

104.13 TRANSFERRED INTENT.

If the defendant intended to harm one person but instead harmed a different person, the legal effect would be the same as if the defendant had harmed the intended victim.<sup>1</sup>

*(If a killing of the intended person would be with malice, then the killing of the different person would also be with malice.)*

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<sup>1</sup> See e.g., *State v. Davis*, 349 N.C. 1, 506 S.E.2d 455 (1998); *State v. Fletcher*, 125 N.C. App. 505, 481 S.E.2d 418 (1997); *State v. Greenfield*, \_\_ N.C. App. \_\_, 822 S.E.2d 477 (2018) (Defendant shot at Victim B out of self-defense, but the fatal bullet instead hit Victim A, for whom defendant was not entitled to a self-defense claim. Instruction constituted reversible error where it failed to clearly inform the jury that it could find defendant guilty of first-degree felony murder of Victim A based on AWDWIKISI only if it determined that the fatal bullet was meant for Victim B).

