

5.3 CRIMINAL CONSPIRACY

§ 777.04(3), Fla. Stat.

To prove the crime of Criminal Conspiracy, the State must prove the following two elements beyond a reasonable doubt:

- 1. The intent of (defendant) was that the offense of (object of conspiracy) would be committed.**

If there is an issue as to whether the subject of the conspiracy was a crime, it may be necessary to define that crime.

- 2. In order to carry out the intent (defendant)**

[agreed]

[conspired]

[combined]

[confederated]

with (person[s] alleged) to cause (object of conspiracy) to be committed either by them, or one of them, or by some other person.

It is not necessary that the

[agreement]

[conspiracy]

[combination]

[confederation]

to commit (object of conspiracy) be expressed in any particular words or that words pass between the conspirators.

It is not necessary that the defendant do any act in furtherance of the offense conspired.

Affirmative Defense. Give if applicable. § 777.04(5)(c), Fla. Stat. Carroll v. State, 680 So. 2d 1065 (Fla. 3d DCA 1996). Harriman v. State, 174 So. 3d 1044 (Fla. 1st DCA 2015).

It is a defense to the charge of Criminal Conspiracy that (defendant), after conspiring with one or more persons to commit the (object of conspiracy), persuaded (person alleged) not to do so, or otherwise prevented commission of the (object of conspiracy), under circumstances indicating a complete and voluntary renunciation of [his] [her] criminal purpose.

Renunciation is not complete and voluntary where the crime that was conspired to was not completed because of unanticipated difficulties, unexpected resistance, a decision to postpone the

crime to another time, or circumstances known by the defendant that increased the probability of being apprehended.

If you find that the defendant proved by a preponderance of the evidence that [he] [she] persuaded (person alleged) not to commit the (object of conspiracy), or otherwise prevented commission of the (object of conspiracy), under circumstances indicating a complete and voluntary renunciation of [his] [her] criminal purpose, you should find [him] [her] not guilty of Conspiracy to Commit (name of crime).

If the defendant failed to prove by a preponderance of the evidence that [he] [she] persuaded (person alleged) not to commit the (object of conspiracy), or that [he] [she] did not otherwise prevent commission of the (object of conspiracy), under circumstances indicating a complete and voluntary renunciation of [his] [her] criminal purpose, you should find [him] [her] guilty of Conspiracy to Commit (name of crime), if all the elements of the charge have been proven beyond a reasonable doubt.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comments

As of November 2015, no case law addressed the issue of whether renunciation remains a defense to conspiracy to commit a crime where some harm was done.

This instruction was adopted in 1981 and amended in 2017.