

LARCENY FROM A PERMITTED CONSTRUCTION SITE-- GOODS VALUED IN EXCESS OF \$300 BUT LESS THAN \$1,000. G.S. 14-72.6. FELONY.

The defendant has been charged with felonious larceny from a permitted construction site.

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

First, that the defendant took property belonging to another person.

Second, that the defendant carried away¹ the property.

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

Fourth, at that time the defendant intended to deprive the victim of its use permanently.²

Fifth, that the defendant knew (he) (she) was not entitled to take the property.

Sixth, that the property was taken from a permitted construction site, that is a site where a permit, license, or other authorization has been issued by the

¹In the event that there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

²In the event there is some dispute as to whether the defendant intended to permanently deprive the victim of his (her) property, the jury should be told that the intent to temporarily deprive will not suffice. *But cf. S. v. Smith*, 268 N.C. 167 (1966).

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state or local government entity for the placement of new construction or improvement to real property.

And Seventh, that the property taken from the permitted construction site was valued in excess of three hundred dollars (\$300) but less than one-thousand dollars (\$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's property without (his) (her) consent, knowing that the defendant was not entitled to take it, intending at that time to deprive the victim of its use permanently, that the property was taken from a permitted construction site, and that the value of the property was in excess of three-hundred dollars (\$300) but less than one-thousand dollars (\$1,000), it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.³

³Instructions on lesser included offenses should only be used when appropriate under the evidence in the case. If there is to be an instruction on lesser included offenses, the last phrase should be; ". . . you would not return a verdict of guilty of felonious larceny from a permitted construction site, but would consider whether the defendant is guilty of . . ."