

236A.35 DISORDERLY CONDUCT AT A FUNERAL. CLASS 1 MISDEMEANOR,
CLASS I FELONY, CLASS H FELONY. N.C. Gen. Stat. § 14-288.4(A)(8)

NOTE WELL: Use this instruction only if the defendant denies a previous conviction under N.C. Gen. Stat. § 14-288.4 or remains silent. If he admits the previous conviction, use N.C.P.I. 236A.33 See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment. See also N.C.P.I.-Crim. 204.05 for a model instruction for bifurcated proceedings.

The defendant has been charged with disorderly conduct at a funeral.

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

First, that the defendant:

- a) displayed a visual image within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]] that conveyed [fighting words] [[actual threats of harm] [imminent threats of harm]] directed to a [person] [property] associated with the [funeral] [memorial service] [family processional to the [funeral] [memorial service]]¹
- b) uttered within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service] [[loud] [threatening] [abusive language]] [[singing] [chanting] [whistling] [yelling]] [with noise amplification] [without noise amplification] in a manner that would tend to [impede] [disrupt] [disturb] [interfere] with a [funeral] [memorial service] [family processional to the [funeral] [memorial

service]]

- c) [[attempted² to block] [blocked]] [pedestrian] [vehicular] access to the [ceremonial site] [location being used] for a [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];

Second, that the defendant's conduct occurred [within two hours [before] [after]] [during]] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];

Third, that the defendant intentionally engaged in this conduct to [impede] [disrupt] [disturb] [interfere with] the orderly administration of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];

NOTE WELL: Use the following element only if the defendant has a prior conviction or had pleaded guilty to a violation of N.C. Gen. Stat. § 14-288.4.

(And Fourth, that on (*name date*) the defendant, in (*name court*) [was convicted of] [pled guilty to] the felony of (*name violation*), that was committed on (*name date*).)³

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

- a) displayed a visual image within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service]] that conveyed [fighting words] [[actual threats of harm] [imminent threats of harm]] directed to a [person] [property] associated with the [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];

- b) uttered within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service] [[loud] [threatening] [abusive language]] [[singing] [chanting] [whistling] [yelling]] [with noise amplification] [without noise amplification] in a manner that would tend to [impede] [disrupt] [interfere] with a [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];
- c) [[attempted to block] [blocked]] [pedestrian] [vehicular] access to the [ceremonial site] [location being used] for a [funeral] [memorial service] [ceremonial site] [location being used] for a [funeral] [memorial service] [family processional to the [funeral] [memorial service]],

[within two hours [before] [after]] [during] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]] with the intent to [impede] [disrupt] [disturb] [interfere with] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]], and the defendant has [one] [two or more] prior convictions for (*name offense*), 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, then you would not return a verdict of guilty but would consider whether the defendant is guilty of misdemeanor disorderly conduct at a funeral. Misdemeanor disorderly conduct at a funeral differs from felonious disorderly conduct in that the misdemeanor does not require that the defendant have been previously convicted of disorderly conduct at a funeral. If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant:

- a) displayed a visual image within 500 feet of a [funeral] [memorial service] [family processional to the [funeral]

- [memorial service] that conveyed [fighting words] [[actual threats of harm] [imminent threats of harm]] directed to a [person] [property] associated with the [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];
- b) uttered within 500 feet of a [funeral] [memorial service] [family processional to the [funeral] [memorial service] [[loud] [threatening] [abusive language]] [[singing] [chanting] [whistling] [yelling]] [with noise amplification] [without noise amplification] in a manner that would tend to [impede] [disrupt] [interfere] with a [funeral] [memorial service] [family processional to the [funeral] [memorial service]]];
- c) [[attempted to block] [blocked]] [pedestrian] [vehicular] access to the [ceremonial site] [location being used] for a [funeral] [memorial service] [ceremonial site] [location being used] for a [funeral] [memorial service] [family processional to the [funeral] [memorial service]],

[within two hours [before] [after]] [during] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]] with the intent to [impede] [disrupt] [disturb] [interfere with] the [funeral] [memorial service] [family processional to the [funeral] [memorial service]], 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, then it would be your duty to return a verdict of not guilty.

1 This includes a military service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service, including a military funeral or memorial service, is taking place. As used in this section the

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term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

2 For further instructions on attempt, see N.C.P.I.-Crim 201.10

3 A second offense is punished as a felony. A third or subsequent offense is punished as a higher-level felony. If more than two prior convictions are alleged, then additional elements should be added.