

Alabama Rules of Criminal Procedure

Rule 22. Deliberation of jury.

Rule 22.3. Discharge of jury.

(a) TIME FOR DISCHARGE OF JURY. The court shall discharge the jurors when:

(1) Their verdict has been returned and received as set forth in Rule 23;

(2) Upon expiration of such reasonable time as the court deems proper, it appears that there is no reasonable expectation that the jurors will be able to agree upon a verdict; or

(3) A manifest necessity exists for their discharge.

(b) MISTRIAL ENTERED. In all cases in which the jury is discharged without a verdict's being returned, a mistrial shall be ordered and entered on the minutes of the court, assigning the reason or cause for the mistrial.

Committee Comments

Rule 22.3 is in accord with Art. 1, § 9, Alabama Constitution of 1901, which states:

"[N]o person shall, for the same offense, be twice put in jeopardy of life or limb; but courts may, for reasons fixed by law, discharge juries from the consideration of any case, and no person shall gain an advantage by reason of such discharge of the jury."

It is also in accord with Ala.Code 1975, § 12-16-233:

"The court or presiding judge in all cases of jury trial may discharge the jury without giving a verdict, with the consent of all parties to the trial or without the consent of the parties, when, in the opinion of the court or judge, there is a manifest necessity for the discharge or when the ends of justice would otherwise be defeated. In all cases in which the jury is discharged without a verdict, a mistrial shall be entered upon the minutes of the court, assigning the reason or cause for the mistrial, and no person shall gain any advantage by reason of such discharge of the jury."

Rule 22.3 conforms to *Orr v. State*, 269 Ala. 176, 111 So.2d 639 (1959), which states that the jury may not be coerced into rendering a verdict. The

statutory expression “manifest necessity” was used to encompass permissible grounds for authorization of a jury’s discharge without a verdict.