

(C) RETURN OF PROPERTY RIGHTFULLY TAKEN.

(1) THIS SUBSECTION DOES NOT APPLY TO CONTRABAND OR OTHER PROPERTY PROHIBITED BY LAW FROM BEING RECOVERABLE.

(2) PROPERTY SEIZED UNDER A SEARCH WARRANT ISSUED UNDER SUBSECTION (A) OF THIS SECTION MAY BE RETURNED TO THE PERSON TO WHOM THE PROPERTY BELONGS WITHOUT THE NECESSITY OF THAT PERSON BRINGING AN ACTION FOR REPLEVIN OR ANY OTHER PROCEEDING AGAINST THE UNIT WITH CUSTODY OF THE PROPERTY IF:

(I) THE CRIMINAL CASE IN WHICH THE PROPERTY WAS SEIZED IS DISPOSED OF BECAUSE OF A NOLLE PROSEQUI, DISMISSAL, OR ACQUITTAL;

(II) THE STATE DOES NOT APPEAL THE CRIMINAL CASE IN WHICH THE PROPERTY WAS SEIZED; OR

(III) THE TIME FOR APPEAL HAS EXPIRED.

(D) RETURN OF PROPERTY RIGHTFULLY TAKEN AND WRONGFULLY WITHHELD.

(1) A CIRCUIT COURT JUDGE OR DISTRICT COURT JUDGE SHALL CAUSE PROPERTY RIGHTFULLY TAKEN UNDER A SEARCH WARRANT TO BE RESTORED TO THE PERSON FROM WHOM IT WAS TAKEN IF, AT ANY TIME, ON APPLICATION TO THE JUDGE, THE JUDGE FINDS THAT THE PROPERTY IS BEING WRONGFULLY WITHHELD AFTER THERE IS NO FURTHER NEED FOR RETENTION OF THE PROPERTY.

(2) THE JUDGE MAY RECEIVE AN ORAL MOTION MADE IN OPEN COURT AT ANY TIME MAKING APPLICATION FOR THE RETURN OF SEIZED PROPERTY IF THE APPLICATION FOR RETURN IS BASED ON THE GROUND THAT THE PROPERTY, ALTHOUGH RIGHTFULLY TAKEN UNDER A SEARCH WARRANT, IS BEING WRONGFULLY WITHHELD AFTER THERE IS NO FURTHER NEED FOR RETENTION OF THE PROPERTY.

(3) IF THE JUDGE GRANTS THE ORAL MOTION DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ORDER OF THE COURT SHALL BE IN WRITING AND A COPY OF THE ORDER SHALL BE SENT TO THE STATE'S ATTORNEY.

(4) COURT COSTS MAY NOT BE ASSESSED AGAINST THE PERSON FROM WHOM THE PROPERTY WAS TAKEN IF:

(I) THE JUDGE DENIES THE ORAL MOTION AND REQUIRES THE PERSON FROM WHOM THE PROPERTY WAS TAKEN TO PROCEED FOR RETURN OF THE SEIZED PROPERTY BY PETITION AND AN ORDER TO SHOW CAUSE TO THE POLICE AUTHORITY WRONGFULLY WITHHOLDING THE PROPERTY; AND

(II) IT IS LATER ORDERED THAT THE PROPERTY BE RESTORED TO THE PERSON FROM WHOM IT WAS TAKEN.

(E) SEALING AFFIDAVITS.