

224.30 FELONIOUS CONVERSION BY BAILEE. FELONY, MISDEMEANOR.

The defendant has been charged with felonious conversion by a bailee.

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

First, that the defendant was entrusted with property as bailee of the owner.<sup>1</sup> A bailee is a person to whom property is delivered pursuant to an agreement that upon completion of the agreed terms the property or proceeds thereof shall be returned to the owner.

Second, that the defendant converted the [property] [proceeds from the sale of the property] to his own use.

Third, that in so doing, the defendant intended to defraud the owner of the property. Intent is a state of mind seldom provable by direct evidence. It must ordinarily be inferred from all of the facts and circumstances which you find to have existed at the time.

And Fourth, that the [property] [proceeds from the sale of the property] had a value in excess of \$400.00.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was entrusted with property as the bailee of the owner of the property and converted such [property] [proceeds from the sale of the property] to his own use with the intent to defraud the owner thereof, and such [property] [proceeds from the sale of the property] had a value in excess of \$400.00, it would be your duty to return a verdict of guilty of felonious conversion by bailee. If you do not so find or if you have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious conversion by bailee but must determine whether the defendant is guilty of non-felonious conversion by a bailee, which differs from felonious conversion in that the state need not prove that

the value of such property (or its proceeds) exceeded \$400.00.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was entrusted with property as bailee of the owner and converted such [property] [proceeds of the sale of such property] to his own use with the intent to defraud the owner thereof, it would be your duty to return a verdict of guilty of non-felonious conversion by bailee. 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.

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1. G.S. 14-168.1 also applies to lessee, tenant, lodger, and attorney-in-fact.