

**8 GCA CRIMINAL PROCEDURE
CH. 100 MOTION FOR ACQUITTAL**

**CHAPTER 100
MOTION FOR ACQUITTAL**

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§ 100.10. Motion for Acquittal: Established; When Made.

The motion for a directed verdict is abolished and a motion for judgment of acquittal shall be used in its place. The court on motion of a defendant or on its own motion shall order the entry of a judgment of acquittal of one or more offenses charged in the indictment, information or complaint after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or offenses. If a defendant's motion for judgment of acquittal at the close of the evidence offered by the government is not granted, the defendant may offer evidence without having reserved the right.

COURT DECISIONS: SUPERIOR COURT, 1978. Superior Court lacks jurisdiction to hear motion during pendency of an appeal. *People v. Botelho*, Sup. Ct. Cr. #98F-78. (Decision and Order, 06/27/78; Abbate, P.J.)

NOTE: Section 100.10 is substantively the same as Rule 29(a). See also former §§ 1100, 1118; Fed. R. Crim. P. 29. Compare Cal. Pen. Code §§ 1118-1118.2. See generally 8 Moore, *Federal Practice* ¶¶29.01, 29.09 (1974); B. Witkin, *California Criminal Procedure Trial* §§ 501A (Supp. 1973).

§ 100.20. Reservation of Decision; When Possible.

If a motion for judgment of acquittal is made at the close of all the evidence, the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict.

NOTE: Section 100.20 is identical to former Rule 29(b). See Note to § 100.10.

§ 100.30. Motion Made After Guilty Verdict or “Hung Jury”.

If a jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal may be made or renewed within seven days after the jury is discharged or within such further time as the court may fix during the seven-day period. If a verdict of guilty is returned the court may on such motion set aside the verdict and enter judgment of acquittal. If no verdict is returned the court may enter judgment of acquittal. It shall not be necessary to the making of such a

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motion that a similar motion has been made prior to the submission of the case to the jury.

NOTE: Section 100.30 is identical to former Rule 29(c). See Note to § 100.10.
