

RULE 3.132 | PRETRIAL DETENTION

(a) Motion Filed at First Appearance. A person arrested for an offense for which detention may be ordered under section 907.041, Florida Statutes, shall be taken before a judicial officer for a first appearance within 24 hours of arrest. The state may file with the judicial officer at first appearance a motion seeking pretrial detention, signed by the state attorney or an assistant, setting forth with particularity the grounds and the essential facts on which pretrial detention is sought and certifying that the state attorney has received testimony under oath supporting the grounds and the essential facts alleged in the motion. If no such motion is filed, the judicial officer may inquire whether the state intends to file a motion for pretrial detention, and if so, grant the state no more than three days to file a motion under this subdivision. Upon a showing by the state of probable cause that the defendant committed the offense and exigent circumstances, the defendant shall be detained in custody pending the filing of the motion. If, after inquiry, the State indicates it does not intend to file a motion for pretrial detention, or fails to establish exigent circumstances for holding defendant in custody pending the filing of the motion, or files a motion that is facially insufficient, the judicial officer shall proceed to determine the conditions of release pursuant to the provisions of rule 3.131(b). If the motion for pretrial detention is facially sufficient, the judicial officer shall proceed to determine whether there is probable cause that the person committed the offense. If probable cause is found, the person may be detained in custody pending a final hearing on pretrial detention. If probable cause is established after first appearance pursuant to the provisions of rule 3.133 and the person has been released from custody, the person may be recommitted to custody pending a final hearing on pretrial detention.

(b) Motion Filed after First Appearance. A motion for pretrial detention may be filed at any time prior to trial. The motion shall be made to the court with trial jurisdiction. On receipt of a facially sufficient motion and a determination of probable cause, unless otherwise previously established, that an offense eligible for pretrial detention has been committed, the following shall occur:



(1) In the event of exigent circumstances, the court shall issue a warrant for the arrest of the named person, if the person has been released from custody. The person may be detained in custody pending a final hearing on pretrial detention.

(2) In the absence of exigent circumstances, the court shall order a hearing on the motion as provided in (c) below.

(c) Final Order.

(1) Hearing Required. A final order of pretrial detention shall be entered only after a hearing in the court of trial jurisdiction. The hearing shall be held within 5 days of the filing of the motion or the date of taking the person in custody pursuant to a motion for pretrial detention, whichever is later. The state attorney has the burden of showing beyond a reasonable doubt the need for pretrial detention pursuant to the criteria in section 907.041, Florida Statutes. The defendant may request a continuance. The state shall be entitled to 1 continuance for good cause. No continuance shall exceed 5 days unless there are extenuating circumstances. The defendant may be detained pending the hearing, but in no case shall the defendant be detained in excess of 10 days, unless the delay is sought by the defendant. The person sought to be detained is entitled to representation by counsel, to present witnesses and evidence, and to cross-examine witnesses. The court may admit relevant evidence and testimony under oath without complying with the rules of evidence, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. A final order of pretrial detention shall not be based exclusively on hearsay evidence. No testimony by the defendant shall be admissible to prove the guilt of the defendant at any other judicial proceeding, but may be admitted in an action for perjury based on the defendant's statements made at the pretrial detention hearing or for impeachment.

(2) Findings and Conclusions to Be Recorded. The court's pretrial detention order shall be based solely on evidence produced at the hearing and shall contain findings of fact and conclusions of law to support it.



The order shall be made either in writing or orally on the record. The court shall render its findings within 24 hours of the pretrial detention hearing.

(3) Dissolution of Order. The defendant shall be entitled to dissolution of the pretrial detention order whenever the court finds that a subsequent event has eliminated the basis for detention.

(4) Further Proceedings on Order. If any trial court enters a final order of pretrial detention, the defendant may obtain review by motion to the appropriate appellate court. If motion for review is taken to the supreme court or the district court of appeal, notice and a copy of the motion shall be served on the attorney general and the state attorney; if review is taken to the circuit court, service shall be on the state attorney.

