§ 470.55 Status of accusatory instrument upon order of new trial or restoration of action to pre-pleading status.

1. Upon a new trial of an accusatory instrument resulting from an appellate court order reversing a judgment and ordering such new trial, such accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except (a) those upon or of which the defendant was acquitted or deemed to have been acquitted, and (b) those dismissed upon appeal or upon some other post-judgment order.

2. Upon an appellate court order which reverses a judgment based upon a plea of guilty to an accusatory instrument or a part thereof, but which does not dismiss the entire accusatory instrument, the criminal action is, in the absence of express appellate court direction to the contrary, restored to its pre-pleading status and the accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time of the entry of the plea, except those dismissed upon appeal or upon some other post-judgment order. Where the plea of guilty was entered and accepted, pursuant to subdivision three of section 220.30, upon the condition that it constituted a complete disposition and dismissal not only of the accusatory instrument underlying the judgment reversed but also of one or more other accusatory instruments against the defendant then pending in the same court, the appellate court order of reversal completely restores such other accusatory instruments; and such is the case even where the order of reversal dismisses the entire accusatory instrument underlying the judgment reversed.