

Hear it From the Judge

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What is the Presumption of Innocence?

We hear of the legal phrase that a criminal defendant is presumed innocent of the criminal charges alleged against her or him. What does this phrase mean? How long have we had this phrase? Why do we consider this phrase to be a fundamental right of citizens charged with a crime?

The presumption of innocence means that any person accused of a crime is presumed to be innocent of that crime. The State or Federal Government has the burden to prove the defendant is guilty by proof beyond a reasonable doubt. Therefore, the presumption of innocence is to remain with the individual unless either a Judge or jury finds that person guilty.

A common legal definition of presumption means that innocence shall be inferred in the absence of proof which shows guilt. This proof of guilt is an obligation of the government which is alleging the crime.

When I preside over criminal jury trials I give the following standard instruction to jurors: “The defendant is presumed innocent of the charge made. This presumption remains with the defendant unless and until the defendant has been proven guilty beyond a reasonable doubt. That the defendant has been brought before the Court by the ordinary processes of the law and is on trial should not be considered by you as in any way suggesting guilt. The burden of proving guilt is on the State. The defendant does not have to prove innocence.”

The U.S. Supreme Court, in an 1895 case summarized this concept as follows: “The presumption of innocence is a conclusion drawn by the law in favor of the citizen, by virtue whereof, when brought to trial upon a criminal charge, he must be acquitted, unless he is proven to be guilty.”

The presumption of innocence has been a basic legal right since the founding of our country. This presumption means that the State must prove all the necessary facts to reach a guilty verdict. The accused need not present any facts in defense of the charges and if a defendant elects not to testify in her or his own behalf, the jury must not draw any negative inferences from that silence.

Why do we have this basic legal concept? When one looks at the concerns for individual freedom our founders were seeking to establish when they broke from England, the reason be-

comes clear. The monarchical governance in England was based on a strong central government over individuals. Our founders designed a government based upon individual liberties for citizens who are able to govern themselves. Therefore, if the government brings charges against an individual it is a basic element of due process that the accused be presumed innocent and that the government must prove the allegations.

There are many basic individual rights of our criminal justice system. However, there are few that are as basic to our system of individual liberties as the presumption of innocence.