

18.2 PERJURY BY CONTRADICTORY STATEMENTS

§ 837.021, Fla. Stat.

To prove the crime of Perjury by Contradictory Statements, the State must prove the following six elements beyond a reasonable doubt:

- 1. (Defendant) took an oath or otherwise affirmed that [he] [she] was obligated by conscience or by law to speak the truth in** (describe the official proceeding or proceedings in which the alleged contradictory statements were made under oath).
- 2. In** (describe the official proceeding in which one of the statements was made), (defendant) **made the statement** (read from charge).
- 3. [In** (describe the official proceeding in which the other statement was made), (defendant) **made the statement** (read from charge).] **[In the same proceeding, (defendant) made the statement** (read from charge).]
- 4. (Defendant) made both statements while under oath or affirmation.**
- 5. The statements were contradictory, which means that both statements could not be true.**
- 6. (Defendant) made both statements knowingly and intentionally.**

§ 837.021(3), Fla. Stat.

It is not necessary for the State to prove that either of the statements is untrue, if the State has proved they are contradictory.

Defense

§ 837.021(4), Fla. Stat.

You should acquit the defendant if you find that [he] [she] believed each statement to be true at the time [he] [she] made it.

§§ 837.011, 837.021, Fla. Stat.

Questions of the authority to administer oaths, whether the form of the oath or attestation is required or authorized by law, the official or unofficial nature of the proceedings and the materiality of a statement are matters of law.

Give if applicable.

§ 837.021(2), Fla. Stat.

The law requires the judge to decide if the alleged statements are material, and I have decided that they are material. Therefore, you will not further concern yourself with this issue.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in 1981.