

### 104.35 FLIGHT—IN GENERAL.<sup>1</sup>

The State contends (and the defendant denies) that the defendant fled. Evidence of flight may be considered by you together with all other facts and circumstances in this case in determining whether the combined circumstances amount to an admission or show a consciousness of guilt.<sup>2</sup> However, proof of this circumstance is not sufficient, in itself, to establish defendant's guilt.<sup>3</sup>

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<sup>1</sup> For use in cases other than first degree murder cases where premeditation is an issue.

<sup>2</sup> Evidence that the defendant left the scene of the crime is not enough to warrant a flight instruction. Instead, there must be some evidence of additional steps taken by the defendant to avoid apprehension. See *State v. Miller*, 852 S.E.2d 704 (N.C. Ct. App. 2020), *appeal dismissed* 377 N.C. 211, 856 S.E.2d 108 (2021) (concluding that a flight instruction was warranted where the defendant fled the scene of the crime and then hid behind a tree in the woods).

<sup>3</sup> *State v. Self*, 280 N.C. 665, 673 (1972). See also *State v. Hunt*, 305 N.C. 238 (1982).

