

### **Rule 430. Trial of Incarcerated Defendant**

An accused shall not be placed in restraint of any form unless there is a manifest need for restraint to protect the security of the court, the proceedings, or to prevent escape. Persons charged with a criminal offense are presumed innocent until otherwise proven guilty and are entitled to participate in their defense as free persons before the jury or bench. Any deviation from this right shall be based on evidence specifically considered by the trial court on a case-by-case basis. The determination of whether to impose a physical restraint shall be limited to trial proceedings in which the defendant's innocence or guilt is to be determined, and does not apply to bond hearings or other instances where the defendant may be required to appear before the court prior to a trial being commenced. Once the trial judge becomes aware of restraints, prior to allowing the defendant to appear before the jury, he or she shall conduct a separate hearing on the record to investigate the need for such restraints. At such hearing, the trial court shall consider and shall make specific findings as to:

- (1) the seriousness of the present charge against the defendant;
- (2) defendant's temperament and character known to the trial court either by observation or by the testimony of witnesses;
- (3) defendant's age and physical attributes;
- (4) defendant's past criminal record and, more particularly, whether such record contains crimes of violence;
- (5) defendant's past escapes, attempted escapes, or evidence of any present plan to escape;
- (6) evidence of any threats made by defendant to harm others, cause a disturbance, or to be self-destructive;
- (7) evidence of any risk of mob violence or of attempted revenge by others;
- (8) evidence of any possibility of any attempt to rescue the defendant by others;
- (9) size and mood of the audience;
- (10) physical security of the courtroom, including the number of entrances and exits, the number of guards necessary to provide security, and the adequacy and availability of alternative security arrangements.

After allowing the defendant to be heard and after making specific findings, the trial judge shall balance these findings and impose the use of a restraint only where the need for restraint outweighs the defendant's right to be free from restraint.

[Adopted March 22, 2010, effective July 1, 2010.](#)

Commentary  
(March 22, 2010)

This rule codifies the holdings in *People v. Boose*, 66 Ill. 2d 261 (1977), and *People v. Allen*, 222 Ill. 2d 340 (2006).