

EMPLOYING A JUVENILE IN A DRUG DISTRIBUTION SCHEME

N.J.S.A. 2C:35-6

The defendant(s) is (are) charged in count _____ of the indictment with the crime of employing a juvenile in a drug distribution scheme. (HERE READ PERTINENT COUNT OF INDICTMENT)

That section of our statutes provides in pertinent part that:

Any person being at least 18 years of age who knowingly uses, solicits, directs, hires or employs a person 17 years of age or younger to violate the maintaining or operating a drug production facility statute [N.J.S.A. 2C:35-4¹] or the manufacturing, distributing or dispensing a controlled dangerous substance statute [N.J.S.A. 2C:35-5a²] is guilty of a crime.

In order for you to find the defendant guilty of this offense, the State must prove each of the following elements beyond a reasonable doubt:

- 1). That the defendant was at least 18 years of age;
- 2). That the defendant used, solicited, directed, hired or employed a juvenile to commit or aid in the commission of the crime;
- 3). That the defendant acted knowingly; and
- 4). That the person used, solicited, directed or employed was in fact 17 years of age or

¹ N.J.S.A. 2C:35-4 provides that any person who knowingly maintains or operates any premises, place or facility used for the manufacture of methamphetamine, LSD, phencyclidine or any substance classified as a narcotic drug in Schedule I or II or the analog of such a substance or knowingly aids, promotes, finances or otherwise participates in the maintenance or operation of such premises, place or facility is guilty of a crime.

² N.J.S.A. 2C:35-5a provides that it is unlawful for any person knowingly or purposely to manufacture, distribute or dispense or to possess or have under his/her control with intent to manufacture, distribute or dispense, a controlled dangerous substance or analog or to create, distribute or possess or have under his/her control with intent to distribute a counterfeit controlled dangerous substance.

**EMPLOYING A JUVENILE IN A
DRUG DISTRIBUTION SCHEME**
N.J.S.A. 2C:35-6
PAGE 2 OF 3

younger.

The first element the State must prove beyond a reasonable doubt is that defendant was at least 18 years old at the time he/she engaged in the conduct alleged in the indictment.

The second element that the State must prove beyond a reasonable doubt is that the defendant used, solicited, directed, hired or employed (name of juvenile) to commit or aid in the commission of the crime described in count _____ of the indictment. (Read pertinent part of N.J.S.A. 2C:35-4 or N.J.S.A. 2C:35-5a allegedly committed).³ The mere fact that a juvenile and an adult are involved in a transaction is insufficient to convict; rather, the State must prove beyond a reasonable doubt that the defendant controlled the juvenile.⁴

The third element that the State must prove beyond a reasonable doubt is that defendant acted knowingly. A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature or that such circumstances exist or he/she is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. Since knowingly is a state of mind and cannot be seen and can only rarely be determined by inference from conduct, words or acts, it is rarely susceptible of direct proof. Therefore, it is not necessary that witnesses be produced by the State to testify that a defendant said that he/she knowingly did something. His/her knowledge may be gathered from his/her acts and his/her conduct and from all he/she said and did at the particular time and place and from all the surrounding circumstances reflected in the testimony [and evidence adduced at trial].

The fourth element that the State must prove beyond a reasonable doubt is that the person

³ If the court already has charged these substantive offenses, then remind the jury of those definitions.

⁴ State v. Laws, 262 N.J. Super. 551, 561 (App. Div. 1993), certif. denied 134 N.J. 475 (1993).

EMPLOYING A JUVENILE IN A
DRUG DISTRIBUTION SCHEME
N.J.S.A. 2C:35-6
PAGE 3 OF 3

used, solicited, directed, hired or employed was in fact 17 years of age or younger at the time. It is no defense to a prosecution under this statute that the defendant mistakenly believed that the person whom he used, solicited, directed, hired or employed was 18 years of age or older even if that mistaken belief was reasonable.

If you find that the State has proven beyond a reasonable doubt each of the four elements, that is, that defendant was at least 18 years old, that he/she used, solicited, directed, hired or employed (name of juvenile), that the (name of juvenile) used, solicited, directed, hired or employed was 17 years old or younger and that defendant acted knowingly, then you must convict him/her of employing a juvenile in a drug distribution scheme. If the State has failed to prove any of these elements beyond a reasonable doubt, then you must find defendant not guilty.