

Alabama Rules of Criminal Procedure

Rule 3. Arrest warrant or summons upon commencement of criminal proceedings; search warrant.

Rule 3.10. Contents of search warrant; time of execution.

The search warrant shall be directed to and served by a law enforcement officer, as defined by Rule 1.4(p). It shall command such officer to search, within a specified time not to exceed ten (10) days, the person or place named for the property specified and to bring an inventory of said property before the court issuing the warrant. The warrant shall designate the judge or magistrate to whom an inventory of the property specified shall be returned. The judge or magistrate shall endorse the warrant, showing the hour, date, and the name of the law enforcement officer to whom the warrant was delivered for execution, and a copy of such warrant and the endorsement thereon shall be admissible in evidence in the courts.

In cases in which the property to be seized does not include a controlled substance, an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction, a search warrant must be executed in the daytime unless the affidavits state positively that the property is on the person or in the place to be searched, in which case the search warrant may be executed at any time of the day or night. Except in cases in which the property to be seized includes a controlled substance, an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction, the issuing judge or magistrate must state in the warrant, according to the character of the affidavits, whether it is to be executed by day or at any time of the day or night. In cases in which the property to be seized includes a controlled substance, or an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction, a warrant may be executed at any time of the day or night and the warrant need not state whether it is to be executed by day or at any time of the day or night.

[Amended eff. 8-1-2002.]

Committee Comments

This rule is taken from and modifies Ala.Code 1975, §§15-5-5, 15-5-8, and 15-5-12.

**Committee Comment to Amendment
Effective August 1, 2002.**

This amendment allows the execution of warrants at any time of the day or night when the property to be seized includes not only a controlled substance, but also an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction.

Note from the reporter of decisions: The order amending Rule 3.10, effective August 1, 2002, is published in that volume of *Alabama Reporter* that contains Alabama cases from 810 So.2d.