

FELONIOUS VIOLATION OF VALID PROTECTIVE ORDER. FELONY. G.S. 50B.4.1(f).

NOTE WELL: The first violation of this section is a misdemeanor. See N.C.P.I.—Crim. 240.50. See G.S. 15A-928 for provisions regarding indictment, bifurcated trial, verdict and judgment.

The defendant has been charged with knowingly violating a valid domestic violence protective order after having been previously convicted of two prior offenses.

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

First, that a valid domestic violence protective order had been issued [pursuant to North Carolina law] [by the courts of another state] [by the court of an Indian tribe].

Second, that the defendant violated the valid domestic violence protective order by *(describe conduct that would constitute a violation of the order)*.

(And) Third, that the defendant did so knowingly. (Where a domestic violence protective order has been served on a defendant, you may presume that the defendant knew the specific terms of the domestic violence protective order.)

NOTE WELL: If there is evidence to support a charge on a previous conviction and the defendant denies a previous conviction or remains silent, then this instruction should be amended to add the fourth element that follows. If the defendant admits the previous convictions, this element would not be added. In such case, a transcript of plea is required for the admission of these convictions. See G.S. 15A-928 for provisions regarding indictment, bifurcated trial, verdict and judgment. The mandate should be amended in keeping with this addition.

(And) Fourth, that at the time the defendant violated the valid domestic violence protective order, the defendant had been convicted of the following two offenses:

- (1) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of violating a valid domestic violence protective order, that was committed on (name date); and
- (2) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of violating a valid domestic violence

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(Continued)

protective order, that was committed on (name date).)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly violated a valid domestic violence protective order, (that on (name date) the defendant, in (name court) [was convicted of] [pled guilty to] violating a valid domestic violence order, and that on (name date) the defendant, in (name court) [was convicted of] [pled guilty to] violating a valid domestic violence order), it would be your duty to return a verdict of guilty.¹ 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.²

1. See G.S. 50B-4.1(d) for sentence enhancement when violation of protective order is committed in conjunction with the commission of a felony.

2. If there is to be instruction on lesser included offenses, the last phrase should be: "...you will not return a verdict of guilty of felonious violation of a valid protective order, but would consider..."