

N.C.P.I.-Crim. 216.60
LARCENY BY AN EMPLOYEE. CLASS H FELONY.
GENERAL CRIMINAL VOLUME
MARCH 1998
N.C. Gen. Stat. § 14-74

216.60 LARCENY BY AN EMPLOYEE.¹ CLASS H FELONY.

NOTE WELL: For offenses occurring on or after December 1, 1997, if the value of the property appropriated is \$100,000 or more, use N.C.P.I. 216.60A.

The defendant has been accused of larceny by an employee. Now I charge that for you to find the defendant guilty of larceny by an employee, the State must prove five things beyond a reasonable doubt:

First, that the defendant was an employee of (*name employer*).

Second, that (*name employer*) entrusted the defendant with (*describe property*) for the purpose of (*describe purpose*).

Third, that instead of (*describe purpose of entrustment, e.g., "delivering the property"*), the defendant appropriated the (*describe property*) to *his* own (or another's) use.

Fourth, that the defendant intended to steal, that is deprive (*name employer*) of the (*describe property*) permanently.²

And Fifth, that the defendant knew that *he* was not entitled to appropriate the property to *his* own (or another's) use.

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was an employee of (*name employer*) and that in this capacity *he* received (*describe property*) from (*name employer*) for (*describe purpose*) and that instead *he* (*describe misappropriation*), intending to deprive *his* employer of its use permanently, knowing that *he* was not entitled to do this, it would be your duty to return a verdict of guilty of larceny by an employee. However, if you do not so find or have a reasonable doubt as to one or

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more of these things, it would be your duty to return a verdict of not guilty.

1. This statute does not apply to a defendant who has not attained his sixteenth birthday.

2. In the event 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).