

216.05 MISDEMEANOR LARCENY.

The defendant has been charged with larceny.

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

First, that the defendant took property belonging to another person.

Second, that the defendant carried away¹ the property.

Third, that the victim did not consent to the taking and carrying away of the property.

Fourth, at that time the defendant intended to deprive the victim of its use permanently.²

And Fifth, that the defendant knew *he* was not entitled to take the property.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's property without *his* consent, knowing that *he* was not entitled to take it, and intending at that time to deprive the victim of its use permanently, it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.³

1. In the event that there is some dispute as to asportation the jury should be told that the slightest movement is sufficient.

2. In the event there is some dispute as to permanent deprivation, the jury should

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be told that a temporary deprivation will not suffice. *But cf. S. v. Smith*, 268 N.C. 167 (1966).

3. Where the property taken is a conveyance, the crime of unauthorized use of conveyance, N.C. Gen. Stat. § 14-72.2, may be a lesser included offense.