

Alabama Rules of Criminal Procedure

Rule 14. Arraignment and pleas.

Rule 14.2. Proceedings at arraignment; pleas.

(a) MANDATORY PROCEDURE. At arraignment the court shall:

(1) Determine whether the defendant is represented by counsel, and, if not, appoint counsel to represent the defendant if appropriate under Rule 6.1;

(2) Determine that the defendant or defendant's attorney has received a copy of the charges against the defendant;

(3) Determine the age of the defendant and whether the defendant is entitled to the benefits of the Youthful Offender Act, and if so, proceed as provided therein, or, if not, ascertain and accept the defendant's plea unless the arraignment is continued to a later date; and

(4) Advise the parties in attendance of any dates set for further proceedings.

(b) DISCRETIONARY PROCEDURE. In addition, at arraignment the court may hear and decide motions concerning the conditions of release under Rule 7.

(c) PLEAS. A defendant may plead:

(1) Guilty,

(2) Not guilty,

(3) Not guilty by reason of mental disease or defect, or

(4) Not guilty and not guilty by reason of mental disease or defect.

(d) FAILURE TO PLEAD. If a defendant, when arraigned, fails or refuses to plead, or if a guilty plea is not accepted, the court shall enter a plea of not guilty and set the case for trial.

(e) ABSENCE OF DEFENDANT. If a defendant is not present at arraignment and defendant's presence has not been waived as provided in Rule 9.1(b), arraignment shall be postponed until defendant's presence can be secured. If defendant's presence has been waived under Rule 9.1(b), or if the absent defendant is a corporation or association, the court shall enter a plea of not guilty and set the case for trial.

Committee Comments

Certain steps are mandatory at arraignment, including ascertainment that the defendant has notice of the charges (as required by Art. 1, § 6, Alabama Constitution of 1901), has counsel or has waived counsel, is not entitled to youthful offender treatment, or if so entitled is afforded such rights, and for the Court to take the defendant's plea. The court may also consider anew defendant's release situation under Rule 7. The pleas permitted are consistent with past practice—the plea of *nolo contendere* not being recognized. Section (d) states the rule found in Ala.Code 1975, § 15-15-1, which authorizes the court to enter a plea of not guilty for a defendant who stands mute. See *Howard v. State*, 165 Ala. 18, 50 So. 954 (1909). When the plea of not guilty is taken upon a written plea, the acknowledgment by the defendant of receipt of a copy of the charge against him satisfies this requirement. The court then ascertains the defendant's plea. If defendant's plea is not guilty, then the procedure follows the rest of the section. If the plea is guilty, the court proceeds under Rule 14.4. The court could accept a plea of guilty on the same day that counsel is appointed, but if it does so, the court should be persuaded that no good reason for further delay exists, or trial could commence the same day if the defendant would not thereby be deprived of a fair trial or due process. A plea of guilty may only be made under § 15-15-1 through the defendant. Counsel cannot plead guilty for the defendant while the defendant refuses to plead. See *Kelly v. State*, 44 Ala.App. 307, 208 So.2d 217 (1968).