

Ala. Code 1975, § 13A-7-23.1(a)

Desecration, Defacement of Memorial of Dead
(Tree, Shrub, Plant, Flower etc.)

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 and wrongfully or maliciously destroys, removes, cuts, breaks, or injures any tree, shrub, plant, flower, decoration, or other real or personal property within any cemetery or graveyard.

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

- (1) **[Read appropriate part]** The defendant willfully and wrongfully or maliciously destroyed, removed, cut, broke or injured a tree, shrub, plant, flower, decoration or other real or personal property **(describe)** within a cemetery or graveyard **(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.

[Read appropriate part]:

“Property” is any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents, although the rights represented hereby have no physical location), contract right, chose-in-action, interest in a claim to wealth, credit, or any other article or thing of value of any kind. Commodities of a public utility nature, such as gas, electricity, steam, and water, constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits,

or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property. [13A-8-1(10)]

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.]