

## **Identity**

One of the issues in this case is the identification of the Defendant as the perpetrator of the crime(s) charged in the indictment(s).

The State has the burden of proving the identity of the Defendant as the perpetrator beyond a reasonable doubt. Identification testimony is an expression of belief on the part of the witness. Its value depends on numerous factors. It is not essential that a witness be free from doubt as to the correctness of his/her identification. However, you, the jury, must be convinced beyond a reasonable doubt of the accuracy of the identification of the Defendant as the perpetrator, before you may convict him/her. If you are not convinced beyond a reasonable doubt that the Defendant was the person who committed the crime(s), you must find him/her not guilty.

In evaluating the identification testimony of a witness, you should consider all of the factors concerning your assessment of the credibility of any witness in general, and should also consider whether the witness had an adequate opportunity to observe the person in question at the time about which the witness testified. You may consider all matters, including the length of time the witness had to observe the person in question, the prevailing conditions at that time in terms of visibility or distance and the like, and whether the witness had known or observed the person at an earlier time.

You may also consider the circumstances surrounding the identification itself including, for example, the manner in which the defendant was presented to the witness for identification, and the length of time that elapsed between the incident in question and the next opportunity the witness had to observe the defendant.

If, after examining all of the testimony and evidence in the case, you find that the State has proved beyond a reasonable doubt each of the elements of the crime including that the Defendant committed it, then you shall find the defendant guilty.

If, after examining all of the testimony and evidence in the case, you have a reasonable doubt as to the identity of the defendant as the perpetrator of the offense charged, you must find the defendant not guilty.

## **Use Notes**

See *United States v. Telfaire*, 469 F.2d 552 (D.C. Cir. 1972); *United States v. Barber*, 442 F.2d 517 (3d Cir.), cert. denied, 404 U.S. 846 (1971); *United States v. Holley*, 502 F.2d 273 (4th Cir. 1974); *United States v. Hodges*, 515 F.2d 650 (7th Cir. 1975).

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