

4.10 Presumptions

Comment

The Committee recommends that extreme caution be used in instructing the jury regarding presumptions. “A jury instruction cannot relieve the State of the burden of proving beyond a reasonable doubt a crucial element of the criminal offense.” *Patterson v. Gomez*, 223 F.3d 959, 962 (9th Cir. 2000). Accordingly, “if a ‘reasonable juror could have given the presumption conclusive or persuasion-shifting effect,’ the instruction is unconstitutional.” *Id.* (quoting *Sandstrom v. Montana*, 442 U.S. 510, 519 (1979)).

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