

RULE 3.151 | CONSOLIDATION OF RELATED OFFENSES

(a) Related Offenses. For purposes of these rules, 2 or more offenses are related offenses if they are triable in the same court and are based on the same act or transaction or on 2 or more connected acts or transactions.

(b) Consolidation of Indictments or Informations. Two or more indictments or informations charging related offenses shall be consolidated for trial on a timely motion by a defendant or by the state. The procedure thereafter shall be the same as if the prosecution were under a single indictment or information. Failure to timely move for consolidation constitutes a waiver of the right to consolidation.

(c) Dismissal of Related Offenses after Trial. When a defendant has been tried on a charge of 1 of 2 or more related offenses, the charge of every other related offense shall be dismissed on the defendant's motion unless a motion by the defendant for consolidation of the charges has been previously denied, or unless the defendant has waived the right to consolidation, or unless the prosecution has been unable, by due diligence, to obtain sufficient evidence to warrant charging the other offense or offenses.

(d) Plea. A defendant may plead guilty or nolo contendere to a charge of 1 offense on the condition that other charges of related offenses be dismissed or that no charges of other related offenses be instituted. Should the court find that the condition cannot be fulfilled, the plea shall be considered withdrawn.

Committee Notes

1968 Adoption. This rule is almost the same as federal rule 13, with provisions added for trial by affidavit.

1972 Amendment. (a) To same general effect as ABA Standard with changes to conform to rules 3.150(a) and 3.190(k).

(b) Limits motion for consolidation to defendant and provides that defendant waives his or her right to consolidation by failing to file a timely motion. Under standards relating to joinder of offenses and defendants, the prosecution may avoid the necessity for consolidation by charging offenses and defendants in a single indictment or information where consolidation is permissible. Omits provision of ABA Standard authorizing denial of consolidation if prosecuting attorney does not have "sufficient evidence to warrant trying" 1 of the "offenses" or if the court finds that the



ends of justice would be defeated by consolidation. The lack of “sufficient evidence to warrant” trial of 1 of several charges of “related offenses” would be quite rare. In the rare case in which there is such a lack of evidence, the appropriate remedy would be a motion for continuance of all pending charges of related offenses, showing that the lack of evidence could probably be cured by a reasonable delay. The committee does not favor separate trials of charges of related offenses over the defendant’s objection.

(c) Florida has no similar rule. Omits exception in ABA Standard in case “the prosecuting attorney did not have sufficient evidence to warrant trying (the) offense” or upon a finding that “the ends of justice would be defeated if the motion was granted.” See comment on (b). The rule is not intended to restrict defendant’s substantive rights.

(d) Florida has no similar rule. The first sentence of ABA Standard is considered by the committee to state a rule of substantive law and is omitted as unnecessary.

1977 Amendment. The changes from the prior rule are intended to provide equal treatment for both the state and the defendant.