

1 **14-6015. Verdicts; single or multiple defendants; larceny and receiving by acquiring;**
2 **insanity.**

3 In this case [in connection with the charges of larceny and receiving (by acquiring)² stolen
4 goods]³, there are [three]⁴ [four] possible verdicts:

5 (1) guilty of larceny and not guilty of receiving (by acquiring)²;

6 (2) guilty of receiving (by acquiring)² and not guilty of larceny;

7 (3) not guilty of larceny and not guilty of receiving (by acquiring)²; [and]

8 (4) not guilty by reason of insanity].⁵

9 Only one of the possible verdicts may be signed by you as to these charges [as to each
10 defendant]. If you have agreed upon one verdict as to these charges [as to a defendant], that form
11 of verdict is the only form to be signed as to these charges [as to that defendant]. The other forms
12 as to these charges are to be left unsigned.

13 [Even if you determine from all the evidence that a defendant committed an offense, if you
14 are not satisfied beyond a reasonable doubt that [~~he~~the defendant] was sane at the time, you must
15 find [~~him~~the defendant] not guilty by reason of insanity and sign only the not guilty by reason of
16 insanity form.]⁵

17 USE NOTES

18 1. This instruction should be given if charges of larceny and charges of receiving (by
19 acquiring) stolen property, relate to the same property. This instruction supplants UJI 14-6011
20 NMRA; but UJI 14-6011 may be used with this instruction if counts are submitted other than
21 larceny and receiving by acquiring. UJI 14-6004 NMRA should not be used with this instruction
22 because the two are in contradiction. If there are other charges, to which this instruction is not

1 applicable, UJI 14-6004 may be tailored to refer solely to those counts and may be given with this
2 instruction.

3 2. Use the parenthetical phrase if the charge of receiving by keeping or receiving by
4 disposing is also submitted. If no charge of receiving by keeping or disposing is submitted, the
5 parenthetical phrase should be omitted.

6 3. Use this bracketed phrase if charges other than larceny and receiving are submitted.
7 In some cases it also may be necessary to identify the counts, such as cases in which there are other
8 charges of larceny or receiving to which this instruction is not applicable. If the only charges that
9 are submitted are larceny and receiving by acquiring, of the same property, then this bracketed
10 phrase should be omitted.

11 4. Use appropriate bracketed alternative.

12 5. Use these bracketed provisions if the issue of not guilty by reason of insanity is
13 submitted to the jury.

14 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending
15 or filed on or after December 31, 2025.]

16 **Committee commentary.** — This instruction is designed to avoid inconsistent verdicts in
17 receiving stolen goods cases. *See State v. Mares*, 1968-NMCA-042, ¶ 8, 79 N.M. 327, [~~329~~] 442
18 P.2d 817[~~(Ct. App. 1968)~~]. For the substantive law of receiving, *see* the commentary to UJI 14-
19 1650 NMRA.

20 The general rule is that the thief cannot be guilty of receiving the stolen goods, because one cannot
21 receive from oneself. *Territory v. Graves*, 1912-NMSC-027, 17 N.M. 241, 125 P. 604[~~(1912)~~].

22 The statute has been changed since the *Graves* case, and under the present statute the thief cannot
23 be guilty of receiving (by acquiring) stolen goods, but the thief can be guilty of receiving (by

1 disposing of) the stolen goods. *State v. Tapia*, 1976-NMCA-042, 89 N.M. 221, 549 P.2d 636[~~(Ct.~~
2 ~~App. 1976)~~]. *See also State v. Rogers*, 1977-NMCA-019, 90 N.M. 673, 568 P.2d 199[~~(Ct. App.)~~],
3 *aff'd in part, rev'd in part*, 1977-NMSC-057, 90 N.M. 604, 566 P.2d 1142[~~(1977)~~]. The thief may
4 also be convicted of receiving (by retaining). UJI 14-1650. *Contra, dicta* in the *Tapia* case.

5 The general rule bars a conviction of larceny and receiving (by acquiring) of the same goods.
6 Moreover, it extends to bar a conviction of burglary and receiving (by acquiring) in cases in which
7 the burglary charge is based on an intent to steal and in fact there is a theft by the accused of the
8 same property which is the subject of the receiving charge. *State v. Gleason*, 1969 -NMCA- 054,
9 80 N.M. 382, 456 P.2d 215[~~(Ct. App. 1969)~~].

10 Even though a defendant cannot be convicted of larceny and receiving, or burglary and receiving,
11 it is proper to charge both or all of such offenses. *State v. Mitchell*, 1974 -NMCA- 057, 86 N.M.
12 343, 524 P.2d 206[~~(Ct. App. 1974)~~]. *Compare United States v. Gaddis*, 424 U.S. 544 (1976)[~~96~~
13 ~~S. Ct. 1023, 47 L. Ed. 2d 222 (1976)~~]. Therefore, a defendant may be charged with burglary,
14 larceny and receiving (by acquiring). In such case, the jury may be instructed on all three offenses.

15 If the jury convicts of burglary, they cannot convict of receiving (by acquiring). If the jury convicts
16 of receiving (by acquiring) they cannot convict of burglary. The same rule holds for larceny and
17 receiving (by acquiring). Since burglary, larceny and receiving all carry the same penalty (except
18 where the goods are of a value of over \$2500), there is no need to require the jury to consider any
19 particular charge first, as is required when one of the offenses has a more severe penalty than the
20 other. *See [United States v.]Gaddis*, 424 U.S. 544[*supra*].

21 If a charge of receiving the same or other property by keeping it or disposing of it is submitted to
22 the jury, then the phrase "by acquiring" should be used in this instruction. It is necessary to

1 distinguish between the different ways of committing the offense of receiving stolen property
2 because the rule that the thief cannot be guilty of receiving applies only to receiving by acquiring.
3 If a charge of receiving by keeping or disposing is submitted, separate verdict forms are required
4 for such charge. In that way, if there is a conviction of receiving it can be determined whether the
5 defendant was convicted of receiving by acquiring or receiving by another means.
6 If insanity is in issue, there are four possible verdicts as to each defendant. In such cases, the
7 bracketed clause, "not guilty by reason of insanity," should be given, and the final, bracketed
8 paragraph should be given.
9 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]