

RULE CHANGE 2006 (12)
Chapter 29

Colorado Rules of Criminal Procedure
VI. Trial

Rule 23. Trial by Jury or by the Court

(a) (Deleted by the Court, effective November 1, 1992.)

(1) - (4) [No change]

(5) (I) The person accused of a felony or misdemeanor may, with the consent of the people, waive a trial by jury in writing or orally in court. Trial shall then be by the court.

(II) The court shall not proceed with a trial to the court after waiver of jury trial without first determining:

(a) That the defendant's waiver is voluntary; and,

(b) That the defendant understands that:

(i) The waiver would apply to all issues that might otherwise need to be determined by a jury including those issues requiring factual findings at sentencing;

(ii) The jury would be composed of a certain number of jurors;

(iii) A jury verdict must be unanimous;

(iv) In a trial to the court, the judge alone would decide the verdict;

(v) The choice to waive a jury trial is the defendant's alone and may be made contrary to counsel's advice.

(III) In a proceeding where the waiver of a jury trial is part of a determination preceding the entry of a guilty or nolo contendere plea, the court need only make the determinations required by Rule 11(b) and not those required by this rule.

(6) - (8) [No change]

Amended and Adopted by the Court, En Banc, September 7, 2006, effective January 1, 2007.

BY THE COURT:

Alex J. Martinez
Justice, Colorado Supreme Court