

**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).

