

Remands for New Trials

Directive #3-63
Issued by:

September 24, 1963
Edward B. McConnell
Administrative Director

In a criminal case where the mandate of the Appellate Division or the Supreme Court states that the case is "reversed and remanded for a new trial," does this require a new trial eliminating any discretion in the trial court or the prosecutor, or does this merely operate to restore the case to the trial calendar? The Supreme Court is of the view that such a direction in the mandate merely operates to restore the case to the trial calendar. The language is used to make plain that the reversal is not to be deemed an acquittal. After the case is restored to the trial calendar it may be nolle prossed in the same manner and for the same reasons as any other pending matter. Will you please so advise your County Prosecutor?

EDITOR'S NOTE

Only the second paragraph of this directive has been retained. The others, dealing with search warrants, applications for assigned counsel and frequency of assignments in indigent cases have been deleted because they are no longer applicable.