

N.C.P.I.-Crim. 280.40
ESCAPE FROM IMPRISONMENT BY USE OF A DANGEROUS WEAPON.
FELONY.
GENERAL CRIMINAL VOLUME
MAY 2001
N.C. Gen. Stat. § 14-258.2

280.40 ESCAPE FROM IMPRISONMENT BY USE OF A DANGEROUS WEAPON. FELONY.

The defendant has been charged with escape from imprisonment by use of a weapon capable of inflicting serious bodily injuries or death.

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

First, that the defendant was:

[A. In the custody of the Division of Prisons. A person sentenced to [any unit of the State prison system] [jail to be assigned to work under the State Department of Correction] is in the custody of the Division of Prisons.]¹

[B. Under the custody of a local confinement facility.² (*Name detention facility*) is a local confinement facility.]

Second, that the defendant escaped from imprisonment.

And Third, that the defendant effected *his* escape by the use of a weapon capable of inflicting serious bodily injury or death. [(*Name weapon*) is capable of inflicting serious bodily injuries or death] [In determining whether (*name weapon*) was capable of inflicting serious bodily injuries or death, you should consider the nature of the weapon and the manner in which it could be used.]

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was in the custody of [the Division of Prisons] [a local confinement facility] and that while the defendant was in such custody, the defendant escaped by the use of a weapon

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capable of inflicting serious bodily injury or death, 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, it would be your duty to return a verdict of not guilty.³

1. See N.C. Gen. Stat. § 148-4.

2. See N.C. Gen. Stat. § 153A-217(5) for a definition of "local confinement facility."

3. If there is to be an instruction on lesser included offenses, the last phrase should be ". . . you will not return a verdict of guilty of escape while a prisoner with a weapon capable of inflicting serious bodily injuries or death."