

N.C.P.I.—CRIM 236A.35
DISORDERLY CONDUCT AT A FUNERAL. MISDEMEANOR. FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2014
N.C. Gen. Stat. § 14-288.4 (a)(8)

236A.35 DISORDERLY CONDUCT AT A FUNERAL. CLASS 1 MISDEMEANOR,
CLASS I FELONY, CLASS H FELONY. G.S. 14-288.4(A)(8)

NOTE WELL: Use this instruction only if the defendant denies a previous conviction under N.C. Gen. Stat. § 14-288.4 or remains silent. If he admits the previous conviction, use N.C.P.I. 236A.33 See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment. See also N.C.P.I.—Crim. 204.05 for a model instruction for bifurcated proceedings.

The defendant has been charged with disorderly conduct at a funeral.

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

First, that the defendant:

- a) displayed a visual image within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]] that conveyed [fighting words] [[actual threats of harm] [imminent threats of harm]] directed to a [person] [property] associated with the [funeral] [memorial service] [family processional to the [funeral] [memorial service]]¹
- b) uttered within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]] [[loud] [threatening] [abusive language]] [[singing] [chanting] [whistling] [yelling]] [with noise amplification] [without noise amplification] in a manner that would tend to [impede] [disrupt]

¹ This includes a military service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service, including a military funeral or memorial service, is taking place. As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

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- [disturb] [interfere] with a [funeral] [memorial service] [family processional to the [funeral] [memorial service]]
- c) [[attempted² to block] [blocked]] [pedestrian] [vehicular] access to the [ceremonial site] [location being used] for a [funeral] [memorial service] [family processional to the [funeral] [memorial service]];

Second, that the defendant's conduct occurred [within two hours [before] [after]] [during]] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]];

Third, that the defendant intentionally engaged in this conduct to [impede] [disrupt] [disturb] [interfere with] the orderly administration of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]];

NOTE WELL: Use the following element only if the defendant has a prior conviction or had pleaded guilty to a violation of N.C. Gen. Stat. § 14-288.4.

(And Fourth, that on (*name date*) the defendant, in (*name court*) [was convicted of] [pled guilty to] the felony of (*name violation*), that was committed on (*name date*).)³

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant intentionally:

- a) displayed a visual image within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]]

² For further instructions on attempt, see N.C.P.J. Crim 201.10

³ A second offense is punished as a felony. A third or subsequent offense is punished as a higher-level felony. If more than two prior convictions are alleged, then additional elements should be added.

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- that conveyed [fighting words] [[actual threats of harm] [imminent threats of harm]] directed to a [person] [property] associated with the [funeral] [memorial service] [family processional to the [funeral] [memorial service]];
- b) uttered within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service] [[loud] [threatening] [abusive language]] [[singing] [chanting] [whistling] [yelling]] [with noise amplification] [without noise amplification] in a manner that would tend to [impede] [disrupt] [interfere] with a [funeral] [memorial service] [family processional to the [funeral] [memorial service]];
- c) [[attempted to block] [blocked]] [pedestrian] [vehicular] access to the [ceremonial site] [location being used] for a [funeral] [memorial service] [ceremonial site] [location being used] for a [funeral] [memorial service] [family processional to the [funeral] [memorial service]],

[within two hours [before] [after]] [during] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]] with the intent to [impede] [disrupt] [disturb] [interfere with] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]], and the defendant has [one] [two or more] prior convictions for (*name offense*), 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, then you would not return a verdict of guilty but would consider whether the defendant is guilty of misdemeanor disorderly conduct at a funeral. Misdemeanor disorderly conduct at a funeral differs from felonious disorderly conduct in that the misdemeanor does not require that the defendant have been previously

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convicted of disorderly conduct at a funeral. If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant:

- a) displayed a visual image within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service] that conveyed [fighting words] [[actual threats of harm] [imminent threats of harm]] directed to a [person] [property] associated with the [funeral] [memorial service] [family processional to the [funeral] [memorial service]];
- b) uttered within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service] [[loud] [threatening] [abusive language]] [[singing] [chanting] [whistling] [yelling]] [with noise amplification] [without noise amplification] in a manner that would tend to [impede] [disrupt] [interfere] with a [funeral] [memorial service] [family processional to the [funeral] [memorial service]];
- c) [[attempted to block] [blocked]] [pedestrian] [vehicular] access to the [ceremonial site] [location being used] for a [funeral] [memorial service] [ceremonial site] [location being used] for a [funeral] [memorial service] [family processional to the [funeral] [memorial service]],

[within two hours [before] [after]] [during] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]] with the intent to [impede] [disrupt] [disturb] [interfere with] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]], 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, then it would be your duty to return a verdict of not guilty.