§ 710.70 Motion to suppress evidence; orders of suppression; effects of orders and of failure to make motion.

1. Upon granting a motion to suppress evidence, the court must order that the evidence in question be excluded in the criminal action pending against the defendant. When the order is based upon the ground specified in subdivision one of section 710.20 and excludes tangible property unlawfully taken from the defendant's possession, and when such property is not otherwise subject to lawful retention, the court may, upon request of the defendant, further order that such property be restored to him.

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty.

3. A motion to suppress evidence made pursuant to this article is the exclusive method of challenging the admissibility of evidence upon the grounds specified in section 710.20, and a defendant who does not make such a motion before or in the course of a criminal action waives his right to judicial determination of any such contention.

Nothing contained in this article, however, precludes a defendant from attempting to establish at a trial that evidence introduced by the people of a pre-trial statement made by him should be disregarded by the jury or other trier of the facts on the ground that such statement was involuntarily made within the meaning of section 60.45. Even though the issue of the admissibility of such evidence was not submitted to the court, or was determined adversely to the defendant upon motion, the defendant may adduce trial evidence and otherwise contend that the statement was involuntarily made. In the case of a jury trial, the court must submit such issue to the jury under instructions to disregard such evidence upon a finding that the statement was involuntarily made.