

CONSPIRACY - VICARIOUS LIABILITY
(N.J.S.A. 2C:2-6b(4))

Count ____ of the indictment charges the defendant with the crime of _____. The State does not allege that the defendant committed the crime of _____ personally, but rather that he/she is legally accountable for that crime even though it was committed by another. More specifically, the State alleges that the crime of _____ was committed by _____, and that the defendant is legally accountable for the crime of _____ committed by _____ because the defendant and _____ allegedly conspired together to commit that crime. It is therefore necessary that I instruct you as to both the crime of _____ and the law of conspiracy.

(HERE REFER TO THE MODEL CHARGE FOR THE PARTICULAR CRIME)

If you are satisfied beyond a reasonable doubt that the State has proven all of these essential elements and that _____ committed the crime of _____, then you must go on to determine the guilt or innocence of the defendant for that same crime. However, if you are not satisfied beyond a reasonable doubt that _____ committed the crime of _____, then your inquiry ends here and you must return a verdict of Not Guilty as to the defendant. Therefore, the following instructions on conspiracy are only for your use if you find beyond a reasonable doubt that _____ committed the crime of _____.

Our law provides that a person is guilty of an offense if it is committed by his/her own conduct or by the conduct of another person for which he/she) is legally accountable, or both.¹ A person is legally accountable for the conduct of another person when he/she is engaged in a conspiracy with such other person² and the conduct is within the scope of the conspiracy.³ Thus, you must decide whether the defendant engaged in a conspiracy with _____ to commit the crime of _____.

¹ N.J.S.A. 2C:2-6a.

² N.J.S.A. 2C:2-6b (4).

³ In an appropriate case it may be necessary to charge that a defendant is not legally accountable for conduct of other persons after the defendant has explicitly abandoned the conspiracy. See N.J.S.A. 2C:5-2f (3).

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A person is guilty of conspiracy with another person (or persons)⁴ if with the purpose of promoting or facilitating the commission of a crime he/she:

- (1) Agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or
- (2) Agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

Thus, for the purposes of this case, to find that the defendant engaged in a conspiracy with _____ you must be satisfied beyond a reasonable doubt of the following elements:

- (1) That defendant agreed with _____ (select appropriate language); and
- (2) That when the defendant so agreed with _____ the defendant's purpose, i.e., his/her conscious object, was to promote or to make it easier for _____ to commit the crime of _____.

In this case, after consideration of all of the evidence, if you find beyond a reasonable doubt that _____ committed the crime of _____ and also that the defendant conspired with _____ to commit that crime, then you must find the defendant guilty of the crime of _____. On the other hand, if you have a reasonable doubt that _____ committed the crime of _____, that the defendant conspired with _____ to commit that crime, or both, then you must find the defendant not guilty.

⁴ In an appropriate case it may be necessary to charge as to the scope of a conspiracy involving additional persons. See N.J.S.A. 2C:5-2b.