

Alabama Rules of Criminal Procedure

Rule 26. Judgment; presentence report; sentence hearing; sentence.

Rule 26.12. Consecutive or concurrent sentences.

(a) CONSECUTIVE SENTENCES. Separate sentences of imprisonment imposed on a defendant for two or more offenses shall run consecutively, unless the judge at the time of sentencing directs otherwise, whether they are charged in the same charging instrument or by separate charging instruments.

(b) CONCURRENT SENTENCES. The court, at the time of sentencing, may direct that the sentence being imposed will be served concurrently with any other sentence imposed upon the defendant in any jurisdiction.

(c) RECONSIDERATION. The court may at any time by a nunc pro tunc order provide that previously imposed consecutive sentences run concurrently.

Committee Comments

Section (a) is intended to encompass multiple charges arising from the same criminal episode or unrelated offenses for which sentence is imposed at one time and provides that these sentences shall run consecutively, unless the judge directs otherwise.

Under section (b), the judge may provide that the sentence imposed will run concurrently with any other sentence which has previously been imposed on the defendant, including sentences imposed in federal courts or courts of other states or jurisdictions subject to United States law, or other courts within Alabama.

Section (c) allows the judge discretion to, at any time, amend a sentence order to permit a sentence to run concurrently with another sentence.

It has been held that the courts in Alabama that in order for a sentence to run concurrently with another sentence, the judgment must affirmatively so state. Otherwise, the sentences are held to run consecutively. See *Ex parte McElhannon*, 43 Ala.App. 375, 190 So.2d 742 (1966); *Ledbetter v. State*, 24 Ala.App. 583, 139 So. 299 (1932); Ala.Code 1975, § 14-4-9. The rule is thus consistent with present Alabama practice.