

N.C.P.I.-Crim. 280.41
ASSAULT WITH A DEADLY WEAPON INFLICTING BODILY INJURY WHILE
ASSISTING A PRISONER TO ESCAPE OR ATTEMPT TO ESCAPE. FELONY.
GENERAL CRIMINAL VOLUME
DECEMBER 2001
N.C. Gen. Stat. § 14-258.2(b)

280.41 ASSAULT WITH A DEADLY WEAPON INFLICTING BODILY INJURY
WHILE ASSISTING A PRISONER TO ESCAPE OR ATTEMPT TO ESCAPE.
FELONY.

The defendant has been charged with assault with a deadly weapon
inflicting bodily injury while assisting a prisoner to escape or attempt to
escape.

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

First, that (*name prisoner*) 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. In the custody of a local confinement facility.² (*Name
detention facility*) is a local confinement facility.]

Second, that while in such custody (*name prisoner*) [escaped]
[attempted to escape.]

Third, that the defendant assisted (*name prisoner*) in the
perpetration of the [escape] [attempted escape].

Fourth, that in assisting (*name prisoner*) to [escape] [attempt to
escape] the defendant assaulted the victim by intentionally³ (*describe
assault*), thereby inflicting bodily injury.

And Fifth, that the defendant used a deadly weapon. A deadly
weapon is a weapon which is likely to cause death or serious bodily

injury.

[(*Name weapon*) is a deadly weapon.] [In determining whether (*name weapon*) is a deadly weapon, you should consider the nature of (*name weapon*), the manner in which it was used, and the size and strength of the defendant as compared to the victim.]⁴

If you find from the evidence beyond a reasonable doubt, that on or about the alleged date, the prisoner was in the custody of [the division of Prisons] [a local confinement facility] and that (*name prisoner*) [escaped] [attempted to escape], and that while assisting (*name prisoner*) in [escaping] [attempting to escape] the defendant assaulted the victim with a deadly weapon, thereby inflicting bodily injury, 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.⁵

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. See N.C.P.I.-Crim. 120.10.

4. Use applicable bracketed statement. In the event that there is a dispute as to which weapon was used and one of the weapons is non-deadly as a matter of law, *e.g.*, a real pistol and a toy pistol, state what would not be a deadly weapon.

5. 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 assault with a deadly weapon inflicting bodily injury which assisting a prisoner to escape or attempt to escape."