

CONSPIRACY - RENUNCIATION¹
(N.J.S.A. 2C:5-2e)

The defendant has raised the defense of renunciation. Even if you are satisfied that the defendant conspired to commit the crime of _____, you must nevertheless find defendant Not Guilty if you find that afterwards he/she informed the authorities of the existence of the conspiracy, including his/her participation in it, and that he/she was thereby successful in thwarting or causing to be thwarted, i.e., preventing or causing to be prevented, the commission of any offense in furtherance of the conspiracy. This defense further requires you to be satisfied that the circumstances of defendant's going to the authorities manifested a voluntary and complete renunciation of his/her earlier criminal purpose.

Renunciation is not voluntary if the reason the defendant went to the authorities was that he/she learned something which would make it more likely that the authorities would arrest him/her or detect what he/she had done; or if he/she went to the authorities because he/she learned something that would make it more difficult to commit the crime which was the object of the conspiracy. Renunciation is not complete if the defendant went to the authorities without completely washing his/her hands of the conspiracy. It is no defense if the defendant merely meant to postpone his/her criminal objective to a more advantageous time or to transfer his/her criminal efforts to some other victim or to some different but similar crime.

(DISCUSS EVIDENCE OF RENUNCIATION)

I previously instructed you that the State has the burden of proving the elements of the crime of conspiracy beyond a reasonable doubt. The defendant has the burden of proving the defense of renunciation. That burden, however, is not so heavy as the one on the State. While the State must convince you beyond a reasonable doubt that the defendant committed the crime of conspiracy, the defendant need only convince you by a preponderance, or the greater weight, of the evidence that he/she renounced the crime. This means that the defendant has established the defense of renunciation if he/she has satisfied you that it is more likely than not that he/she

- (1) Informed the authorities of the existence of the conspiracy and his/her participation in it, and

¹ This charge applies only to conspiracy charges. If defendant is also charged with an attempted offense to which he/she is claiming renunciation, the attempt renunciation charge should

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- (2) Thwarted or caused to be thwarted the commission of any offense in furtherance of the conspiracy. An attempt to commit a crime is not considered an offense for purposes of renunciation, and
- (3) That he/she did so under circumstances manifesting a voluntary and complete renunciation of his/her original criminal purpose.

If, after a consideration of all of the evidence, you find that the State has proven beyond a reasonable doubt that the defendant committed the crime of conspiracy, and you also find that the defendant has not proven the defense of renunciation by a preponderance of the evidence, then you must find the defendant Guilty. On the other hand, if you do not find that the State has proven beyond a reasonable doubt that the defendant committed the crime of conspiracy, or if you find that the State has proven the crime of conspiracy beyond a reasonable doubt but that the defendant has also proven the defense of renunciation by a preponderance of the evidence, then you must find the defendant Not Guilty.

be used. See N.J.S.A. 2C:5-1d.