

Rule 8. Procedure on Second Appearance in Felony and Gross Misdemeanor Cases

8.01 Purpose of Second Appearance

(a) The purpose of this hearing is to again advise defendants of their rights, to allow defendants to plead guilty, or if the defendant does not plead guilty, to request or waive an Omnibus Hearing under Rule 11.

(b) At this hearing, the court must again inform the defendant of the:

(1) charge(s);

(2) defendant's rights, including the right to counsel, and to have counsel appointed under Rule 5.04 if eligible; and

(3) opportunity to enter a guilty plea as permitted by Rule 8.02.

(c) The court must ensure the defendant has a copy of the complaint or indictment.

(d) The court may continue or modify the defendant's bail or other conditions of release previously ordered.

8.02 Arraignment

Subd. 1. Entry of Plea. The arraignment must be conducted in open court. Except as provided in subdivision 2, the court must ask the defendant to enter a plea. The only plea a defendant may enter at the Rule 8 hearing is a guilty plea.

If the defendant pleads guilty, the pre-sentencing and sentencing procedures in these rules must be followed.

If the defendant does not wish to plead guilty, the arraignment must be continued until the Omnibus Hearing.

Subd. 2. Homicide or Offenses Punishable by Life Imprisonment. If the complaint charges a homicide, and the prosecuting attorney notifies the court that the case will be presented to the grand jury, or if the offense is punishable by life imprisonment, the defendant cannot enter a plea at the Rule 8 hearing.

Presentation of the case to the grand jury must commence within 14 days from the date of the defendant's appearance in the court under this rule, and an indictment or report of no indictment must be returned within a reasonable time. If an indictment is returned, the Omnibus Hearing under Rule 11 must be held as provided by Rule 19.04, subd. 5.

8.03 Demand or Waiver of Hearing

If the defendant does not plead guilty, the defendant and the prosecutor must each either waive or demand a hearing as provided in Rule 11.02 on the admissibility at trial of evidence specified in the prosecutor's Rule 7.01 notice, or on the admissibility of any evidence obtained as a result of the specified evidence.

8.04 Plea and Time of Omnibus Hearing

(a) If the defendant does not plead guilty, the Omnibus Hearing on the issues as provided for in Rules 11.03 and 11.04 must be held within the time specified in this rule.

(b) If a hearing on either of the issues set forth in Rule 8.03 is demanded, the Omnibus Hearing must also include the issues provided for in Rule 11.02.

(c) The Omnibus Hearing provided for in Rule 11 must be scheduled for a date not later than 28 days after the defendant's appearance before the court under this rule. The court may extend the time for good cause related to the particular case on motion of the prosecutor or defendant or on the court's initiative.

8.05 Record

A verbatim record must be made of the proceedings under this rule.

Comment - Rule 8

If the Rasmussen hearing is waived under Rule 8.03 by both the prosecution and the defense, the Omnibus Hearing provided by Rule 11 must be held without a Rasmussen hearing.

If the Rasmussen hearing is demanded, the hearing must be held as part of the Omnibus Hearing as provided by Rule 11.02.

The Omnibus Hearing must be commenced not later than 28 days after the defendant's initial appearance in court under Rule 8 unless the time is extended for good cause related to the particular case. See Minnesota Statutes, section 611A.033, regarding the prosecutor's duties under the Victim's Rights Act to make reasonable efforts to provide advance notice of any change in the schedule of court proceedings. This would include the Omnibus Hearing as well as trial or any other hearing.