

POSSESSION OF FORGERY DEVICES

(N.J.S.A. 2C:21-1c)

("Makes" Charge)

The indictment in this case charges that the defendant did on (cite date in indictment) with purpose to use (or aid or permit another to use) for the purpose of forging written instruments, make a (describe them in indictment) being a(n) (device) (apparatus) (equipment) (article) specially designed or adapted to such use.

The pertinent part of the statute here applicable, N.J.S.A. 2C:21-1c, reads as follows:

"A person is guilty of *** a crime ** when with purpose to use, or to aid or permit another to use the same for purposes of forging written instruments, he makes any device, apparatus, equipment or article specially designed or adapted to such use."

Therefore, in order for the defendant to be found guilty of this charge, the State must prove beyond a reasonable doubt each of the following elements:

1. that on (cite date in indictment) the defendant made a (describe item named in indictment),
2. that said (describe item named in indictment) was specially designed or adapted for use in forging written instruments and
3. that the defendant made (describe item named in indictment) with purpose to use or to aid or permit another to use the same for forging written instruments:

As to the first element:

"To make" does not necessarily mean that one created something out of nothing, nor that the defendant produced the article from raw materials, but also consists in giving new shape, new qualities or new combinations to articles which had already gone through some other process. In other words, if the defendant in any way contributed to the process of creating the specially designed device or adapting it for the purpose of forging written instruments the statute would be satisfied insofar as the first element is concerned - "to make" -

As to the second element:

You must be satisfied that the State has proved beyond a reasonable doubt that the (describe item named in indictment) was specially designed or adapted to forge written instruments.

As to the third element:

You must then find that the defendant having made said (describe item named in indictment) which article was specially designed or adapted for use as a forgery device was so made by the defendant with purpose to use (himself/herself) or to aid or permit another to use for forging written instruments.

A person acts "with purpose" with respect to the nature of (his/her) conduct or a result thereof if it is (his/her) conscious object to engage in conduct of that nature or to cause such a result. A person acts "with purpose" with respect to attendant circumstances if (he/she) is aware of the existence of such circumstances or (he/she) believes or hopes they exist.

Purpose is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant stated for example: "I made the (name the item referred to in the indictment) for the purpose of forging certain written instruments."

It is within the power of the jury to find that proof of purpose has been furnished beyond a reasonable doubt by inferences which may arise from the nature of the acts and circumstances surrounding the conduct under investigation.

A "written instrument" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks and other symbols of value, right privilege or identification. Common examples of a symbol of value would include checks, stock certificates, bonds, stamps (postage, revenue or food), etc.

Therefore, to sum up, if you find that the State has proved beyond a reasonable doubt all of the elements of the crime that I have just recited to you, then you must find the defendant guilty as charged.

On the other hand, if you find that the State has failed to prove all or any one of the elements of the crime beyond a reasonable doubt, you must find the defendant not guilty.

NOTE: If forgery is not a companion indictment or count in the indictment, then the legal definition of forgery should also be charged.