



DEFENDANTS' RIGHTS

Description

As citizens of the United States and Vermont, our Constitutions and laws combine to give us all a number of important protections from false accusations and from being put in jail for crimes we did not commit. These protections include our right to a fair trial, our right to be presumed innocent until we have been proven guilty, our right against self-incrimination, our right to have an attorney, our right to question the witnesses against us (including our accuser), our right to have witnesses testify for us, our right not to have someone tell the court or jury about something we did that is not related to what we have been accused of doing, and so on.

As a victim, it is important to understand that the criminal who victimized you also has all those same rights and protections that you and I do.

Innocent Until Proven Guilty

The right to be presumed innocent is a very important right granted to us by Fifth, Sixth, and Fifteenth Amendments to the U. S. Constitution. Without this protection, all of the rights we have become meaningless. If everyone assumes that we are guilty, there can be no fair trial, there is no reason to have an attorney, there is no reason to protect us against self-incrimination, there is no reason to be able to question our accusers, and there is no reason to have witnesses testify on our behalf. For this reason, we do not call anyone who has been accused but not found guilty a criminal, she or he is a defendant. If we are wrongly accused, we need do nothing to prove our innocence – we are assumed to be innocent and it is up to the State to prove we are guilty.

The Burden of Proof

Even if you absolutely know that the defendant did exactly what she or he is accused of doing, the accusations must still be proved “beyond a reasonable doubt” in a court of law, and it is the prosecutor’s job to prove it to the court/jury. This is called the “burden of proof” and it means that the State, which is represented by the prosecutor (usually a State’s Attorney), must show the court/jury that everything necessary to convict the defendant happened. For example, burglary is identified as a crime by our Vermont Statutes. Title 13, Chapter 23, Section 1201(a), states:

A person is guilty of burglary if [she/he] enters any building or structure knowing that [she/he] is not licensed or privileged to do so, with the intent to commit a felony, petit larceny, simple assault or unlawful mischief.

That means that the in order for a person to be convicted of burglary, the State must prove that:

1. The defendant entered the building,
2. The defendant knew she/he had no right to enter the building, and
3. The defendant intended to commit:
 - a. a felony,
 - b. petit larceny,
 - c. simple assault, or
 - d. unlawful mischief.

Using our burglary example, elements 1, 2, and 3 must be proved to the court/jury beyond a reasonable doubt. So, if you have a video of the defendant entering the building or even if four hundred-seventeen people watched while the defendant entered the building, the State must still prove that the defendant entered the

building (a) knowing that she or he had no right to enter and (b) that the defendant intended to commit one of the crimes listed in section 3.

So if the State cannot prove that the defendant knew she or he had no right to enter the building, even though there are four hundred-seventeen witnesses and even if the defendant admits to committing a felony inside the building, the defendant will be found not-guilty of burglary. The felony committed inside the building is still a crime, but without proving the second element of the crime of burglary (the defendant knew she/he had no right to enter) – the defendant cannot be found guilty of burglary.

Right Against Self-incrimination

Another of our very important rights as citizens is our right, essentially, to not tell on ourselves. The right is guaranteed by the Fifth Amendment (that's why you hear folks saying "I plead the Fifth") – that means the person is invoking her or his Constitutional right against self-incrimination.

The Fifth Amendment to the U. S. Constitution states:

"No person...shall be compelled in any criminal case to be a witness against himself..."

Article 10 of Vermont's Constitution states:

"...in all prosecutions for criminal offenses...[no person shall] be compelled to give evidence against oneself..."

Although the wording is different, the meaning is the same: you don't have to admit to anything. That means that, unless the defendant wants to admit to the crime, the State must prove the defendant committed the crime. The police and State's Attorney cannot confront the defendant and force her or him to confess because the defendant has the right not to confess.

History has shown us that without this protection, a person accused of committing a crime is vulnerable to unfair influences, such as torture, in order to coerce false confessions.

Victim's Role

As part of proving all of the facts necessary to convict a defendant, the victim will almost certainly be required to testify in court. In addition, if the defendant is charged with committing a felony then the victim will be required to testify at a deposition, as well as in court. Because the State's Attorney must prove each element of the crime, you (the victim) are probably the only one who can appear in court and tell what happened. Even though you may have given a statement to the police, only your testimony in court will count toward proving that the defendant committed the crime.

State's Attorney's Role

The State's Attorney is responsible for prosecuting criminal cases. The State's Attorney represents the citizens of the State of Vermont. While you are a citizen, the State's Attorney is not your attorney and cannot give you legal advice. You can compare a State's Attorney to a police officer. A police officer's job is to protect the citizens of the State and you are one of those citizens. However, if a police officer see you (one of the citizens the police officer has sworn to protect) commit a crime, you will be arrested or given a citation. Police officers, like State's Attorneys, serve all of the citizens – not one particular citizen.

—
Courtesy of:

—