



**FLORIDA RULES OF CRIMINAL PROCEDURE
SECTION XI
[ALL-IN-ONE DOCUMENT]**

THE VERDICT

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FLORIDA RULES OF CRIMINAL PROCEDURE

XI THE VERDICT

RULES: 3.440 through 3.575



RULE 3.440 | RENDITION OF VERDICT; RECEPTION AND RECORDING

When the jurors have agreed upon a verdict they shall be conducted into the courtroom by the officer having them in charge. The court shall ask the foreperson if an agreement has been reached on a verdict. If the foreperson answers in the affirmative, the judge shall call on the foreperson to deliver the verdict in writing to the clerk. The court may then examine the verdict and correct it as to matters of form with the unanimous consent of the jurors. The clerk shall then read the verdict to the jurors and, unless disagreement is expressed by one or more of them or the jury is polled, the verdict shall be entered of record, and the jurors discharged from the cause. No verdict may be rendered unless all of the trial jurors concur in it.

Committee Notes

1968 Adoption. Same as section 919.09, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.450 | POLLING THE JURY

On the motion of either the state or the defendant or on its own motion, the court shall cause the jurors to be asked severally if the verdict rendered is their verdict. If a juror dissents, the court must direct that the jury be sent back for further consideration. If there is no dissent the verdict shall be entered of record and the jurors discharged. However, no motion to poll the jury shall be entertained after the jury is discharged or the verdict recorded.

Committee Notes

1968 Adoption. Same as section 919.10, Florida Statutes, except elimination of polling jury after directed verdict in view of innovation of “judgment of acquittal.”

1972 Amendment. Same as prior rule.



RULE 3.451 | JUDICIAL COMMENT ON VERDICT

While it is appropriate for the court to thank jurors at the conclusion of a trial for their public service, the court shall not praise or criticize their verdict.

Committee Notes

1972 Adoption. From ABA Standard 5.6, Trial by Jury.



RULE 3.470 | PROCEEDINGS ON SEALED VERDICT

The court may, with the consent of the prosecuting attorney and the defendant, direct the jurors that if they should agree upon a verdict during a temporary adjournment of the court, the foreperson and each juror shall sign the same, and the verdict shall be sealed in an envelope and delivered to the officer having charge of the jury, after which the jury may separate until the next convening of the court. When the court authorizes the rendition of a sealed verdict, it shall admonish the jurors not to make any disclosure concerning it or to speak with other persons concerning the cause, until their verdict shall have been rendered in open court. The officer shall, forthwith, deliver the sealed verdict to the clerk. When the jurors have reassembled in open court, the envelope shall be opened by the court or clerk and the same proceedings shall be had as in the receiving of other verdicts.

Committee Notes

1968 Adoption of Rule 3.470. Same as section 919.12, Florida Statutes.

1968 Adoption of Rule 3.480. Same as section 919.13, Florida Statutes.

1972 Amendment. Former rule 3.480 has been deleted, its substance now contained in rule 3.470. Substantially same as former rules 3.470 and 3.480.



RULE 3.490 | DETERMINATION OF DEGREE OF OFFENSE

If the indictment or information charges an offense divided into degrees, the jury may find the defendant guilty of the offense charged or any lesser degree supported by the evidence. The judge shall not instruct on any degree as to which there is no evidence.

Committee Notes

1968 Adoption. Same as 919.14.

1972 Amendment. Same as prior rule except references to affidavit have been deleted.



RULE 3.500 | VERDICT OF GUILTY WHERE MORE THAN ONE COUNT

If different offenses are charged in the indictment or information on which the defendant is tried, the jurors shall, if they convict the defendant, make it appear by their verdict on which counts or of which offenses they find the defendant guilty.

Committee Notes

1968 Adoption. Same as section 919.15, Florida Statutes.

1972 Amendment. Amended to modernize the language of the rule. Substantially the same as prior rule.



RULE 3.505 | INCONSISTENT VERDICTS

The state need not elect between inconsistent counts, but the trial court shall submit to the jury verdict forms as to each count with instructions applicable to returning its verdicts from the inconsistent counts.

Committee Notes

1977 Adoption. Although there appears to be no rule or statute relating to “election,” many Florida cases refer to the fact that the trial court is required to make the state elect, before or during trial, between inconsistent counts. Many times the circumstances show conclusively that the accused is guilty of one or the other of inconsistent offenses. Since the evidence is then inconsistent with any reasonable hypothesis of innocence, the circumstantial rule is satisfied and the evidence should support a verdict of guilty as to either offense. In such a case the state should not be required to elect. This new rule is intended to lead to uniformity throughout the state on this issue and is more consonant with rule 3.140(k)(5).



