

JUDGMENT — Time of rendering judgment, Rule 26.2 Revised 3/2010

Rule 26.2, Ariz. R. Crim. P., governs the time at which the trial court is to render judgment in criminal cases; judgment of acquittal is entered immediately, while judgment of guilt is entered at sentencing. Subsections (a) and (b) of that Rule provide:

Rule 26.2. Time of rendering judgment

- a. Upon Acquittal. When a defendant is acquitted of any charge, or of any count of any charge, judgment pertaining to that count or to that charge shall be pronounced and entered immediately.
- b. Upon Conviction. Upon a determination of guilt on any charge, or on any count of any charge, judgment pertaining to that count or to that charge shall be pronounced and entered together with the sentence.

Rule 26.2(a) requires the trial court to enter a judgment of acquittal immediately upon the defendant's acquittal of any count or charge, even though the defendant may be convicted on other counts. The Comment to that Rule explains that immediate pronouncement of even a partial acquittal is necessary so that the defendant may seek a change in his release conditions: "Section (a) specifies that judgment must be rendered immediately upon a partial acquittal as well as a full acquittal in order to provide grounds for a motion by the defendant to set or reconsider conditions for his release."

Rule 26.2(b) requires the trial court to pronounce and enter the judgment "together with the sentence." The Comment to that Rule indicates that because motions for new trial under Rule 24.1 must be filed between the determination of guilt and sentencing, such motions should be filed prior to any pre-sentencing hearing. See Ariz. R. Crim. P. 26.7 (providing for pre-sentencing hearings).