

USING A DEADLY WEAPON IN ASSISTING A PRISONER TO EFFECT HIS ESCAPE. G.S. 14-258.2. FELONY.

The defendant has been charged with using a deadly weapon in assisting a prisoner to effect his escape.

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

First, that (*name prisoner*) was:

[A. In the custody of the Division of Prisons. A person sentenced to [any unit of the State prison system] [jail to be assigned to work under the State Department of Correction] is in the custody of the Division of Prisons.]<sup>1</sup>

[B. Under the custody of a local confinement facility.<sup>2</sup> (*Name detention facility*) is a local confinement facility.]

Second, that while in such custody (*name prisoner*) escaped.

Third, that the defendant assisted (*name prisoner*) in his escape.

And Fourth, that the defendant effected the escape of (*name prisoner*) by the use of a deadly weapon. [A deadly weapon is any weapon capable of inflicting serious bodily injuries or death. In determining whether (*name weapon*) was a deadly weapon you should consider the nature of (*name weapon*) and the manner in which it was used.]

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the prisoner was in the custody of

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<sup>1</sup>See G.S. 148-4.

<sup>2</sup>See G.S. 153A-217(5) for a definition of "local confinement facility."

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[the Division of Prisons] [a local confinement facility], that (*name prisoner*) escaped from such custody, that the defendant assisted (*name prisoner*) in his escape, and that the defendant effected the escape of (*name prisoner*) by the use of a deadly weapon, 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.<sup>3</sup>

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<sup>3</sup>If there is to be an instruction on a lesser included offense, the last phrase should be " . . . you will not return a verdict of guilty of using a deadly weapon in assisting a prisoner to effect his escape."