

CIRCUMSTANTIAL EVIDENCE¹

You, as jurors, should find your facts from the evidence adduced during the trial. Evidence may be either direct or circumstantial. Direct evidence means evidence that directly proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact. On the other hand, circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence.

It is not necessary that facts be proved by direct evidence. They may be proved by circumstantial evidence or by a combination of direct and circumstantial evidence. Both direct and circumstantial evidence are acceptable as a means of proof. Indeed, in many cases, circumstantial evidence may be more certain, satisfying and persuasive than direct evidence.

In any event, both circumstantial and direct evidence should be scrutinized and evaluated carefully. A conviction may be based on circumstantial evidence alone or in combination with direct evidence, provided, of course, that it convinces you of a defendant's guilt beyond a reasonable doubt.

Conversely, if circumstantial evidence gives rise to a reasonable doubt in your minds as to the defendant's guilt then the defendant must be found not guilty.

A simple illustration may be helpful. The following is one set of possible illustrations:

Optional Illustrations:

The problem is proving that it snowed during the night:

- a) Direct Evidence: Testimony indicating that the witness observed snow falling during the night.
- b) Circumstantial Evidence: Testimony indicating that there was no snow on the

¹ **NOTE:** For cases dealing with circumstantial evidence, see: State v. Corby, 28 N.J. 106 (1958); State v. Fiorello, 36 N.J. 80, 87-88 (1961), cert. denied 368 U.S. 967 (1962); State v. Ray, 43 N.J. 19, 30-31 (1964); State v. Mills, 51 N.J. 277, 287 (1968) cert. denied 393 U.S. 186 (1969); State v. Franklin, 52 N.J. 386, 406 (1968); State v. Mayberry, 52 N.J. 413, 436-437 (1968), cert. denied 393 U.S. 1043, (1969); State v. Graziani, 60 N.J. Super. 1, 13-14 (App. Div. 1959), aff'd o.b. 31 N.J. 538 (1960), cert. denied 363 U.S. 830 (1960); State v. Hubbs, 70 N.J. Super. 322, 328-329 (App. Div. 1961); State v. Papitsas, 80 N.J. Super. 420, 424 (App. Div. 1963).

Circumstantial Evidence

ground before the witness went to sleep, and that when he arose in the morning, it was not snowing, but the ground was snow-covered.

The former directly goes to prove that fact that snow fell during the night; while the latter establishes facts from which the inference that it snowed during the night can be drawn.