

RULE 3.380 | MOTION FOR JUDGMENT OF ACQUITTAL

(a) Timing. If, at the close of the evidence for the state or at the close of all the evidence in the cause, the court is of the opinion that the evidence is insufficient to warrant a conviction, it may, and on the motion of the prosecuting attorney or the defendant shall, enter a judgment of acquittal.

(b) Waiver. A motion for judgment of acquittal is not waived by subsequent introduction of evidence on behalf of the defendant. The motion must fully set forth the grounds on which it is based.

(c) Renewal. If the jury returns a verdict of guilty or is discharged without having returned a verdict, the defendant's motion may be made or renewed within 10 days after the reception of a verdict and the jury is discharged or such further time as the court may allow.

Committee Notes

1968 Adoption. Substantially same as section 918.08, Florida Statutes, except as follows:

(a) The existing statutory practice of granting directed verdicts is abolished in favor of the federal practice of having the judge enter a judgment of acquittal.

(b) The wording was changed to comply with the judgment of acquittal theory. A majority of the committee felt that the substance of the existing statute was all right, but a minority felt that the language should be changed so that a defendant would waive an erroneous denial of his motion for judgment of acquittal by introducing evidence. This point was raised in *Wiggins v. State*, 101 So.2d 833 (Fla. 1st DCA 1958), wherein the court said that this statute is "ineptly worded."

1972 Amendment. (a) and (b) same as prior rule 3.660, transferred to better follow trial chronology. (c) provides time period for renewal of motion and is new.

1980 Amendment. This brings rule 3.380(c) into conformity with Florida Rule of Civil Procedure 1.480(b) as it relates to the number of days (10) within which a party, either in a civil or criminal case, may make or renew a motion for judgment of acquittal. There appears to be no sound reason for the distinction between the criminal rule (4 days or such greater time as the court may allow, not to exceed 15 days) and the civil rule (10 days).

