

24.29 Theft Concerning Federally Funded Program—Elements (18 U.S.C. § 666)

The defendant is charged in [Count ____ of] the indictment with [embezzlement] [theft] [fraud] [conversion] [misapplication] in violation of Section 666 of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant was an agent of [an organization] [[[a state] [local] [tribal]] [government or agency of that government]]; and

Second, the defendant [embezzled] [stole] [obtained by fraud] [knowingly and without authority converted to the use of someone other than the rightful owner] [intentionally misapplied] property; and

Third, the property had a value of \$5,000 or more and was [owned by] [under the care, custody, or control] of the [organization] [government] [government agency]; and

Fourth, the [organization] [government] [government agency] received more than \$10,000 in federal funding annually.

Comment

See United States v. Cabrera, 328 F.3d 506, 509 (9th Cir. 2003) (citing *United States v. Simas*, 937 F.2d 459, 463 (9th Cir. 1991)).

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