

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

[The following should be used where the defendant has not denied that he/she attempted suicide but has offered an explanation for the 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 does not dispute that he/she attempted suicide but indicates his/her actions were the result of the following:

(Set forth explanation suggested by the defense)

The question of whether the defendant attempted suicide after the commission of the alleged crime 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 If you accept any explanation offered by the defendant, you may not infer consciousness of guilt from the evidence of 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 reasons unrelated to the crime(s) charged, and for the reasons presented by the defense, decide to attempt to end his/her own life. The explanation offered by the defendant may account for any

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.

ATTEMPTED SUICIDE – II
[TO AVOID PROSECUTION AS
CONSCIOUSNESS OF GUILT]

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 If you accept the explanation offered by the defendant, you may not infer consciousness of guilt from the evidence of the 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 accept any explanation offered by the defendant, you may not infer consciousness of guilt from the evidence of a suicide attempt and may not use that evidence of the suicide attempt 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.