

230.30 RESISTING, DELAYING, OR OBSTRUCTING A PUBLIC OFFICER—ALL SITUATIONS OTHER THAN ARREST. MISDEMEANOR.

NOTE WELL: Where the victim is a law enforcement officer, and the state contends only that he was making or attempting to make an arrest, use N.C.P.I.—Crim. 230.31 or 230.32.

The defendant has been charged with willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty.

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 alleged victim was a public officer. A (*state alleged 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 alleged victim was a public officer.

Third, that the alleged victim was [discharging] [attempting to discharge] an official duty. (*Describe what alleged victim was doing, e.g., directing traffic, inspecting wiring, making a home visit*), is an official duty of a (*state alleged victim's title, e.g., highway patrolman, building inspector, probation officer*).¹

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

And Fifth, that the defendant acted willfully and unlawfully, that is intentionally² (and without justification or excuse).³

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim

was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, and that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, 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.

1. Where the State contends that the victim was doing one thing, which would be an official duty, but there is evidence that he may have been doing something else, which would not be an official duty, state what would and what would not be an official duty.

2. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

3. The parenthetical phrase should be used only where there is evidence of justification or excuse. If justification is resisting an unlawful arrest, or the use of excessive force by the officer, use N.C.P.I.—Crim. 230.31 or 230.32 and not this instruction.