

**Rule 10. Pleadings and Motions Before Trial; Defenses and Objections****Rule 10.01 Pleadings and Motions**

**Subd. 1. Pleadings.** The pleadings consist of the charging document and any plea permitted by Rule 14.

**Subd. 2. Motions; Waiver.** Defenses, objections, issues, or requests that can be determined without trial on the merits must be made before trial by a motion to dismiss or to grant appropriate relief. The motion must include all defenses, objections, issues, and requests then available. Failure to include any of them in the motion constitutes waiver, but lack of jurisdiction over the offense or failure of the indictment or complaint to charge an offense can be noticed by the court at any time during the proceeding.

The court can grant relief from the waiver for good cause. The defendant does not waive any defenses or objections by including them in a motion with other defenses, objections, or issues.

(Amended effective July 1, 2015.)

**Rule 10.02 Motions Attacking Court Jurisdiction in Misdemeanor Cases**

A motion to dismiss for lack of personal jurisdiction in a misdemeanor case cannot be made until after the prosecutor files a complaint and the defendant pleads not guilty, unless the court hears and determines the motion summarily. Notice of the motion must be given orally on the record in court or in writing to the prosecutor. The notice must be given no later than seven days after entry of the not guilty plea, or else the jurisdictional challenge is waived. The court for good cause can grant relief from the waiver.

**Rule 10.03 Service of Motions; Hearing Date**

**Subd. 1. Service.** In felony and gross misdemeanor cases, motions must be made in writing and served upon opposing counsel no later than three days before the Omnibus Hearing unless the court for good cause permits the motion to be made and served later.

In misdemeanor cases, except as permitted in subdivision 2, motions must be made in writing and served - along with any supporting documents - on opposing counsel at least three days before the hearing and no more than 30 days after the arraignment unless the court for good cause permits the motion to be made and served later.

**Subd. 2. Hearing Date.** In felony and gross misdemeanor cases, unless the motion is served after the Omnibus Hearing, it must be heard at that hearing and determined as provided in Rule 11.07.

In misdemeanor cases, if a pretrial conference is held, the motion must be heard then unless the court directs otherwise for the purpose of hearing witnesses, or for other good cause. If the motion is not heard at a pretrial conference, it must be heard before trial, unless the court - upon agreement by the prosecutor and defense attorney - hears and determines the motion at arraignment. If the court hears the motion at the arraignment, it need not be in writing, but a record must be made of the proceedings, and witnesses can be called in the court's discretion. The motion must be determined before trial as provided in Rule 12.07.

**Subd. 3. Discovery.** A party intending to call witnesses at a motion hearing must disclose them at least three days before the hearing and must comply with Rule 9 as if the witnesses were to be called at the trial.

(Amended effective July 1, 2015.)

***Comment - Rule 10***

*Rule 10 does not require pretrial motions to be made before a plea is entered.*

*As a general rule, under Rule 10.02 no challenge to the court's personal jurisdiction can be made in a misdemeanor case until after a complaint has been filed. Therefore, a defendant must first demand a complaint under Rule 4.02, subd. 5(3) before raising the jurisdictional challenge. If no complaint is issued, the charge must be dismissed under Rule 4.02, subd. 5(3). If a complaint is issued, it will often make any possible challenge moot, since a valid complaint would give the court jurisdiction even if the arrest was illegal. See *City of St. Paul v. Webb*, 256 Minn. 210, 97 N.W.2d 638 (1959). Once the complaint is issued, the jurisdictional challenge becomes a sufficiency of the complaint question.*

*If the defendant's motion to dismiss is denied, Rule 17.06, subd. 4(1) provides that the defendant can continue to raise the jurisdictional issue on direct appeal if convicted after a trial. This procedure avoids the necessity of seeking review by an extraordinary writ that oftentimes would delay a trial otherwise ready to proceed.*

*Rule 17.06, subd. 4 describes the effect of determining a motion to dismiss under this rule.*

*In misdemeanor cases, Rule 10.03, subd. 2 provides an alternative method to dispose of a motion to dismiss - including a motion to dismiss for want of personal jurisdiction - at the time of arraignment. When there is no dispute over the facts, and the law can be quickly and adequately argued, this alternative procedure can provide an immediate disposition and avoid the delay and expense of further court appearances.*