

RESISTING, DELAYING OR OBSTRUCTING AN OFFICER--EXCESSIVE FORCE BY
THE OFFICER. MISDEMEANOR. G.S. 14-223.

The defendant has been charged with [resisting] [delaying]
[obstructing] an officer.

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

Fourth, that the defendant [resisted] [delayed] [obstructed]
the victim in [discharging] [attempting to discharge] this duty.

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

The defendant's [resistance] [delay] [obstruction], if any,
is excused if it was in response to excessive force by an

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.

RESISTING, DELAYING OR OBSTRUCTING AN OFFICER--EXCESSIVE FORCE BY
THE OFFICER. MISDEMEANOR. G.S. 14-223. (Continued.)

officer, because any such resistance, delay or obstruction in that event would not be unlawful.² In (*describe duty, e.g., "attempting to make a lawful arrest"*), a (*name officer*) may use whatever force is apparently necessary to him and reasonable for that purpose. However, if an officer uses more force than is apparently necessary to him or more force than is reasonable under all the circumstances, such force is excessive and unlawful. If (*name officer*) used more force than was apparently necessary to him or reasonable under all the circumstances, and if the defendant's [resistance] [delay] [obstruction] was to the excessive force used by (*name officer*), then the defendant is not guilty of this offense.

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 that 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.

²See N.C.G.S. § 15A-401 for the law governing arrest situations.