

INFERENCES - THEFT BY RECEIVING STOLEN PROPERTY
(N.J.S.A. 2C:20-7(b))

I have previously instructed you that the third element which the State must prove beyond a reasonable doubt is that the defendant either knew that the property was stolen or believed that it had probably been stolen at the time he/she received the property (or brought the property into the State).

You may infer that defendant had this requisite knowledge or belief if you find

(Charge whichever alternative(s) is/are appropriate)

(1) Defendant was found in possession or control of two or more items of property stolen on two or more separate occasions,

or

(2) Defendant has received stolen property in another transaction within the year preceding the transaction charged,

or

(3) Defendant was a person in the business of buying or selling property of the sort received and acquired the property without having ascertained by reasonable inquiry that the person from whom he/she obtained it had a legal right to possess and dispose of it,

or

(4) Defendant was found in possession of two or more defaced access devices.¹

An inference is a deduction of fact that may be drawn logically and reasonably from another fact or group of facts established by the evidence. Whether or not an inference should be drawn is for you to decide using your own common sense, knowledge and everyday experience. Ask yourselves is it probable, logical and reasonable. However, you are never required or compelled to draw an inference. You alone decide whether the facts and circumstances shown by the evidence support an inference and you are always free to draw or not to draw an inference. If you draw an inference, you should weigh it in connection with all the other evidence in the case,

¹ "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human or computer readable form, either copy or original, that can be used to obtain telephone service. N.J.S.A. 2C:20-1(s).

"Defaced access device" means any access device, in either human readable or computer readable form, either copy in any manner from its original configuration. N.J.S.A. 2C:20-1(t).

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keeping in mind that the burden of proof is upon the State to prove all the elements of the crime beyond a reasonable doubt.²

² Direct and circumstantial evidence should be charged first.