



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

JUDGMENT

{AS OF: 1/1/2017}

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FLORIDA RULES OF CRIMINAL PROCEDURE

XIII JUDGMENT

RULES: 3.650 through 3.692



RULE 3.650 | JUDGMENT DEFINED

The term “judgment” means the adjudication by the court that the defendant is guilty or not guilty.

Committee Notes

1968 Adoption. Substantially the same as section 921.01, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.670 | RENDITION OF JUDGMENT

If the defendant is found guilty, a judgment of guilty and, if the defendant has been acquitted, a judgment of not guilty shall be rendered in open court and in writing, signed by the judge, filed, and recorded. However, where allowed by law, the judge may withhold an adjudication of guilt if the judge places the defendant on probation.

When a judge renders a final judgment of conviction, withholds adjudication of guilt after a verdict of guilty, imposes a sentence, grants probation, or revokes probation, the judge shall forthwith inform the defendant concerning the rights of appeal therefrom, including the time allowed by law for taking an appeal. Within 15 days after the signed written judgment and sentence is filed with the clerk of court, the clerk of the court shall serve on counsel for the defendant and counsel for the state a copy of the judgment of conviction and sentence entered, noting thereon the date of service by a certificate of service. If it is the practice of the trial court or the clerk of court to hand deliver copies of the judgment and sentence at the time of sentencing and copies are in fact hand delivered at that time, hand delivery shall be noted in the court file, but no further service shall be required and the certificate of service need not be included on the hand-delivered copy.

Committee Notes

1968 Adoption. To the same effect as section 921.02, Florida Statutes, except the portion reading “in writing, signed by the judge” which was added. Last sentence was added to permit the judge to operate under section 948.01(3), Florida Statutes.

The Florida law forming the basis of this proposal is found in article V, sections 4 and 5, Constitution of Florida, concerning the right of appeal from a judgment of conviction; section 924.06, Florida Statutes, specifying when a defendant may take an appeal; section 924.09, Florida Statutes, and Florida Criminal Appellate Rule 6.2 concerning the time for taking appeals by a defendant in criminal cases; and section 948.011, Florida Statutes, providing for a sentence of a fine and probation as to imprisonment.

The purpose of the proposed rule is to provide assurance that a defendant, represented or unrepresented by counsel, will have authoritative and timely notice of the right to appeal.

1972 Amendment. Same as prior rule [but some terminology has been changed].

2005 Amendment. Amended to conform with section 775.08435, Florida Statutes (2004), effective July 1, 2004 (ch. 2004-60, Laws of Fla.).



RULE 3.680 | JUDGMENT ON INFORMAL VERDICT

If a verdict is rendered from which it can be clearly understood that the jurors intended to acquit the defendant, a judgment of not guilty shall be rendered thereon even though the verdict is defective. No judgment of guilty shall be rendered on a verdict unless the jurors clearly express in it a finding of guilt of the defendant.

Committee Notes

1968 Adoption. Same as section 921.02, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.690 | JUDGMENT OF NOT GUILTY; DEFENDANT DISCHARGED AND SURETIES EXONERATED

When a judgment of not guilty is entered, the defendant, if in custody, shall be immediately discharged unless the defendant is in custody on some other charge. If the defendant is at large on bail, the defendant's sureties shall be exonerated and, if money or bonds have been deposited as bail, the money or bonds shall be refunded.

Committee Notes

1968 Adoption. Same as section 921.04, Florida Statutes.

1972 Amendment. Same as prior rule.



RULE 3.691 | POST-TRIAL RELEASE

(a) When Authorized. All persons who have been adjudicated guilty of the commission of any offense, not capital, may be released, pending review of the conviction, at the discretion of either the trial or appellate court, applying the principles enunciated in *Younghans v. State*, 90 So.2d 308 (Fla. 1956), provided that no person may be admitted to bail on appeal from a conviction of a felony unless the defendant establishes that the appeal is taken in good faith, on grounds fairly debatable, and not frivolous. However, in no case shall bail be granted if such person has previously been convicted of a felony, the commission of which occurred prior to the commission of the subsequent felony, and the person's civil rights have not been restored or if other felony charges are pending against the person and probable cause has been found that the person has committed the felony or felonies at the time the request for bail is made.

(b) Written Findings. In any case in which the court has the discretion to release the defendant pending review of the conviction and, after the defendant's conviction, denies release, it shall state in writing its reasons for the denial.

