

Alabama Rules of Criminal Procedure

Rule 14. Arraignment and pleas.

Rule 14.1. Necessity for arraignment.

(a) IN GENERAL. Except as provided in section (b), no defendant shall be tried for the commission of any misdemeanor or felony offense until he has been arraigned in open court.

(b) EXCEPTIONS. An arraignment need not be held in any case where a defendant represented by counsel has filed with the court a written waiver of arraignment and plea of not guilty, not guilty by reason of mental disease or defect, or not guilty and not guilty by reason of mental disease or defect, signed by the defendant and counsel, stating the age and birth date of the defendant, and acknowledging receipt by the defendant of a copy of the charge against him, with a copy of his plea and waiver of arraignment served on the prosecutor by the defense counsel. If the defendant is eligible for consideration by the court to be tried as a youthful offender, the court shall not accept a written plea of not guilty.

(c) APPEAL DE NOVO. Arraignment is required on appeal de novo to circuit court.

Committee Comments

The arraignment at common law in England was a more formal proceeding than the practice which later developed in this country. At present "it is nothing more than calling the accused to the bar of the court, and reading or explaining the indictment to him and demanding his plea. *Its only purpose is to obtain from the accused his answer or plea to the indictment.*" (Emphasis added.) *Howard v. State*, 165 Ala. 18, 28, 50 So. 954 (1909).

It appears that the formal in-court taking of a plea of not guilty should not be required so long as the rights of the defendant are protected and an adequate record is made. Thus the rule permits formal arraignment to be bypassed if the defendant is assisted by counsel and files a written waiver of arraignment and plea of not guilty that also acknowledges receipt of a copy of the charge against the defendant in order to comply with Art. 1, § 6, Alabama Constitution of 1901.

The majority of contested cases, that is the ones which will ultimately be tried, will skip the arraignment stage by the simple process of filing a written plea of not guilty and waiver of arraignment, thus joining issue with the state. On the other hand, as recognized in Rule 14.3, Plea Negotiations and Agreements, and Rule 14.4, Acceptance of Guilty Plea, the arraignment still functions as the forum

and setting by which the court disposes of the cases which are not to be tried. In jurisdictions which follow this practice, pleas of not guilty are ascertained and the docket set. Then a special day or days are set aside for plea bargaining and settlement and the formality of the court's accepting the guilty pleas of the defendants whose cases have been tentatively settled. If the defendant is eligible for youthful offender status under Ala.Code 1975, § 15-19-1, the court will proceed as provided therein. The defendant must consent and the court must order youthful offender treatment. If not, the case proceeds as other cases. If youthful offender treatment is given, it is intended that these rules no longer apply to the extent they are inconsistent with the youthful offender provisions. See *Coleman v. State*, 827 F.2d 1469 (11th Cir.1987), for failure to inform a juvenile defendant of the right to be tried as a youthful offender.