

Rule 12. Pretrial Conference and Evidentiary Hearing in Misdemeanor Cases**Rule 12.01 Pretrial Conference**

In misdemeanor cases, the court may schedule a pretrial conference. If the court does not hold a pretrial conference, pretrial motions and other issues must be heard immediately before trial.

Rule 12.02 Motions

The court must hear and determine all motions made by the parties and receive evidence offered in support of or opposition to the motion. A party may cross-examine any witness called by any other party.

Rule 12.03 Other Issues

The court must hear and determine any constitutional, evidentiary, procedural and other issues that may be resolved before trial and resolve other matters that promote a fair and expeditious trial. The court may continue the hearing for that purpose.

Rule 12.04 Hearing on Evidentiary Issues

Subd. 1. Evidence and Identification Procedures. The court must hear and determine any issues specified in Rule 7.01 if the defendant or prosecutor demands a hearing.

Subd. 2. Additional Offenses. If the prosecutor gives notice under Rule 7.02 of additional offenses and the defendant moves for a hearing, the court must determine the admissibility of that evidence under Minn. R. Evid. 404(b), and also determine whether clear and convincing evidence exists that the defendant committed the additional offenses.

Subd. 3. Time. When a trial is to be heard by a jury, the evidentiary hearing must be held separately from the jury trial. When a trial is to be heard by the court, the evidentiary hearing may be held separately or as part of the court trial. A separate evidentiary hearing must be held immediately before trial unless the court finds good cause to otherwise order.

Rule 12.05 Amended Complaint

The complaint, if any, may be amended at the pretrial conference as prescribed by these rules.

Rule 12.06 Pleas

The defendant may enter a guilty plea to the charged offense or a different offense, as permitted in Rule 15.08.

Rule 12.07 Continuances and Determination of Issues

The pretrial conference may be continued to take testimony or for other good cause, and may be continued to the day of trial to determine issues and motions.

All motions and issues, including evidentiary issues, must be decided before trial unless otherwise agreed to by the parties. Decisions must be in writing or on the record.

Rule 12.08 Record

Subd. 1. Record. A verbatim record of the proceedings must be made unless waived by the parties.

Subd. 2. Audio and Video Evidence. If any party offers video or audio evidence, that party must not be required to provide a transcript of the evidence as a prerequisite to admissibility. If the party provides a transcript of the evidence, and the court admits the transcript as an illustrative

exhibit, the transcript becomes part of the record, used for illustrative purposes with the exhibit only. The court reporter must not transcribe video or audio evidence.

Subd. 3. Transcript and Filing. Rule 11.10, subds. 2 and 3 govern filings and obtaining a transcript.

(Amended effective March 1, 2020.)

Comment - Rule 12

This rule permits the court to order a pretrial conference. Any Rasmussen issues will ordinarily be heard immediately before trial. At the pretrial conference the court will consider the same matters for which an Omnibus Hearing must be held in felony and gross misdemeanor cases (see Rule 11).

Rule 12.08, subd. 2, permits any party offering video or audio evidence to also provide to the court a transcript of the evidence. This rule does not govern whether any such transcript is admissible as evidence in the case. That issue is governed by Article 10 of the Minnesota Rules of Evidence. However, upon an appeal of the proceedings, the transcript of the exhibit will be part of the record if the other party stipulated to the accuracy of the tape transcript as provided in Rule 28.02, subd. 9.

Rule 12.07 provides for the continuation of the pretrial conference if necessary to dispose of the issues presented. For the purpose of taking testimony or other good cause the court may continue the determination of issues or motions until the day of trial. Such a continuance, where testimony is required, will save witnesses an additional court appearance where those witnesses would be testifying at trial.