

230.32 RESISTING, DELAYING, OR OBSTRUCTING AN OFFICER—
EXCESSIVE FORCE BY THE OFFICER. MISDEMEANOR.

The defendant has been charged with [resisting] [delaying]
[obstructing] an officer.

Now I charge that for you to find the defendant guilty of this offense,
the State must prove five things beyond a reasonable doubt:

First, that the alleged victim was a public officer. A (*state alleged
victim's title, e.g., highway patrolman, building inspector, probation officer*) is
a public officer.

Second, that the defendant knew or had reasonable grounds to believe
that the alleged victim was a public officer.

Third, that the alleged victim was [discharging] [attempting to
discharge] an official duty. (*Describe what alleged victim was doing, e.g.,
directing traffic, inspecting wiring, making a home visit*), is an official duty of
a (*state alleged victim's title, e.g., highway patrolman, building inspector,
probation officer*).¹

Fourth, that the defendant [resisted] [delayed] [obstructed] the alleged
victim in [discharging] [attempting to discharge] this duty.

And Fifth, that the defendant acted willfully and unlawfully, that is
intentionally² and without justification or excuse.

The defendant's [resistance] [delay] [obstruction], if any, is excused if
it was in response to excessive force by an officer, because any such
[resistance] [delay] [obstruction] in that event would not be unlawful. In
(*describe duty, e.g., "attempting to make a lawful arrest"*), a (*name officer*)
may use whatever force is apparently necessary to him and reasonable for
that purpose. However, if an officer uses more force than is apparently

necessary to him or more force than is reasonable under the circumstances, such force is excessive and unlawful. If (*name officer*) used more force than was apparently necessary to him or reasonable under all the circumstances, and if the defendant's [resistance] [delay] [obstruction] was to the excessive force used by (*name officer*), then the defendant is not guilty of this offense.

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, and that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, it would be your duty to return a verdict of guilty. However, 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. Where the State contends that the victim was doing one thing, which would be an official duty, but there is evidence that he may have been doing something else, which would not be an official duty, state what would and what would not be an official duty.

2. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.