

DISTURBING/DESECRATING HUMAN REMAINS
(N.J.S.A. 2C:22-1a(2))

Count (INSERT) of the Indictment charges the defendant with the crime of disturbing/desecrating human remains. The statute on which this count of the Indictment is based reads in pertinent part:

A person commits an offense if, he unlawfully
(desecrates)(damages)(destroys) human remains.

In order for you to find the defendant guilty of this offense, the State must prove each of the following elements beyond a reasonable doubt:

- (1) That the defendant unlawfully (desecrated)(damaged) (destroyed) human remains.
- (2) That the defendant acted knowingly.¹

The first element the State must prove beyond a reasonable doubt is that the defendant unlawfully (desecrated)(damaged)(destroyed) human remains.

“Human remains” means the body of a deceased person or the dismembered part of a body of a living person. It does not include cremated remains.²

(CHARGE IF APPROPRIATE)

Desecrate means to deface.³

(RESUMPTION OF MAIN CHARGE)

The State must prove beyond a reasonable doubt that the (act/acts) of (desecrating) (damaging)(destroying) human remains (was/were) not done in accordance with law.

(CHARGE IF UNLAWFULNESS IS AN ISSUE)

In this case, there is a contention that the acts were done in accordance with law. The State bears the burden to prove beyond a reasonable doubt that the acts were unlawful.

¹ Since there is no enumerated mental state codified in the statute, the gap-filler provision of N.J.S.A. 2C:2-2(c)(3) renders the mental state to be “knowingly.”

² N.J.S.A. 2C:22-1(c).

³ N.J.S.A. 2C:33-9

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The statute defines lawful acts as those made in accordance with:

(SELECT APPROPRIATE SECTION(S))

- (1) The “State Medical Examiner Act,” P.L.1967, c. 234 (C.52:17B-78 et al.);
- (2) The “Mortuary Science Act,” P.L.1952, c. 340 (C.45:7-32 et seq.);
- (3) The provisions of chapters 6 and 7 of Title 26 of the Revised Statutes concerning disposal of dead bodies and cremation;
- (4) The “New Jersey Cemetery Act,” *N.J.S.8A:1-1* et seq.;
- (5) A criminal investigation conducted by a law enforcement authority;
- (6) An order of a court of competent jurisdiction or other appropriate legal authority.

A good faith action involving interment or disinterment which disturbs, moves, conceals, desecrates, damages or destroys human remains is not unlawful. Interment means to deposit a dead body into the earth or a tomb.⁴ Disinterment means to take a dead body out of a grave or tomb. The State bears the burden to disprove the presence of good faith beyond a reasonable doubt.

(RESUMPTION OF MAIN CHARGE)

The second element that the State must prove beyond a reasonable doubt is that defendant acted knowingly. A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that the conduct is of that nature or that such circumstances exist or the person is aware of a high probability of their existence. A person acts knowingly with respect to a result of the conduct if he/she is aware that it is practically certain that the conduct will cause a result. “Knowing,” “with knowledge,” or equivalent terms have the same meaning.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from defendant’s conduct, words or acts. A state of mind is rarely susceptible of

⁴ Merriam-Webster's Collegiate Dictionary, (11th Ed. 2012)

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direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inferences which may arise from the nature of his/her acts and conduct and from all he/she said and did at the particular time and place and from all surrounding circumstances established by the evidence.

If you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty.

If you find that the State has proved each element of the offense beyond a reasonable doubt, then you must find the defendant guilty.