

101.40 FAILURE OF JURY TO REACH A VERDICT.

*NOTE WELL: The judge may require the jury to continue its deliberations and may give or repeat the instruction provided. The judge may not require or threaten to require the jury to deliberate for an unreasonable length of time or for unreasonable intervals. State v. Easterling, 300 N.C. 594, 608, 268 S.E.2d 800, 809 (1980).*

*When a trial judge gives a deadlocked jury any of the instructions authorized by N.C. Gen. Stat. § 15A-1235(b), he must give them all. State v. Aikens, 342 N.C. 567, 579, 467 S.E.2d 99, 106 (1996).*

Your foreperson informs me that you have been unable to agree upon a verdict. You are reminded that it is your duty to do whatever you can to reach a verdict. You have a duty to consult with one another and to deliberate with a view to reaching an agreement, if it can be done without violence to individual judgment. Each juror must decide the case for [himself] [herself], but only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, you should not hesitate to reexamine your own views and change your opinion if convinced it is erroneous. However, you should not surrender your honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.<sup>1</sup> You will now resume your deliberations and continue your efforts to reach a verdict.

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1. See N.C. Gen. Stat. § 15A-1235 (b); *State v. Gillikin*, 719 S.E.2d 164, 169 (N.C. Ct. App. 2011) (stressing that the court's instruction must comply with N.C. Gen. Stat. § 15A-1235, particularly in its explanation that "no juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors, or for the mere purpose of returning a verdict.")