

Alabama Rules of Criminal Procedure

Rule 22. Deliberation of jury.

Rule 22.1. Materials used during deliberation.

(a) REQUIRED MATERIALS. The jurors, upon retiring to the jury room for deliberation, shall take with them the applicable forms of the verdict.

(b) PERMITTED MATERIALS. Within the exercise of its discretion, the court may permit the jurors, upon retiring for deliberation, to take with them exhibits, writings, and documents that have been received in evidence.

Committee Comments

Rule 22 basically conforms with present Alabama law in that it is generally held that it is within the sound discretion of the trial court whether items of evidence are allowed to be carried with the jury to the jury room. *Puckett v. State*, 31 Ala.App. 428, 18 So.2d 834 (1944).

This rule should permit all exhibits to be submitted to the jury, since jurors might infer that some exhibits are more significant than others if the court selects specific items for submission. See comments to Rule 531, Unif.R.Crim.P. However, should the trial court feel that undue emphasis and inordinate weight would be given to an item of evidence if it is allowed to go to the jury room, the trial court may exclude it. *National Sales Insurance Co. v. Jones*, 393 So.2d 1361 (Ala. 1980).

Rule 22 would also give the trial court discretion to allow or disallow to be carried to the jury room items of evidence which are impractical (heavy or extremely large items, soiled items, etc.) or dangerous (poisonous materials, drugs, explosives, infectious materials, etc.).

This rule does not govern whether the indictment, charging instrument, and the "given" written instructions go into the jury room, which is governed by "Instructions to Jury; Objections," Rule 21.