

## **Alabama Rules of Criminal Procedure**

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

#### *Rule 3.13. Unlawfully seized property.*

(a) MOTION FOR RETURN OF PROPERTY. A person aggrieved by an unlawful search and seizure may move the court for the return of the property seized on the ground that he or she is entitled to lawful possession of the property which was illegally seized. The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted, the property shall be restored. If a motion of return of property is made or comes on for hearing after an indictment or information is filed, it shall be treated also as a motion to suppress evidence.

(b) MOTION TO SUPPRESS. A motion to suppress may be made at any time after indictment.

#### **Committee Comments**

This rule is similar to Rule 41(e) and (f), Fed.R.Crim.P., and modifies Ala.Code 1975,§ 15-5-16. Of course, if the property seized is contraband, it can be lawfully held even if the property is subject to the exclusionary rules and does not have to be returned. This rule is not intended to modify the substantive exclusionary rules of evidence or to affect the scope of such rules as they may develop.