(c) Review of Denial. An order by a trial court denying bail to a person pursuant to the provisions of subdivision (a) may be reviewed by motion to the appellate court and the motion shall be advanced on the calendar of the appellate court for expeditious review.

(d) Conditions of Release. If the defendant is released after conviction and on appeal, the condition shall be: (1) the defendant will duly prosecute the appeal; (2) the defendant will surrender himself or herself in execution of the judgment or sentence on its being affirmed or modified or on the appeal being dismissed; or in case the judgment is reversed and the cause remanded for a new trial, the defendant will appear in the court to which the cause may be remanded for a new trial, that the defendant will appear in the court to which the cause may be remanded and submit to the orders and process thereof and will not depart the jurisdiction of the court without leave.



(e) Approval of Bond. The court shall approve the sufficiency and adequacy of the bond, its security, and sureties, prior to the release of the defendant.

Committee Notes

1977 Amendment. Chapter 76 138, section 2, Laws of Florida, by appropriate vote, repealed the provisions of rule 3.691, insofar as they were inconsistent with the legislative act. This rule has been amended to include the provisions of Chapter 76-138, Laws of Florida.



RULE 3.692 | PETITION TO SEAL OR EXPUNGE

(a) Requirements of Petition.

(1) All relief sought by reason of sections 943.0585–943.059, Florida Statutes, shall be by written petition, filed with the clerk. The petition shall state the grounds on which it is based and the official records to which it is directed and shall be supported by an affidavit of the party seeking relief, which affidavit shall state with particularity the statutory grounds and the facts in support of the motion. A petition seeking to seal or expunge nonjudicial criminal history records must be accompanied by a certificate of eligibility issued to the petitioner by the Florida Department of Law Enforcement. A copy of the completed petition and affidavit shall be served on the prosecuting attorney and the arresting authority. Notice and hearing shall be as provided in rule 3.590(c).

(2) All relief sought by reason of section 943.0583, Florida Statutes, shall be by written petition, filed with the clerk. The petition shall state the grounds on which it is based and the official records to which it is directed; shall be supported by the petitioner's sworn statement attesting that the petitioner is eligible for such an expunction; and to the best of his or her knowledge or belief that the petitioner does not have any other petition to expunge or any petition to seal pending before any court; and shall be accompanied by official documentation of the petitioner's status as a victim of human trafficking, if any exists. A petition to expunge, filed under section 943.0583, Florida Statutes, is not required to be accompanied by a certificate of eligibility from the Florida Department of Law Enforcement. A copy of the completed petition, sworn statement, and any other official documentation of the petitioner's status as a victim of human trafficking, shall be served on the prosecuting attorney and the arresting authority. Notice and hearing shall be as provided in rule 3.590(c).

(b) State's Response; Evidence. The state may traverse or demur to the petition and affidavit. The court may receive evidence on any issue of fact necessary to the decision of the petition.



(c) Written Order. If the petition is granted, the court shall enter its written order so stating and further setting forth the records and agencies or departments to which it is directed.

(d) Copies of Order. On the receipt of an order sealing or expunging nonjudicial criminal history records, the clerk shall furnish a certified copy thereof to each agency or department named therein except the court.

(e) Clerk's Duties. In regard to the official records of the court, including the court file of the cause, the clerk shall:

(1) remove from the official records of the court, excepting the court file, all entries and records subject to the order, provided that, if it is not practical to remove the entries and records, the clerk shall make certified copies thereof and then expunge by appropriate means the original entries and records;

(2) seal the entries and records, or certified copies thereof, together with the court file and retain the same in a nonpublic index, subject to further order of the court (see *Johnson v. State*, 336 So.2d 93 (Fla. 1976));

(3) in multi-defendant cases, make a certified copy of the contents of the court file that shall be sealed under subdivision (2). Thereafter, all references to the petitioner shall be expunged from the original court file.

(f) Costs. All costs of certified copies involved herein shall be borne by the movant, unless the movant is indigent.

Committee Notes

1984 Amendment. Substantially the same as the former rule. The statutory reference in (1) was changed to cite the current statute and terminology was changed accordingly. Subdivision (f) of the former rule was deleted because it dealt with substantive matters covered by section 943.058, Florida Statutes (1981).

2000 Amendment. Substantially the same as the former rule, but references to certificate of eligibility for obtaining nonjudicial criminal history records were added pursuant to *State v. D.H.W.*, 686 So. 2d 1331 (Fla. 1996).



APPENDIX



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