

## Alabama Rules of Criminal Procedure

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

#### *Rule 3.6. Definition of search warrant.*

A search warrant is a written order, in the name of the state or municipality, signed by a judge or magistrate authorized by law to issue search warrants, directed to any law enforcement officer as defined by Rule 1.4(p), commanding him to search for personal property and, if found, to bring it before the issuing judge or magistrate.

#### **Committee Comments**

Sections 3.6 through 3.14 of this rule are procedures to guide the issuance and return of search warrants. Requirements of such United States Supreme Court cases as *Illinois v. Gates*, 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), are also included in the rules.

City police officers can also execute search warrants. See *Palmer v. State*, 426 So.2d 950 (Ala.Crim.App.1983); *Williams v. State*, 505 So.2d 1252(Ala.Crim.App.1986); *Hicks v. State*, 437 So.2d 1344 (Ala.Crim.App.), *aff'd*, 437 So.2d 1346 (Ala.1983).

Rule 3.6 is taken from Ala.Code 1975, § 15-5-1. A magistrate must have a license to practice law in order to issue a search warrant. Ala.Code 1975§ 12-17-251(c)(1). Ala.Code 1975, § 12-14-32, provides that municipal judges are authorized to issue search warrants for municipal ordinance violations returnable to municipal court and for violations of state law returnable to any state court. However, Alabama case law recognizes that a municipal law enforcement officer may properly execute a search warrant issued by a municipal court under Ala.Code 1975, § 12-14-32. *Palmer v. State*, 426 So.2d 950 (Ala.Crim.App.1983); *Hicks v. State*, 437 So.2d 1344 (Ala.Crim.App.), *aff'd*, 437 So.2d 1346 (Ala.1983); *Williams v. State*, 505 So.2d 1252 (Ala.Crim.App.1986). Alabama Code 1975, § 15-5-1, restricts execution of general search warrants to sheriffs and constables of the county.