

Rule 34. Arresting Judgment

(a) IN GENERAL. Upon the defendant's motion or on its own, the court must arrest judgment if the court does not have jurisdiction of the charged offense.

(b) TIME TO FILE. The defendant must move to arrest judgment within 14 days after the court accepts a verdict or finding of guilty, or after a plea of guilty or nolo contendere.

COMMENT TO 2017 AMENDMENTS

In accordance with the 2009 amendments to the federal rule, this rule was amended to expand the 7-day filing period for motions to 14 days—an amendment that reflects the time-calculation changes made to Rule 45.

This rule also incorporates the 2014 federal amendment, which eliminates language requiring the court to arrest judgment if the indictment or information does not charge an offense. This amendment was based on the holding in *United States v. Cotton*, 535 U.S. 625 (2002), where the Supreme Court found that a defect in the indictment was not jurisdictional.

COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It is identical to the federal rule. Consistent with a change in the federal rule, the rule has been amended to permit the court, on its own motion, to arrest judgment.

It also includes the 2005 amendment to the federal rule. In that year, *Federal Rules* 29 (Motion for Judgment of Acquittal), 33 (New Trial) and 34 (Arresting Judgment) were amended to remove the requirement that the court act within seven days on motions for enlargement of time. A conforming amendment has been made to Rule 45 (Computing and Extending Time).