

204A.38 INJURY AS PUNISHMENT OR RETALIATION FOR CRIMINAL GANG
WITHDRAWAL. FELONY.

*NOTE WELL: Use this instruction for offenses occurring on or after
December 1, 2017. For offenses occurring before December 1,
2017, use N.C.P.I.—Crim. 204A.35.*

The defendant has been charged with injuring a person as [punishment]
[retaliation] against a person for having withdrawn from a criminal gang.

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

First, that the defendant injured (name individual).

And Second, that the defendant injured (name individual) as
[punishment] [retaliation] against (name individual) for having withdrawn
from membership in a criminal gang.

A criminal gang is defined as any ongoing organization, association, or
group of three or more persons, whether formal or informal, that has as one
of its primary activities the commission of criminal or delinquent acts and
shares a common name, identification, signs, symbols, tattoos, graffiti, attire,
or other distinguishing characteristics, including common activities, customs,
or behaviors. This term shall not include three or more persons associated in
fact, whether formal or informal, who are not engaged in criminal gang
activity.¹

If you find from the evidence beyond a reasonable doubt that on or
about the alleged date, the defendant injured (name individual) as
[punishment] [retaliation] against (name individual) for having withdrawn
from membership in a criminal gang, 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 both of these things, it would be your duty to return a verdict of not guilty.

¹ For a definition of “criminal gang activity,” see N.C. Gen. Stat. § 14-50.16A(2). For offenses that qualify as criminal gang activity, see Article 5 of Chapter 90 of the General Statutes or Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 and G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313.