

RULE 3.600 | GROUNDS FOR NEW TRIAL

(a) Grounds for Granting. The court shall grant a new trial if any of the following grounds is established.

- (1) The jurors decided the verdict by lot.
- (2) The verdict is contrary to law or the weight of the evidence.
- (3) New and material evidence, which, if introduced at the trial would probably have changed the verdict or finding of the court, and which the defendant could not with reasonable diligence have discovered and produced at the trial, has been discovered.

(b) Grounds for Granting if Prejudice Established. The court shall grant a new trial if any of the following grounds is established, providing substantial rights of the defendant were prejudiced thereby.

- (1) The defendant was not present at any proceeding at which the defendant's presence is required by these rules.
- (2) The jury received any evidence out of court, other than that resulting from an authorized view of the premises.
- (3) The jurors, after retiring to deliberate upon the verdict, separated without leave of court.
- (4) Any juror was guilty of misconduct.
- (5) The prosecuting attorney was guilty of misconduct.
- (6) The court erred in the decision of any matter of law arising during the course of the trial.
- (7) The court erroneously instructed the jury on a matter of law or refused to give a proper instruction requested by the defendant.
- (8) For any other cause not due to the defendant's own fault, the defendant did not receive a fair and impartial trial.

(c) Evidence. When a motion for new trial calls for a decision on any question of fact, the court may consider evidence on the motion by affidavit or otherwise.



Committee Notes

1968 Adoption. Same as sections 920.04 and 920.05, Florida Statutes, except that the last paragraph of section 920.05 is omitted from the rule. The provision of the omitted paragraph that a new trial shall be granted to a defendant who has not received a fair and impartial trial through no personal fault is inserted in the rule as subdivision (b)(8). The provision of the omitted paragraph of the statute which requires a new trial when the sentence exceeds the penalty provided by law is omitted from the rule because no defendant is entitled to a new trial merely because an excessive sentence has been pronounced. The standing committee on Florida court rules questioned whether this rule is procedural or substantive and directed the subcommittee to call this fact to the attention of the supreme court.

(c) Same as second paragraph of section 920.07, Florida Statutes.

1972 Amendment. Same as prior rule.