RULE 3.510 | DETERMINATION OF ATTEMPTS AND LESSER INCLUDED OFFENSES

On an indictment or information on which the defendant is to be tried for any offense the jury may convict the defendant of:

- (a) an attempt to commit the offense if such attempt is an offense and is supported by the evidence. The judge shall not instruct the jury if there is no evidence to support the attempt and the only evidence proves a completed offense; or
- (b) any offense that as a matter of law is a necessarily included offense or a lesser included offense of the offense charged in the indictment or information and is supported by the evidence. The judge shall not instruct on any lesser included offense as to which there is no evidence.

Committee Notes

1968 Adoption. Same as section 919.16, Florida Statutes. The standing committee on Florida court rules raised the question as to whether this rule is procedural or substantive and directed the subcommittee to call this fact to the attention of the supreme court.

1972 Amendment. Same as prior rule except that references to affidavit have been deleted.



RULE 3.520 | VERDICT IN CASE OF JOINT DEFENDANTS

On the trial of 2 or more defendants jointly the jurors may render a verdict as to any defendant in regard to whom the jurors agree.

Committee Notes

1968 Adoption. Same as section 919.17, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.530 | RECONSIDERATION OF AMBIGUOUS OR DEFECTIVE VERDICT

If a verdict is so defective that the court cannot determine from it whether the jurors intended to acquit the defendant or to convict the defendant of an offense for which judgment could be entered under the indictment or information on which the defendant is tried, or cannot determine from it on what count or counts the jurors intended to acquit or convict the defendant, the court shall, with proper instructions, direct the jurors to reconsider the verdict, and the verdict shall not be received until it shall clearly appear therefrom whether the jurors intended to convict or acquit the defendant and on what count or counts they intended to acquit or convict the defendant. If the jury persists in rendering a defective verdict, the court shall declare a mistrial.

Committee Notes

1968 Adoption. Same as section 919.18, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.540 | WHEN VERDICT MAY BE RENDERED

A verdict may be rendered and additional or corrective instructions given on any day, including Sunday or any legal holiday.

Committee Notes

1968 Adoption. Same as section 919.19, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.550 | DISPOSITION OF DEFENDANT

If a verdict of guilty is rendered the defendant shall, if in custody, be remanded. If the defendant is at large on bail, the defendant may be taken into custody and committed to the proper official or remain at liberty on the same or additional bail as the court may direct.

Committee Notes

1968 Adoption. Same as section 919.20, Florida Statutes.



RULE 3.560 | DISCHARGE OF JURORS

After the jurors have retired to consider their verdict, the court shall discharge them from the cause when:

- (a) their verdict has been received;
- (b) on the expiration of such time as the court deems proper, if the court finds there is no reasonable probability that the jurors can agree on a verdict; or
- (c) a necessity exists for their discharge.

The court may in any event discharge the jurors from the cause if the prosecuting attorney and the defendant consent to the discharge.

Committee Notes

1968 Adoption. Same as section 919.21, Florida Statutes, except (4) omitted.

1972 Amendment. Same as prior rule.



RULE 3.570 | IRREGULARITY IN RENDITION, RECEPTION, AND RECORDING OF VERDICT

No irregularity in the rendition or reception of a verdict may be raised unless it is raised before the jury is discharged. No irregularity in the recording of a verdict shall affect its validity unless the defendant was in fact prejudiced by the irregularity.

Committee Notes

1968 Adoption. Rule 3.570 is same as section 919.22, Florida Statutes.

Section 919.23, Florida Statutes, was not included in the rules. This deals with the recommendation of mercy and it was felt that this was not procedural but substantive and not within the scope of the rulemaking power of the supreme court.

1972 Amendment. Same as prior rule.



RULE 3.575 | MOTION TO INTERVIEW JUROR

A party who has reason to believe that the verdict may be subject to legal challenge may move the court for an order permitting an interview of a juror or jurors to so determine. The motion shall be filed within 10 days after the rendition of the verdict, unless good cause is shown for the failure to make the motion within that time. The motion shall state the name of any juror to be interviewed and the reasons that the party has to believe that the verdict may be subject to challenge. After notice and hearing, the trial judge, upon a finding that the verdict may be subject to challenge, shall enter an order permitting the interview, and setting therein a time and a place for the interview of the juror or jurors, which shall be conducted in the presence of the court and the parties. If no reason is found to believe that the verdict may be subject to challenge, the court shall enter its order denying permission to interview.

Committee Notes

2004 Amendment. This rule does not abrogate Rule Regulating The Florida Bar 4-3.5(d)(4), which allows an attorney to interview a juror to determine whether the verdict may be subject to legal challenge after filing a notice of intention to interview.



APPENDIX



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