

DISTINCTION BETWEEN LARCENY AND POSSESSION OF STOLEN PROPERTY

1. In order to prove that Mr. Gauthier received stolen goods, the State must prove beyond a reasonable doubt that Mr. Gauthier knew that the goods were stolen and that he received them with an unlawful intent, i.e. that Mr. Gauthier received the alleged stolen items from a wrongful possessor. State v. Guppy 129 Vt. 591, 594 (1971); State v. Longway 137 Vt. 165, 167 (1979).
2. You are instructed however that the offenses of larceny and receiving stolen property are “separate, distinct and inconsistent”. State v. Longway, supra.
3. “Receiving” means “the acceptance of possession by delivery and by implication involves a transfer from another individual”. State v. Bleau 139 Vt. 305, 308 (1981). “The crimes of receiving stolen property and larceny are inconsistent (citation omitted) so that a person who is actually a thief cannot be guilty of receiving the very property which he himself stole”. Id.
4. Therefore, you cannot find Mr. Gauthier guilty of possession of stolen property and larceny involving the same items of personal property. Mr. Gauthier’s possession of any recently stolen property, standing alone, is insufficient proof of guilt of larceny. State v. Beyor 129 Vt. 472, 475 (1971). Likewise, if the State proves beyond a reasonable doubt that Mr. Gauthier stole personal property belonging to another, you cannot find him guilty of possession of those same items. The burden of proof remains upon the State, beyond a reasonable doubt, to establish, if it can, whether any of the items of personal property was either stolen by Mr. Gauthier, or received by him from another, knowing that the item(s) was stolen.