

## **FLIGHT**

### **Criminal Law-Instructions-Flight-Supporting evidence**

*State v. Locklear, 180 NCA 115 (2006)*

The evidence supported the trial court's instruction on flight where the jury reasonably could have found that defendant fled three times after commission of the crimes charged, including while driving a truck and attempting to elude pursuing police vehicles, when he left the truck and ran to a nearby payphone, and when he broke the window of a police vehicle and attempted to escape on foot.

### **Criminal Law\_flight\_instruction\_evidence of avoidance of apprehension\_prejudice not shown**

*State v. Pendleton, 175 NCA 230 (2005)*

Defendant did not show prejudicial error from an instruction on flight where he missed two appointments with a detective, fled the area, and presented false identification when pulled over in South Carolina, and where he merely made the conclusory statement on appeal that the instruction was prejudicial.

*State v. Etheridge, 360 NC 359 (2006) Affirmed w/o opinion Ct Appeals, State v. Etheridge, 168 NCA 359 (2005)*

There was sufficient evidence to support the trial judge's jury instruction on flight by the Def. The defendant left the break-in scene shortly after a neighbor arrived. Although law enforcement found the defendant's vehicle, they were unable to locate the def. for several weeks.

### **Criminal Law\_-instruction--flight**

*State v. Goblet, 173 NCA 112 (2005)*

The trial court did not err in a multiple felony breaking and entering, felony larceny, and felony possession of stolen goods case by instructing the jury regarding flight, because: (1) on one occasion when defendant and his coparticipant were at one of the homes that was broken into, the homeowner returned and spoke with the coparticipant first and thereafter spoke with defendant when he came running around the house; and (2) the State introduced evidence that defendant gave officers a false name and date of birth when he was a passenger in a car stopped by police, and the driver indicated that she was taking defendant to the bus station so that he could go to Ohio.

### **Criminal Law–flight–visit to friend’s house–not sufficient for instruction**

*State v. Holland, 161 NCA 326 (2003)*

The trial court erred by instructing the jury on flight on evidence that defendant went to the home of a friend after the crime. There was no evidence that defendant did so to avoid apprehension; visiting a friend at a residence is not an act that raises a reasonable inference that a defendant was avoiding apprehension. However, this error was harmless in light of the remaining evidence in the case, including the identification of defendant as the perpetrator of the crimes charged.

### **Criminal Law - prosecutor's argument - flight**

*State v. Mann, 355 N.C. 294 (2002)*

The trial court did not err by failing to intervene ex mero motu in a first-degree murder, first-degree kidnapping, robbery with a dangerous weapon, and financial transaction card theft case when the prosecutor argued flight to the jury even though the trial court denied the State's request for a flight instruction, because: (1) the trial court's decision to refrain from instruction on flight did not preclude the prosecutor from arguing the facts regarding defendant's behavior when approached by law enforcement officers for further questioning; (2) the prosecutor did not suggest to the jury that an instruction on flight was forthcoming; and (3) the prosecutor did not argue that the evidence of defendant's actions alone was sufficient to establish his guilt.

## **Criminal Law--jury instruction--flight--determination of guilt**

*State v. Lloyd, 354 NC 76 (2001)*

The trial court did not err in a capital first-degree murder prosecution by instructing the jury that it could consider evidence of flight in determining defendant's guilt, because: (1) there was testimony from numerous witnesses that defendant hurriedly left the scene of the murder without providing medical assistance to the victim; and (2) the fact that there may be other reasonable explanations for defendant's conduct does not render the instruction improper.

## **Criminal Law--flight--evidence sufficient--instruction proper**

*State v. Anthony, 354 NC 372 (2001)*

The evidence was sufficient to support an instruction on flight in a capital first-degree murder prosecution where defendant entered his car immediately after shooting the victims, drove quickly from the crime scene without rendering assistance or seeking to obtain medical aid for the victims, and passed one officer without flagging him down. This evidence was sufficient to show that defendant did more than merely leave the scene of the crime; furthermore, the court's instruction accurately informed the jury that proof of flight alone was insufficient to establish guilt and would not be considered as evidence of premeditation and deliberation.

## **Evidence--flight--disclosure of separate crime admissible--evidence of guilt or consciousness of guilt**

*State v. Mccord, 140 N.C. App. 634 (2000)*

The trial court did not err in a prosecution for first-degree murder, first-degree rape, first-degree kidnapping, robbery with a firearm, and first-degree burglary by allowing evidence under N.C.G.S. § 8C-1, Rule 404(b) of defendant's flight from an officer, including evidence that defendant fired a weapon at officers and defendant was hit with a bullet fired by one of the officers, because: (1) evidence

of a defendant's flight following the commission of a crime may properly be considered by a jury as evidence of guilt or consciousness of guilt; (2) evidence of flight is admissible even though it may disclose the commission of a separate crime by defendant; and (3) the trial court's determination that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice to defendant under N.C.G.S. § 8C-1, Rule 403 was not an abuse of discretion.

### **Criminal Law--requested instruction--flight--applies only to defendant**

*State v. Jackson, 137 N.C. App. 570 (2000)*

The trial court did not err in a trafficking in cocaine and possession of drug paraphernalia case by denying defendant's request for a jury instruction that another person's flight may be considered to show consciousness of guilt because an instruction on flight applies to the flight of defendant and does not apply to any alleged flight of a witness.

### **Evidence and Witnesses § 222 (NCI4th) - flight - instructions - evidence sufficient**

*State v. Allen, 346 N.C. 731 (1997)*

The trial court did not err in a first-degree murder prosecution by instructing the jury on the issue of flight where defendant shot and killed his wife and wounded another victim as they sat in a parked car, drove from the scene, and was not apprehended until later that night in another county. Jury instructions relating to the issue of flight are proper as long as there is some evidence reasonably supporting the theory that defendant fled after commission of the crime charged.

