

Alabama Rules of Appellate Procedure

Rule 43.

Substitution of parties.

(a) *Death of a party.* When the death of a party has been suggested, the proceeding shall not abate, but shall continue or be disposed of as the appellate court may direct.

(b) *Public officers.* When a public officer is a party to an appeal or other proceeding in the appellate court in that officer's official capacity, and during its pendency dies, resigns, or otherwise ceases to hold office, the action shall not abate and the public officer's successor is automatically substituted as a party.

(c) *Substitution.* An order of substitution may be entered at any time, but the omission to enter such order shall not affect the substitution.

[Amended 11-19-96, eff. 1-1-97.]

Committee Comments

This rule provides that no appeal shall fail because of the death or removal from office of any party. It is flexible in its application to permit action to proceed in accordance with the court's direction on a case by case basis. In accordance with the general spirit of the rules, the omission of an order of substitution is not fatal, but can be made at any time under subdivision (c).

Court Comment to Amendment to Rule 43(b) Effective January 1, 1997

The amendment to Rule 43(b) removes gender specific pronouns.