

MALICIOUSLY DAMAGING STATE OR LOCAL GOVERNMENT BUILDINGS BY  
USE OF AN EXPLOSIVE OR INCENDIARY DEVICE. FELONY.  
G.S. § 14-49(b2).

NOTE WELL: Use this instruction for offenses  
occurring on or after December 1, 2003.

The defendant has been charged with willfully and  
maliciously [damaging] [aiding the damaging of] [counseling  
the damaging of] [procuring the damaging of] the [State  
Capitol] [Legislative Building] [Justice Building] [a  
building owned or occupied by [the State] [a county] [a city]  
[a governmental entity]].

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

First, that the defendant [damaged] [aided the damaging  
of] [counseled the damaging of] [procured the damaging of]  
the (a) [State Capital Building] [State Legislative Building]  
[Justice Building] [building owned or occupied by the State]  
[building owned or occupied by the County of \_\_\_\_\_  
(name county)] [building owned or occupied by the City of  
\_\_\_\_\_ (name city)] [building owned or occupied by  
\_\_\_\_\_ (name other government entity)].

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Second, that the damage to the building was caused by the use of an explosive or incendiary device. (*Name device*) is an explosive or incendiary device.<sup>1</sup>

Third, that the defendant acted willfully; that is, intentionally and without justification or excuse.

And Fourth, that the defendant acted maliciously. Malice means not only hatred, ill will, or spite as it is ordinarily understood--to be sure, that is malice, but it also means that condition of mind which prompts a person to intentionally inflict injury without just cause, excuse, or justification.

If you find from the evidence beyond a reasonable doubt that the defendant willfully and maliciously [damaged] [aided the damaging of] [counseled the damaging of] [procured the damaging of] the (a) [State Capital Building] [State Legislative Building] [Justice Building] [building owned or occupied by the State] [building owned or occupied by the County of \_\_\_\_\_ (*name county*)] [building owned or occupied by the City of \_\_\_\_\_ (*name city*)] [building owned or occupied by \_\_\_\_\_ (*name other government entity*)] and that the damage to the building was caused by

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<sup>1</sup>Where the explosive or incendiary character of the device cannot be determined as a matter of law, this sentence should not be given. See G.S. 14-50.1 for definition of explosive or incendiary device or material.

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the use of an explosive or incendiary device, 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.

