Jury Charges, Criminal - Flight (Nov. 1991)).

¹¹ Id. at 424.