

**8 GCA CRIMINAL PROCEDURE
CH. 115 ARREST OF JUDGMENT**

**CHAPTER 115
ARREST OF JUDGMENT**

§ 115.10. Grounds for Arrest of Judgment; Time Limit.

§ 115.20. Effect of Order.

§ 115.30. Defendant; When to be Held or Discharged.

§ 115.10. Grounds for Arrest of Judgment; Time Limit.

(a) The court on motion of a defendant shall arrest judgment if the indictment, information or complaint does not charge an offense or if the court was without jurisdiction of the offense charged.

(b) The motion in arrest of judgment shall be made and determined before judgment is pronounced and within seven (7) days, after verdict or finding of guilty, or after plea of guilty or nolo contendere, or within such further time as the court may fix during the seven-day period. When determined the order shall be immediately entered by the clerk in the minutes.

NOTE: Section 115.10 is substantively the same as former Rule 34. Compare former §§ 1185-1186. See also former § 1201(2); Fed. R. Crim. P. 34; Cal. Pen. Code §§ 1185-1186. See generally 8A Moore, Federal Practice ¶¶34.01-34.02 (1974); B. Witkin, California Criminal Procedure Judgment and Attack in Trial Court §§ 600-604 (1963, Supp. 1973).

§ 115.20. Effect of Order.

The effect of an order arresting the judgment is to place the defendant in the same situation in which he was before the indictment was found or information or complaint was filed.

NOTE: Section 115.20 continues the substance of former § 1187. Compare Cal. Pen. Code § 1187. See note to § 115.10. Although the issue is not covered specifically by the federal rule, § 115.20 apparently conforms to the federal practice. See 8A Moore, Federal Practice ¶34.01, at p. 34-5 (1974).

§ 115.30. Defendant; When to be Held or Discharged.

If, from the evidence on the trial, there is reason to believe the defendant guilty, and a new indictment, information or complaint can be framed upon which he may be convicted, the court may order him to be held in custody or that prior conditions for his release be continued for a specified time pending the filing of a new indictment, information or complaint. If the evidence shows him guilty of another offense, he shall be committed or held thereon, and in neither case shall the findings be a bar to another prosecution. If no evidence appears sufficient to charge him with

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any offense, the defendant shall be discharged and released from any conditions for his appearance and the arrest of judgment shall operate as an acquittal of the charge upon which the indictment, information or complaint was founded.

NOTE: Section 115.30 continues the substance of former § 1188. Compare Cal. Pen. Code § 1188. See Note to § 115.10.
