

208.85 ASSAULT BY POINTING A GUN. MISDEMEANOR.

The defendant has been charged with assault by pointing a gun.

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

First, that the defendant pointed a gun at the victim. It makes no difference whether the gun was loaded or unloaded, or whether the pointing of the gun was in fun or otherwise.

And Second, that the defendant acted intentionally¹ (and without justification or excuse).²

NOTE WELL: If self-defense is an issue, use N.C.P.I.-Crim. 308.40.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally pointed a gun at the victim, (nothing else appearing)³ it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or both of these things, it would be your duty to return a verdict of not guilty.

NOTE WELL: If self-defense is an issue, use mandate from 308.40.³

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

2. The parenthetical phrase should be used only when there is evidence of justification or excuse, such as self-defense.

3. Including self-defense in the mandate is required by *S. v. Dooley*, 285 N.C. 158, 165 (1974).