

N.C.P.I.—Crim 207.15A.1

ATTEMPTED FIRST DEGREE RAPE—ALLEGED VICTIM UNDER THE AGE OF THIRTEEN YEARS. (OFFENSES PRIOR TO DEC 1, 2015) FELONY.

CRIMINAL VOLUME

REPLACEMENT JUNE 2016

N.C. Gen. Stat. §§ 14-27.2(a)(1), 14-27.8

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NOTE WELL: Use the following instruction when the alleged crime was committed between April 18, 1983 and July 10, 1983, or on or after October 1, 1983 and before December 1, 2015. For offenses committed on or after December 1, 2015, use N.C.P.I.—Crim. 207.15A.1A.

The defendant has been charged with attempted first degree rape.

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

First, that the defendant intended to engage in vaginal intercourse with the alleged victim. Vaginal intercourse is penetration, however slight, of the female sex organ by the male sex organ. (The actual emission of semen is not necessary.)

Second, that at the time of the acts alleged, the alleged victim was a child under the age of thirteen years.¹

Third, that at the time of the acts, the defendant was at least twelve years old and was at least four years older than the alleged victim.

And Fourth, that the defendant performed an act that was calculated and designed to accomplish vaginal intercourse with the alleged victim and such conduct came so close to bringing about the vaginal intercourse that in the ordinary course of events the defendant would have completed the act with the alleged victim had the defendant not been stopped or prevented.

(Mere preparation or planning is not enough to constitute such an act. But the act need not necessarily be the last act required to complete the offense.)

If you find from the evidence beyond a reasonable doubt that on or

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about the alleged date, the defendant intended to engage in vaginal intercourse with the alleged victim and that at that time the alleged victim was a child under the age of thirteen years and that the defendant was at least twelve years old and was at least four years older than the alleged victim, and that the defendant performed [an act] [acts] which in the ordinary course of events would have resulted in vaginal intercourse by defendant with the alleged victim had not the defendant been stopped or prevented from completing his apparent course of action, 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.

¹ A child would be under the age of thirteen if she had not yet reached her thirteenth birthday. *In Re Robinson*, 120 N.C. App. 874 (1995).