

222.51 DESECRATION OF HUMAN REMAINS. FELONY.

NOTE WELL: It is not a violation of this statute to engage in the ordinary maintenance and care of a cemetery.

The defendant has been charged with desecrating human remains.

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) [opened] [disturbed] [destroyed] [removed] [vandalized] [desecrated] any [casket] [(describe other repository)] of any human remains by [plowing under] [tearing up] [covering over] [obliterating] [removing] any [grave] [portion of a grave].

[(b) [took away] [disturbed] [vandalized] [tampered with] [defaced] any [tombstone] [headstone] [monument] [grave marker] [grave ornamentation] [grave artifacts] which were [erected] [placed] within any cemetery [to designate the place where human remains are interred] [to preserve and perpetuate the memory and the name of any person].

And Second, that the defendant acted knowingly and willfully.¹

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant

[(a) [opened] [disturbed] [destroyed] [removed] [vandalized] [desecrated] any [casket] [(describe other repository)] of any human remains by [plowing under] [tearing up] [covering over] [obliterating] [removing] any [grave] [portion of a grave],

[(b) [took away] [disturbed] [vandalized] [tampered with] [defaced] any [tombstone] [headstone] [monument] [grave marker] [grave ornamentation] [grave artifacts] which were [erected] [placed] within any cemetery [to designate the place where human remains are interred] [to preserve and perpetuate the memory and the name of any person],

and the defendant acted knowingly and willfully, 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 (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).