

216.59 ORGANIZED RETAIL THEFT–ACTING AS LEADER. FELONY.

The defendant has been charged with organized retail theft.¹

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

First, that the defendant conspired with two or more persons (names of other persons) as an [organizer] [supervisor] [financier] [leader] [manager]. A conspiracy as applied in this case would be an agreement between three or more people to do an unlawful act or to do a lawful act in an unlawful manner.²

Second, that the defendant intended to engage for profit in a [scheme] [course of conduct] to effectuate the [transfer] [sale] of property³ stolen from a merchant.⁴

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant conspired with two or more persons as an [organizer] [supervisor] [financier] [leader] [manager], intending to engage for profit in a [scheme] [course of conduct] to effectuate the [transfer] [sale] of property stolen from a merchant, 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 more of these things, it would be your duty to return a verdict of not guilty.

¹ According to N.C. Gen. Stat. § 14-86.5(3) “theft” is “to take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.

² See *State v. Shelly*, 181 N.C. App. 608 (2007) (citations omitted).

³ According to N.C. Gen. Stat. § 14-86.5(1) “retail property” is any new article, product, commodity, item or component intended to be sold in retail commerce.

⁴ According to N.C. Gen. Stat. § 25-2-104, “‘merchant’ means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.