

ESCAPE - ABSCONDING FROM PAROLE
(N.J.S.A. 2C:29-5b)

In Count _____ of the indictment, the defendant is charged with the crime of absconding from parole.

(READ PERTINENT LANGUAGE OF INDICTMENT)

The defendant is accused of violating a section of our state statutes that reads as follows:

A person subject to parole commits a crime . . . if the person goes into hiding or leaves the State with a purpose of avoiding supervision.

In order to convict the defendant of this crime, the State must prove all of the following elements beyond a reasonable doubt:

1. The defendant was a person subject to parole;
2. The defendant went into hiding or left the State; and
3. The defendant acted with the purpose to avoid parole.

The first element the State must prove beyond a reasonable doubt is that the defendant was a person subject to parole.

“Parole” is a period of supervised release by which the prisoner is allowed to serve the final portion of his/her sentence outside the gates of the institution on certain terms and conditions, in order to prepare for his/her return to society.¹

The evidence that defendant was on parole has been introduced only for the specific, narrow purpose of establishing that defendant was subject to parole. You must not speculate as to the reasons why. You may not infer from this evidence that defendant has a tendency to commit crimes or that he/she is a bad person. You may not decide that, just because a defendant is subject to parole, he/she must be guilty of this offense. The State’s evidence is offered only to show that the defendant was subject to parole and may be used for no other purpose.

The second element the State must prove beyond a reasonable doubt is that while the defendant was subject to parole, he/she went into hiding or left the State. “Hiding” means to conceal one’s whereabouts. It is not enough for the State to prove only that the defendant failed to keep appointments with his/her parole officer.

The third element the State must prove beyond a reasonable doubt is that the defendant went into hiding or left the State with the specific purpose of avoiding parole. A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious

¹ State v. Oquendo, 262 N.J. Super. 317, 324 (App. Div. 1992), quoting In re Clover, 34 N.J. Super. 181, 188 (App. Div. 1955), rev’d on other grounds, 133 N.J. 416 (1993). The statute also applies to participants in the Intensive Supervision Program (ISP).

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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 he/she believes or hopes that they exist. “With purpose,” “designed,” “with design” or equivalent terms have the same meaning.²

The term purposefully refers to conditions of the mind that cannot be seen. 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. A purposeful state of mind must ordinarily be discovered from circumstantial evidence; that is, by reference to the defendant’s conduct, words or acts, and all of the surrounding circumstances.

[CHARGE WHERE APPROPRIATE]

If you find that the defendant abandoned his/her approved place of residence without prior permission of his/her parole officer, or notice to the appropriate supervising authority, then you may infer, if you find it proper to do so, that his/her purpose was to avoid parole.

An inference is a deduction of fact that may be drawn logically and reasonably from another fact or group of facts established by the evidence. Whether or not an inference should be drawn is for you to decide using your own common sense, knowledge and everyday experience. Ask yourself, is it probable, logical and reasonable. However, you are never required or compelled to draw an inference. You alone decide whether the facts and circumstances shown by the evidence support an inference, and you are always free to draw or not to draw an inference. If you draw an inference, you should weigh it in connection with all the other evidence in the case, keeping in mind that the burden of proof is upon the State to prove all of the elements of the crime beyond a reasonable doubt.

[CHARGE IN ALL CASES]

To reiterate, the three elements that the State must prove beyond a reasonable doubt are:

1. The defendant was a person subject to parole;
2. The defendant went into hiding or left the State; and
3. The defendant acted with the purpose to avoid parole.

If you find that the State has proven all of these elements beyond a reasonable doubt, then you must return a verdict of guilty. On the other hand, if you find that the State has failed to prove any one of these elements beyond a reasonable doubt, then you must return a verdict of not guilty.

² N.J.S.A. 2C:2-2b(2).