### **Evidence and Witnesses § 222 (NCI4th) high-speed chase four months after crimes evidence of flight**

*State v. King, 343 N.C. 29, 468 S.E.2d 232 (1996)*

The trial court in a murder and assault trial did not err by admitting evidence concerning a high-speed car chase of defendant by a police officer four months after the crimes as evidence of flight and by instructing the jury that it could consider evidence of flight in determining defendant's guilt since (1) there was evidence that defendant fled from Durham to New York after shooting the victims in order to avoid arrest; (2) the four intervening months between the shootings and the car chase did not rob this evidence of its relevance and probative value to show defendant's consciousness of guilt; (3) there is no requirement that defendant be aware of the initiation of formal charges against him for evidence of flight to be admissible upon the question of guilt; (4) the fact that an inference may be drawn that defendant was eluding arrest for more recent offenses does not make the instruction on flight erroneous in this case; and (5) evidence that defendant committed other crimes during the high-speed chase did not render evidence of the chase inadmissible.

**Evidence and Witnesses § 222 (NCI4th) flight evidence sufficient**

*State v. Reeves, 343 N.C. 111, 468 S.E.2d 53 (1996)*

The trial court did not err in a noncapital first-degree murder prosecution by giving an instruction on flight where there was evidence tending to show that defendant, after shooting the victim, ran from the scene of the crime, got in a car waiting nearby, and drove away.

**Evidence and Witnesses § 222 (NCI4th) failure of defendant to appear for trial evidence of flight admissibility**

*State v. Williamson, 122 N.C. App. 229, 468 S.E.2d 840 (1996)*

**Evidence and Witnesses 222 (NCI4th) first-degree murder - flight**

*State v. Brewton, 342 N.C. 875 (3-8-1996) \_\_\_ S.E.2d \_\_\_*

The trial court did not err in a first-degree murder prosecution by giving the pattern jury instructions on flight where defendant ran from the scene on foot, went briefly to his mother's home in a nearby apartment complex, checked into a hotel, and surrendered the next day after learning that detectives were searching for him. These facts, taken in the light most favorable to the State, justify giving the instruction. The court correctly informed the jury that the evidence of flight could not be considered as tending to show premeditation and deliberation.

#### **Evidence and Witnesses 1070 (NCI4th) flight sufficiency of evidence to support instruction**

*State v. Johnson, 341 N.C. 104 (1995) \_\_\_ S.E.2d \_\_\_*

The evidence was sufficient in this homicide prosecution to support the trial court's instruction on flight where the evidence showed that defendant shot his estranged wife in the plain view of her mother; he immediately got into his sister's car and drove away from the crime scene without rendering any assistance to the victim; he did not return to his residence immediately after the shooting; he drove the car to a trailer park, parked it between two trailers, and abandoned it with the keys inside and gasoline in the tank; police issued an all points bulletin for defendant but failed to locate him until approximately twenty-one hours after the crime was committed; at the time of his arrest defendant had been drinking alcohol; and prior to his arrest defendant's sister encouraged him to turn himself in to the police, but defendant made no response and kept drinking beer.

#### **Evidence and Witnesses 1064 (NCI4th) instruction on nonflight- not required**

*State v. Burr, 341 N.C. 263 (1995) \_\_\_ S.E.2d \_\_\_*

The trial court did not err in failing to instruct the jury that evidence of defendant's nonflight from the scene may be considered in determining whether the combined circumstances indicate innocence or a showing of nonguilt.

#### **Evidence and Witnesses 1070 (NCI4th) instruction on flight - sufficiency of evidence**

*State v. Nixon, 117 N.C. App. 141 (1994) \_\_\_ S.E.2d \_\_\_*

The trial court in a murder prosecution properly instructed on flight of defendant where the evidence showed that after the shootings, defendant, who testified that he saw one victim's body fall out of the other victim's car and that he believed he had shot the second victim, jumped into his car and left, thereafter picked up his friend, and disposed of his gun before he called an acquaintance who was a police officer.

**Evidence and Witnesses 1070, 1066 (NCI4th) flight - instructions - evidence sufficient - not an expression of opinion**

*State v. Watson, 338 N.C. 168 (1994) \_\_\_ S.E.2d \_\_\_*

The trial court did not err in a noncapital first-degree murder prosecution by instructing the jury on flight as evidence of guilt where there was evidence that defendant immediately sped away in his truck after shooting the victim five times and, although aware that police officers had visited his house in search of him, did not contact the police or return home for two weeks following the shooting.

**Evidence and Witnesses 1070 (NCI4th) flight of defendant - sufficiency of evidence to support instruction**

*State v. Westall, 116 N.C. App. 534 (1994) \_\_\_ S.E.2d \_\_\_*

Evidence was sufficient to reasonably support an inference that defendant fled from the scene of the crime and later eluded police after a high-speed pursuit, and the mere fact that other evidence showed defendant later voluntarily surrendered to police did not render the instruction on flight erroneous.

**Evidence and Witnesses 541 (NCI4th) first-degree murder - escape - evidence of flight - admissible - probative value not outweighed by danger of prejudice**

*State v. Mcdougald, 336 N.C. 451 (1994) \_\_\_ S.E.2d \_\_\_*

**Evidence and Witnesses 1070 (NCI4th) - instruction on flight - out-of-state visits - escape plan**

*State v. Barnes, 334 N.C. 67, 430 S.E.2d 914 (1993)*

**Evidence and Witnesses 222 (NCI4th) - flight - detective's efforts to locate defendant – instruction on flight**

*State v. Patterson, 332 N.C. 409, 420 S.E.2d 98 (1992)*