

216.46 MISDEMEANOR POSSESSION OF STOLEN GOODS.

*NOTE WELL: Use this instruction only when the indictment alleges that the property was stolen. Use N.C.P.I.-Crim. 216.49A when the indictment alleges that the property was embezzled, taken by false pretenses, taken in a manner constituting larceny by an employee or taken in any other felonious manner except larceny. See, S. v. Babb, 34 N.C. App. 336 (1977).*

The defendant has been charged with possession of stolen goods, which is possessing goods which the defendant knew or had reasonable grounds to believe had been stolen.

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

First, that *(describe property)* was stolen.<sup>1</sup> Property is stolen when it is taken and carried away without the owner's consent by someone who intends at the time to deprive the owner of its use permanently and knows that *he* is not entitled to take it.

Second, that the defendant possessed this property.

*NOTE WELL: Where constructive possession is at issue, or where a fuller definition of actual possession is desired, incorporate the relevant portions of N.C.P.I.-Crim. 104.41 at this point.*

Third, that the defendant knew or had reasonable grounds to believe that the property had been stolen.

And Fourth, that the defendant possessed the property with a dishonest purpose. *(Describe purpose, e.g., "Converting it to his own use")* would be a dishonest purpose.

N.C.P.I.-Crim. 216.46  
MISDEMEANOR POSSESSION OF STOLEN GOODS.  
GENERAL CRIMINAL VOLUME  
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N.C. Gen. Stat. §§ 14-70, 14-71.1, 14-72(a)  
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If you find from the evidence beyond a reasonable doubt that (*describe property*) was stolen, and that on or about the alleged date the defendant possessed this property and knew or had reasonable grounds to believe that it was stolen, and that the defendant possessed this property for a dishonest purpose, 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.

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1. When the charge is possession, as opposed to receiving, it is not necessary for the State to prove that someone other than the defendant stole the property, as it is under a receiving charge. *S. v. Kelly*, 39 N.C. App. 246 (1978). *Compare* N.C.P.I.-Crim. 216.40 and 216.45, which charge on receiving.