

Kansas Administrative Regulations

Department of Corrections

Article 12.—Conduct and Penalties

44-12-1101. Attempt, conspiracy, accessory, solicitation; liability for offenses of another.

Each attempt or conspiracy to violate any regulation, or acting as an accessory for any offense, or soliciting another or other persons to commit any offense, shall carry the same penalty as that for the offense itself. The specific regulation that is the basis of the attempt, conspiracy, accessory, or solicitation shall be stated and described in the disciplinary report.

(a) Attempt.

(1) An attempt shall mean any overt, or clearly evident, act toward the perpetration of an offense by an inmate who intends to commit the offense but fails in the perpetration of the offense or is prevented from or intercepted in executing that offense.

(2) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed, the means employed, or the act itself was such that the commission of the offense was not possible.

(b) Conspiracy.

(1) A conspiracy shall mean an agreement with another person to commit an offense or to assist in committing an offense. No inmate may be convicted of a conspiracy unless an overt act furthering that conspiracy is alleged and proved to have been committed by the inmate or by a coconspirator.

(2) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy and communicated the fact of this withdrawal to one or more of the accused conspirators, before any overt act furthering the conspiracy was committed by the accused or by a coconspirator.

(c) Accessory to an offense. Aiding an offender or one charged with an offense shall mean knowingly harboring, concealing, or aiding any inmate who has committed an offense, or one who has been charged with an offense, with intent that the inmate will

avoid or escape from apprehension, disciplinary hearing conviction, or punishment for the offense.

(d) Solicitation. Solicitation shall mean commanding, encouraging, or requesting another person to commit an offense, attempt to commit an offense, or aid and abet in the commission or attempted commission of an offense for the purpose of promoting or facilitating the offense. It shall not be a defense to a charge of solicitation that the inmate failed to communicate with the person solicited to commit the offense if the inmate's conduct was designed to effect a communication. It shall be a defense to a charge of solicitation that the inmate, after soliciting another person to commit an offense, persuaded that person not to do so or otherwise prevented the commission of the offense, under circumstances manifesting a complete and voluntary renunciation of the inmate's prohibited purposes.

(e) Liability for the offenses of another. An inmate shall be responsible for an offense committed by another if the inmate intentionally aids, abets, advises, hires, counsels, or procures the other to commit the offense. The specific underlying regulation violation committed by the other inmate that is the subject of the activity of aiding, abetting, advising, hiring, counseling, or procuring shall be stated and described in the disciplinary report.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective, E-79-37, Jan. 1, 1979; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; amended July 13, 2007.)

***** Authenticated Kansas Administrative Regulation *****