

29.18 FAILURE TO APPEAR

§ 843.15, Fla. Stat.

To prove the crime of Failure to Appear, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) was released from custody pursuant to Chapter 903, Florida's bail statute.
2. (Defendant) was released

Give as applicable.

- a. in connection with a felony charge.
 - b. in connection with a misdemeanor charge.
 - c. while awaiting sentencing.
 - d. pending review by certiorari after conviction of an offense.
3. After [his] [her] release, (defendant) willfully failed to appear as required for (insert name of proceeding, e.g. docket sounding, trial, sentencing) before a [court] [judicial officer].

Definitions.

Patterson v. State, 512 So. 2d 1109 (Fla. 1st DCA 1987), *Corrales v. State*, 84 So. 3d 406 (Fla.1st DCA 2012).

“Willfully” means intentionally, knowingly, and purposely.

Give if applicable.

“Review by Certiorari” means that an appellate court has chosen to examine the proceedings that have taken place in a lower court.

Lesser Included Offenses

FAILURE TO APPEAR — 843.15

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comment

An attorney's communications to a client about court dates is outside the protection of the attorney-client privilege. *Watkins v. State*, 516 So. 2d 1043 (Fla. 1st DCA 1987). A defendant may be convicted of Failure to Appear if he or she was released on his or her own recognizance. *King v. State*, 401 So. 2d 931 (Fla. 1st DCA 1981). A defendant who leaves during his or her trial may be convicted of Failure to Appear. *Howard v. State*, 457 So. 2d 1153 (Fla. 2d DCA 1984).

This instruction was adopted in 2013.