

RULE 3.180 | PRESENCE OF DEFENDANT

(a) Presence of Defendant. In all prosecutions for crime the defendant shall be present:

- (1) at first appearance;
- (2) when a plea is made, unless a written plea of not guilty shall be made in writing under the provisions of rule 3.170(a);
- (3) at any pretrial conference, unless waived by the defendant in writing;
- (4) at the beginning of the trial during the examination, challenging, impanelling, and swearing of the jury;
- (5) at all proceedings before the court when the jury is present;
- (6) when evidence is addressed to the court out of the presence of the jury for the purpose of laying the foundation for the introduction of evidence before the jury;
- (7) at any view by the jury;
- (8) at the rendition of the verdict; and
- (9) at the pronouncement of judgment and the imposition of sentence.

(b) Presence; Definition. A defendant is present for purposes of this rule if the defendant is physically in attendance for the courtroom proceeding, and has a meaningful opportunity to be heard through counsel on the issues being discussed.

(c) Defendant Absenting Self.

(1) Trial. If the defendant is present at the beginning of the trial and thereafter, during the progress of the trial or before the verdict of the jury has been returned into court, voluntarily absents himself or herself from the presence of the court without leave of court, or is removed from the presence of the court because of his or her disruptive conduct during the trial, the trial of the cause or the return of the verdict of the jury in the case shall not thereby be postponed or delayed, but the trial, the submission of the case to the jury for verdict, and the return of the verdict thereon shall



proceed in all respects as though the defendant were present in court at all times.

(2) Sentencing. If the defendant is present at the beginning of the trial and thereafter absents himself or herself as described in subdivision (1), or if the defendant enters a plea of guilty or no contest and thereafter absents himself or herself from sentencing, the sentencing may proceed in all respects as though the defendant were present at all times.

(d) Defendant May Be Tried in Absentia for Misdemeanors. Persons prosecuted for misdemeanors may, at their own request, by leave of court, be excused from attendance at any or all of the proceedings aforesaid.

(e) Presence of Corporation. A corporation may appear by counsel at all times and for all purposes.

Committee Notes

1968 Adoption. (a) The suggested rule is in great part a recopying of section 914.01, Florida Statutes:

In (3) the words “at the beginning of the trial” are recommended for inclusion to avoid questions arising as to the necessity for the defendant’s presence at times other than upon trial, such as when the jury venire is ordered, etc.

Subdivision (a)(8) is not in the present statute. However, it is deemed advisable to include it, as the several sections of chapter 921, Florida Statutes, particularly section 921.07, appear to impliedly or expressly require the defendant’s presence at such times.

(c) The statute and the suggested rule make no distinction between capital and other cases. In all probability, however, were a person on trial for a capital case to escape during trial, a mistrial should be ordered if such person were not captured within a reasonable time.

(d) It is suggested that this language be used rather than the all-inclusive general language of the present statute as to misdemeanor cases.

(e) This provision does not appear in section 914.01, Florida Statutes, but it is a part of Federal Rule of Criminal Procedure 43. It is deemed useful to include it.

1972 Amendment. Same as prior rule except (3) added to conform to rule 3.220(k); other subdivisions renumbered.

