

Alabama Rules of Criminal Procedure

Rule 20. Motion for judgment of acquittal.

Rule 20.1. Nature and form of motion.

(a) NATURE OF MOTION. The court, on motion of the defendant stating the grounds therefor, or on its own motion, shall direct the entry of a judgment of acquittal as to any charged offense, or as to any lesser included offense, for which the evidence is insufficient to support a finding of guilty beyond a reasonable doubt.

(b) FORM OF MOTION. Motions for judgment of acquittal may be made either in writing or orally upon the record and shall be argued outside the hearing of the jury; except that motions pursuant to Rule 20.3 shall be in writing.

Committee Comments

A motion under this rule for judgment of acquittal subsumes the motion for directed verdict, the motion for affirmative charge, and the demurrer to the evidence, which are abolished by this rule. Rule 29(a), Fed.R.Crim.P., has likewise abolished the motion for directed verdict in criminal cases and substituted for it the motion for judgment of acquittal.

A motion for judgment of acquittal tests the sufficiency of the evidence to support a conviction. For the double jeopardy implications of a judgment of acquittal, see *Burks v. United States*, 437 U.S. 1, 98 S.Ct. 2141, 57 L.Ed.2d 1 (1978), and *Hudson v. Louisiana*, 450 U.S. 40, 101 S.Ct. 970, 67 L.Ed.2d 30 (1981).

The language in Rule 20.1(a) stating that “The court ... shall direct the entry of a judgment of acquittal as to ... any lesser included offense” applies, for example, where a defendant is charged with murder. If, at the close of the state’s evidence, the judge determines that the highest offense the state has proved is criminally negligent homicide, the judge may enter a judgment of acquittal as to murder and manslaughter. After such a judgment, the jury can decide only the question of guilt of criminally negligent homicide.