

Alabama Rules of Criminal Procedure

Rule 20. Motion for judgment of acquittal.

Rule 20.2. Motion for judgment of acquittal before submission of case to factfinder.

(a) TIME FOR MAKING MOTION. At the close of the state's evidence and/or at the close of all the evidence, the defendant may make a motion for judgment of acquittal.

(b) DECISION ON MOTION. If the motion for judgment of acquittal is made after the close of the state's evidence, the court shall rule on the motion before calling on the defendant to present his evidence. If the motion is made at the close of all the evidence in a jury case, the court shall rule on the motion before permitting argument or charging the jury; if it is not ruled on at that time, it is deemed denied. In a non-jury case, if the motion is not ruled on before the submission of the case for decision, the motion is deemed denied.

(c) EFFECT OF MOTION. A defendant whose motion for judgment of acquittal at the close of the state's evidence is denied may offer evidence without having reserved the right to do so, to the same extent as if no such motion had been made. The making of a motion for judgment of acquittal is not a waiver of trial by jury. An order granting a motion for judgment of acquittal is effective without the assent of the jury.

Committee Comments

The motion for judgment of acquittal provided for by Rule 20.2 (the motion made before submission of the case) is the criminal law equivalent of the motion for directed verdict provided for by Rule 50(a), A.R.Civ.P. A motion made under Rule 20.2 may be made at the close of the state's evidence and/or at the close of all the evidence. Section (b) anticipates that a motion for judgment of acquittal made at the close of the state's evidence will be ruled on before the defendant presents his evidence; that in a jury case a motion made at the close of all the evidence will be ruled on before arguments are made or charges are given; and that in a non-jury case a motion made at the close of all the evidence will be ruled on before the case is submitted to the judge for decision. A motion not so ruled on is deemed denied. Thus, no motion for judgment of acquittal made pursuant to Rule 20.2 will be considered "pending" after the submission of the case to the factfinder. At any time during the trial, however, the judge has authority on his own motion to grant a judgment of acquittal. In light of the judge's authority to grant the judgment of acquittal at any time, acting on his own motion, and the privilege of the defendant under Rule 20.3 to make a new motion after the return of a verdict or the entry of a judgment of conviction, there is little

reason to require the court to reserve decision on the motion. Under section (c), the error in overruling the motion cannot be cured by subsequent evidence offered by either the defendant or the state.