

RESISTING, DELAYING, OR OBSTRUCTING A PUBLIC OFFICER--ALL
SITUATIONS OTHER THAN ARREST. MISDEMEANOR. G.S. 14-223.

NOTE WELL: Where the victim is a law enforcement officer, and the state contends only that he was making or attempting to make an arrest, use N.C.P.I.--Crim. 230.31 or 230.32.

The defendant has been charged with willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] a duty of his office.

Now I charge that for you to find the defendant guilty of this offense the State must prove five things beyond a reasonable doubt.

First, that the victim was a public officer. A (state victim's title, e.g., highway patrolman, building inspector, probation officer) is a public officer.

Second, that the defendant knew or had reasonable grounds to believe that the victim was a public officer.

Third, that the victim was [discharging] [attempting to discharge] a duty of his office. (Describe what victim was doing, e.g., directing traffic, inspecting wiring, making a home visit), is a duty of a (state victim's title, e.g., highway patrolman, building inspector, probation officer.)¹

¹Where the state contends that the victim was doing one thing, which would be a duty of his office, but there is evidence that he may have been doing something else, which would not be a duty of his office, state what would and what would not be a duty of the victim's office.

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(Continued.)

Fourth, that the defendant [resisted] [delayed] [obstructed]
the victim in [discharging] [attempting to discharge] a duty of
his office.

And Fifth, that the defendant acted willfully and
unlawfully, that is intentionally² and without justification or
excuse.³

So I charge that if you find from the evidence beyond a
reasonable doubt that on or about the alleged date the victim was
a public officer, that the defendant knew or had reasonable
grounds to believe the victim was a public officer, that the
victim was [discharging] [attempting to discharge] a duty of his
office and that the defendant willfully and unlawfully [resisted]
[delayed] [obstructed] the victim in [discharging] [attempting to
discharge] a duty of his office, it would be your duty to return
a verdict of guilty. However, 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.

²If a definition of intent is required, see N.C.P.I.--Crim. 120.10.

³The parenthetical phrase should be used only where there is evidence of
justification or excuse. If the justification is resisting an unlawful
arrest, or the use of excessive force by the officer use N.C.P.I.--Crim.
230.31, or 230.32 and not this instruction.