

LACK OF JURISDICTION (WITH SPECIAL VERDICT FORM).¹

NOTE WELL: Give this instruction only when there is some evidence that the alleged offense may have been committed outside North Carolina or inside some federal enclave such as a military base. Give it just before the mandate of the instruction on the offense or offenses charged.

The defendant has raised the defense of lack of jurisdiction of this court to try him for the offense charged; that is, that this court does not have the authority to hear and determine this criminal case. Unless the alleged (*name crime*) was committed in North Carolina (and outside a federal enclave)² the court has no jurisdiction and the charge(s) against the defendant must be dismissed. Therefore, before you may determine the guilt or innocence of the defendant, you must decide whether the alleged offense was committed in North Carolina (and outside a federal enclave). The State has the burden of proving beyond a reasonable doubt that the alleged offense was committed in North Carolina (and outside a federal enclave).

If you find from the evidence beyond a reasonable doubt that the alleged (*name crime*), if committed at all, was committed in

¹The leading case concerning lack of jurisdiction is *S v. Batdorf*, 293 N.C. 486 (1977). Whenever the defendant raises a territorial jurisdiction issue the trial judge should consult this case.

²Use the phrase in parentheses only when the offense might have been committed on a federal enclave (e.g., a military base or federal reserve).

LACK OF JURISDICTION (WITH SPECIAL VERDICT FORM). (Continued.)

North Carolina (and not inside a federal enclave), it would be your duty to find that the Court does have jurisdiction to try the defendant. You would so indicate by having your foreman mark the first choice on the special verdict form. If you do not so find or have reasonable doubt as to this, it would be your duty to find that the court does not have jurisdiction to try the defendant. You would so indicate by having your foreman mark the second choice on the special verdict form. In either event have your foreman date and sign the form.

If you find that the court does not have jurisdiction to try the defendant, you would proceed no further with your deliberations, but would return immediately to the courtroom with your special verdict form. If you find that the court has jurisdiction to try the defendant, you would then proceed with your deliberations and return your special verdict along with your general verdict at the end of all of your deliberations.

NOTE WELL: Now give the mandate of the instruction on the offense charged.

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA)
)
)
 v.)
)
)
)
)
)
 _____)
 Defendant

SPECIAL VERDICT
AS TO JURISDICTION

We the jury return the unanimous special verdict as follows:

_____ North Carolina HAS jurisdiction to try the
defendant

_____ North Carolina DOES NOT have jurisdiction to
try the defendant.

This ____ day of _____, 19__.

Foreman of Jury (signature)

