

222.50 DESECRATION OF A GRAVESITE. MISDEMEANOR.

NOTE WELL: N.C. Gen. Stat. § 14-148(b) provides for activities to which N.C. Gen. Stat. § 14-148(a) does not apply.

NOTE WELL: According to N.C. Gen. Stat. § 14-148(c) if the damage caused by the violation is one thousand dollars or more the violation is a felony. Any other violation is a misdemeanor.

The defendant has been charged with willfully desecrating a grave.

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

First, that the defendant

[(a) [threw] [placed] [put] any [[refuse] [garbage] [trash]] [[in] [on]] a cemetery.]

[(b) [took away] [disturbed] [vandalized] [destroyed] [changed] the location of any [stone] [brick] [iron] [(describe other material)] [fence enclosing a cemetery].¹

[(c) [took away] [disturbed] [vandalized] [destroyed] [tampered with] any [shrubbery] [flowers] [plants] [(describe other articles)] that were [planted] [placed] within any cemetery [to designate where human remains are interred] [to preserve and perpetuate the memory and name of any person].

And Second, that the defendant acted willfully.

If you find from the evidence beyond a reasonable doubt that on or

about the alleged date, the defendant willfully

[(a) [threw] [placed] [put] any [[refuse] [garbage] [trash]] [[in] [on]] a cemetery.

[(b) [took away] [disturbed] [vandalized] [destroyed] [changed] the location of any [stone] [brick] [iron] [(describe other material)] [fence enclosing a cemetery]

[(c) [took away] [disturbed] [vandalized] [destroyed] [tampered with] any [shrubbery] [flowers] [plants] [(describe other articles)] that were [planted] [placed] within any cemetery [to designate where human remains are interred] [to preserve and perpetuate the memory and name of any person],

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 both of these things (nothing else appearing)², it would be your duty to return a verdict of not guilty.

1. N.C. Gen. Stat. § 14-148(a) provides that the defendant's actions would not violate this statute if the defendant were acting with the authorization of law or the consent of the surviving spouse or next of kin of the deceased.

2. The parenthetical phrase should be used only where there is evidence of justification or excuse, such as authorization of law or the consent of the surviving spouse or the next of kin. N.C. Gen. Stat. § 14-148(a)(2),(3).