

FELONIOUS POSSESSION OF STOLEN GOODS--GOODS WORTH MORE THAN \$1000. FELONY, MISDEMEANOR. G.S. 14-70, 14-71.7, 14-72(a).

NOTE WELL: Use this instruction only when the indictment alleges that the property was stolen. Use N.C.P.I.--Crim. 216-49A when the indictment alleges that the property was embezzled, taken by false pretenses, taken in a manner constituting larceny by an employee or taken in any other felonious manner except larceny.

The defendant has been charged with felonious possession of stolen goods, which is possessing goods worth more than \$1000 dollars, which the defendant knew or had reasonable grounds to believe had been stolen.

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

First, that (describe property, e.g., a color TV set) was stolen.<sup>1</sup> Property is stolen when it is taken and carried away without the owner's consent by someone who intends at the time to deprive the owner of its use permanently and knows that he is not entitled to take it.

Second, that this property was worth more than \$1000.

Third, that the defendant possessed this property.

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<sup>1</sup>When the charge is possession, as opposed to receiving, it is not necessary for the State to prove that someone other than the defendant stole the property, as it is under a receiving charge.

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*NOTE WELL: When constructive possession is at issue, or when a fuller definition of actual possession is desired, incorporate the relevant portions of N.C.P.I.--Crim. 104.41 at this point.*

Fourth, that the defendant knew or had reasonable grounds to believe that the property had been stolen.

And Fifth, that the defendant possessed this property with a dishonest purpose. (*Describe purpose, e.g., "Converting it to his own use"*) would be a dishonest purpose.

If you find from the evidence beyond a reasonable doubt that (*describe property*) was stolen, and that this property was worth more than \$1000, and that on or about the alleged date the defendant possessed this property and knew or had reasonable grounds to believe that it was stolen and that the defendant possessed this property for a dishonest purpose it would be your duty to return a verdict of guilty of felonious possession of stolen goods. If you do not so find, or if you have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of felonious possession of stolen goods<sup>2</sup> but must determine whether the defendant is guilty of non-felonious possession of stolen goods. Non-felonious possession of stolen goods differs from felonious possession of stolen goods in that

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<sup>2</sup>This lesser included offense instruction should only be given where appropriate.

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the State need not prove that the property was worth more than  
\$1000.

If you find from the evidence beyond a reasonable doubt that  
this property was stolen, and that on or about the alleged date  
the defendant possessed this property and that the defendant knew  
or had reasonable grounds to believe that it was stolen, and that  
the defendant possessed this property for a dishonest purpose, it  
would be your duty to return a verdict of guilty of non-felonious  
possession of stolen goods. If you do not so find, or if you  
have a reasonable doubt as to one or more of these things, it  
would be your duty to return a verdict of not guilty.

