

Ala. Code 1975, 13A-7-23.1(a)

**Desecrating, Destroying Burial Grounds or Human Remains
(Tomb, Monument, Gravestone, Memorial)**

The defendant is charged with desecration or defacement of a memorial of the dead.

A person commits the crime of desecration or defacement of a memorial of the dead if he/she willfully or maliciously injures, defaces, removes or destroys any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or any enclosure for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead.

To convict, the State must prove beyond a reasonable doubt each of the following elements of desecration or defacement of a memorial of the dead:

- (1) **[Read appropriate part]:** The defendant willfully or maliciously injured, defaced, removed or destroyed a tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or any enclosure for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead (**describe**); and
- (2) The defendant did not have a permit issued by the Alabama Historical Commission to operate a cemetery under standard rules and regulations and maintenance procedures; or was not otherwise authorized by law to remove or disturb a tomb, monument, grave marker, burial mound, earthen or shell monument, or similar structure; or was not authorized to take any action on municipal property.

A person acts **willfully** when he/she acts voluntarily. A person acts willfully when the act was committed voluntarily and purposefully with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or disregard the law.

A person acts **maliciously**, or with malice, when his/her mental state or condition of his/her mind prompts him/her to do an unlawful act without legal excuse or justification.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of desecration or defacement of a memorial of the dead, then you shall find the defendant guilty of desecration or defacement of a memorial of the dead.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of desecration or defacement of a memorial of the dead, then you cannot find the defendant guilty of desecration or defacement of a memorial of the dead.

[Adopted 09-19-14.]