

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.