

## **Rule 29. Motion for a Judgment of Acquittal**

(a) **BEFORE SUBMISSION TO THE JURY.** After the government closes its evidence or after the close of all the evidence, the court on the defendant's motion must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction. The court may on its own consider whether the evidence is insufficient to sustain a conviction. If the court denies a motion for a judgment of acquittal at the close of the government's evidence, the defendant may offer evidence without having reserved the right to do so.

(b) **RESERVING DECISION.** The court may reserve decision on the motion, proceed with the trial (where the motion is made before the close of all the evidence), submit the case to the jury, and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict. If the court reserves decision, it must decide the motion on the basis of the evidence at the time the ruling was reserved.

(c) **AFTER JURY VERDICT OR DISCHARGE.**

(1) *Time for a Motion.* A defendant may move for a judgment of acquittal, or renew such a motion, within 14 days after a guilty verdict or after the court discharges the jury, whichever is later.

(2) *Ruling on the Motion.* If the jury has returned a guilty verdict, the court may set aside the verdict and enter an acquittal. If the jury has failed to return a verdict, the court may enter a judgment of acquittal.

(3) *No Prior Motion Required.* A defendant is not required to move for a judgment of acquittal before the court submits the case to the jury as a prerequisite for making such a motion after jury discharge.

(d) **CONDITIONAL RULING ON A MOTION FOR A NEW TRIAL.**

(1) *Motion for a New Trial.* If the court enters a judgment of acquittal after a guilty verdict, the court must also conditionally determine whether any motion for a new trial should be granted if the judgment of acquittal is later vacated or reversed. The court must specify the reasons for that determination.

(2) *Finality.* The court's order conditionally granting a motion for a new trial does not affect the finality of the judgment of acquittal.

(3) *Appeal.*

(A) *Grant of a Motion for a New Trial.* If the court conditionally grants a motion for a new trial and an appellate court later reverses the judgment of acquittal, the trial court must proceed with the new trial unless the appellate court orders otherwise.

(B) *Denial of a Motion for a New Trial.* If the court conditionally denies a motion for a new trial, an appellee may assert that the denial was erroneous. If the appellate court later reverses the judgment of acquittal, the trial court must proceed as the appellate court directs.

## **COMMENT TO 2017 AMENDMENTS**

In accordance with the 2009 amendments to the federal rule, this rule was amended to expand the 7-day filing period for motions to 14 days—an amendment that reflects the time-calculation changes made to Rule 45.

## COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It is identical to the federal rule. This rule includes paragraph (d) of the federal rule, which was not previously adopted by the Superior Court.

It also includes the 2005 amendment to the federal rule. In that year, *Federal Rules* 29 (Motion for Judgment of Acquittal), 33 (New Trial) and 34 (Arresting Judgment) were amended to remove the requirement that the court act within seven days on motions for enlargement of time. A conforming amendment has been made to Rule 45 (Computing and Extending Time).