

N.C.P.I.-Crim. 216.35  
FELONIOUS LARCENY-PURSUANT TO BREAKING OR ENTERING OFFENSE  
WHERE THE PROPERTY IS WORTH MORE THAN \$1,000. FELONY.  
GENERAL CRIMINAL VOLUME  
MAY 2002  
N.C. Gen. Stat. §§ 14-70, 14-72(a), (b)(2)  
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216.35 FELONIOUS LARCENY - PURSUANT TO BREAKING OR ENTERING  
OFFENSE WHERE THE PROPERTY IS WORTH MORE THAN \$1,000.  
FELONY.

The defendant has been charged with felonious larceny.

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

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

Second, that the defendant carried away<sup>1</sup> the property.

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

Fourth, that at the time, the defendant intended to deprive *him* of its use permanently.<sup>2</sup>

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

And Sixth, that the property was taken from a building [during a burglary] [after a breaking or entering],<sup>3</sup> (or) [that the property was worth more than \$1000].

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, and that the defendant took the property from a building [during a burglary] [after a breaking or entering] (or) [that the property

was worth more than \$1000], it would be your duty to return a verdict of guilty of felonious larceny. If you do not so find or if you have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious larceny<sup>4</sup> but must determine whether the defendant is guilty of non-felonious larceny. Non-felonious larceny differs from felonious larceny in that the State need not prove that the property was taken from a building [during a burglary] [after a breaking or entering] (or) [that the property was worth more than \$1000].

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 of non-felonious larceny. 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.

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

2. In the event that there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. *But cf. S. v. Smith*, 268 N.C. 167 (1966).

3. If the offense charged is larceny pursuant to a violation of N.C. Gen. Stat. §§ 14-53 or 14-57, modify the wording at this point as appropriate.

4. If there is to be no instruction on lesser included offenses, the last phrase should be: ". . . it would be your duty to return a verdict of not guilty."