

**8 GCA CRIMINAL PROCEDURE  
CH. 110 NEW TRIAL**

**CHAPTER 110  
NEW TRIAL**

§ 110.10. *New Trial* Defined.

§ 110.20. Consequences of Granting a New Trial.

§ 110.30. Grounds for Granting New Trial, Time Limits.

**§ 110.10. *New Trial* Defined.**

A *new trial* is a reexamination of the issue in the same court, after a finding by the court has been given, or before another jury, after a verdict has been given.

**NOTE:** Section 110.10 continues the substance of former § 1179 but also adds a reference to jury trials. Compare Cal. Pen. Code § 1179.

**§ 110.20. Consequences of Granting a New Trial.**

The granting of a new trial places the parties in the same position as if no trial had been had. All the testimony must be produced anew, and the former verdict or finding cannot be used or referred to, either in evidence or in argument or be pleaded in bar of any conviction which might have been had under the indictment, information or complaint.

**NOTE:** Section 110.20 continues the substance of former § 1180 but also adds a reference to jury trials. Compare Cal. Pen. Code § 1180.

**§ 110.30. Grounds for Granting New Trial, Time Limits.**

(a) The court on motion of a defendant may grant a new trial to him if required in the interests of justice.

(b) If the trial was by the court without a jury the court on motion of a defendant for a new trial may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.

(c) A motion for a new trial based upon the ground of newly discovered evidence may be made only before or within two (2) years after final judgment, but if an appeal is pending the court may grant the motion only on remand a of the case.

(d) A motion for a new trial based on any ground other than the ground of newly discovered evidence shall be made within seven (7) days after verdict or finding of guilty or within such further time as the court may fix during the seven-day period.

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**COURT DECISIONS:** D.C. GUAM APP. DIV. 1981. The trial judge may not, on his own motion, order a new trial. § 100.30 of this Title requires that the defendant move for a new trial, but the judge has no power to order a new trial on his own motion. *People v. Fergurgur*, D.C. App. Guam 1981, Cr. App. #79-00062A.

**NOTE:** Section 110.30 is substantively the same as former Rule 33. See also Fed. R. Crim. P. 33 (substantively the same). See generally 8A Moore, Federal Practice ¶¶33.01-33.06 (1974). Compare former §§ 1181-1182 and Cal. Pen. Code §§ 1181-1182 discussed in B. Witkin, California Criminal Procedure Judgment and Attack in Trial Court §§ 1181- 1182 discussed in B. Witkin, California Criminal Procedure Judgment and Attack in Trial Court §§ 557-582 (1963, Supp. 1973).

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