216.10 FELONIOUS LARCENY—GOODS WORTH MORE THAN $1,000. FELONY.

The defendant has been charged with felonious larceny.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that the defendant took property[1] (*describe property*, e.g. "a color TV set") belonging to another person.[2]

Second, that the defendant carried away[3] the property.

Third, that the alleged victim did not consent to the taking and carrying away of the property.

Fourth, that at the time of the taking, the defendant intended to deprive the alleged victim of its use permanently.[4]

Fifth, that the defendant knew the defendant was not entitled to take the property.

And Sixth, that the property was worth more than $1,000.[5]

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's property without the other person's consent, knowing that the defendant was not entitled to take it and intending at that time to deprive the alleged victim of its use permanently, and that the property was worth more than $1000, it would be your duty to return a verdict of guilty of felonious larceny. If you do not so find or if you have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious larceny[6] but must determine whether the defendant is guilty of non-felonious larceny. Non-felonious larceny differs from felonious larceny in that the property need not be worth more than $1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's property without the other person's consent knowing that the defendant was not entitled to take it and intending at that time to deprive the alleged victim of its use permanently, it would be your duty to return a verdict of guilty of non-felonious larceny. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.[7]

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1. *See* State v. Wright, 273 N.C. App. 188, 848 S.E.2d 252 (2020) (explaining that in some circumstances the better practice may be to designate the specific property taken as alleged in the indictment, rather than referring generally to another person's property, but concluding that the trial court did not err in instructing the jury pursuant to the Pattern Jury Instructions that defendant could be found guilty of stealing "property" rather than specifically identifying a "propane tank").

2. If there is evidence of conduct that would constitute "taking" but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element:

> "(Describe conduct which would constitute a taking) would be a taking." See S. v. Carswell, 296 N.C. 101 (1978).

3. In the event that there is some dispute as to asportation the jury should be told that the slightest movement is sufficient.

4. In the event that there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. But cf. S. v. Smith, 268 N.C. 167 (1966).

5. Note that if the larceny was committed pursuant to burglary violations (N.C. Gen. Stat. §§ 14-51, 53, 54 or 57), or was of an explosive or incendiary device or of a firearm, it is a felony without regard to the value of the property. (N.C. Gen. Stat. § 14-72(b)(2), (3), (4).)

6. If there is to be no instruction on lesser included offenses, the last phrase should be: ". . . it would be your duty to return a verdict of not guilty."

7. Where the property taken is a conveyance, the crime of unauthorized use of conveyance, N.C. Gen. Stat. § 14-72.2, may be a lesser included offense. See N.C.P.I.—Crim. 216.90.