

222.30 DOMESTIC CRIMINAL TRESPASS. MISDEMEANOR.

The defendant has been charged with domestic criminal trespass.

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

First, that the defendant [entered] [remained] on the premises of another.

Second, that the defendant did so without authorization.¹

Third, that the defendant had been notified not to [enter] [remain there] by [the owner] [a person in charge of the premises] [a lawful occupant] [an authorized person]

And Fourth, that the premises were occupied by a [[present] [former] spouse of the defendant] [person with whom the defendant lived as if married] that was at that time living apart from the defendant.²

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [entered][remained] on the premises of another without authorization, that the defendant had been notified not to [enter] [remain there] by [the owner] [a person in charge of the premises] [a lawful occupant] [an authorized person], and that the premises were occupied by a [[present] [former] spouse of the defendant] [person with whom the defendant had lived as if married] that was at that time living apart from the defendant, 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. G.S. 14-134.3 provides that "no person shall be guilty [of this offense] if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children."

2. G.S. 14-134.3 provides that "evidence that the parties are living apart shall

N.C.P.I.—Crim. 222.30
DOMESTIC CRIMINAL TRESPASS. MISDEMEANOR.
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include but is not necessarily limited to: (1) a judicial order of separation; (2) a court order directing the person charged to stay away from the premises occupied by the complainant; (3) an agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or (4) separate places of residence for the complainant and the person charged.”