

233.47 POSSESSION OF TOOLS FOR ESCAPE BY A PRISONER. FELONY.

The defendant has been charged with possession of a [letter] [weapon] [tool] [good] [article of clothing] [device] [instrument] to [effect an escape] [aid in an [assault] (or) [insurrection]] by a prisoner.

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

First, that defendant was in the custody of [the Division of Adult Correction and Juvenile Justice of the Department of Public Safety] [a local confinement facility¹] [any law enforcement officer]². (*Name facility or custodial officer*) is [within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety] [a local confinement facility] [a law enforcement officer].

And Second, that while the defendant was [a prisoner of] [in the custody of] (*name facility or custodial officer*), the defendant possessed a [letter] [weapon] [tool] [good] [article of clothing] [device] [instrument] to [effect an escape] [aid in an [assault] (or) [insurrection]]. A person possesses (*name item*) when the person is aware of its presence, and has both the power and intent to control the disposition or use of that substance.

NOTE WELL: If constructive possession is an issue, or if an amplified definition of actual possession is needed, the trial judge should refer to N.C.P.I.-Crim. 104.41 for further instructions.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was in the custody of [the Division of Adult Correction and Juvenile Justice of the Department of Public Safety] [a local confinement facility] [law enforcement officer] and that defendant possessed a [letter] [weapon] [tool] [good] [article of clothing] [device]

[instrument] to [effect an escape] [aid in an [assault] (or) [insurrection]], 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 See N.C. Gen. Stat. §§ 153A-217 and 153A-230.1 for the definition “local confinement facility,” which includes persons pending trial, appellate review, or presentence diagnostic evaluation.

² N.C. Gen. Stat. § 14-254.5.