

Alabama Rules of Criminal Procedure

Rule 23. Verdict

Rule 23.3. Necessity for forms of verdict.

Forms of verdict shall be submitted to the jury for each offense charged and, where warranted by the evidence, for all offenses necessarily included in each offense charged. The court may correct or complete the verdict, as to form merely, in open court in the presence of the parties and the jury.

Committee Comments

This rule permits the jury to find the defendant guilty of the offense charged, of all or any offenses necessarily included in each offense charged, or of an attempt to commit the offense charged or an offense necessarily included therein, if the attempt is an offense. The rule places on the court the responsibility of deciding what verdicts the jury may return, restricting the jury to returning verdicts for which verdict forms have been submitted to it.

Under Rule 13.2(c), the indictment or information gives notice to the defendant that the trial will concern all necessarily included offenses as well as the offense specified. Under Rules 13.2(c) and 23.3, the prosecutor, as well as the defendant, is entitled to an instruction on any offense for which there is evidentiary support and for which a verdict form is submitted to the jury.

The last sentence of the rule allows the judge to correct a verdict that is erroneous in form, incomplete, or inconsistent, either with the assent of the jury in open court or by sending the jurors back to the jury room, with appropriate instructions if necessary. This would include submitting to the jury the correct form of verdict if it inadvertently had been omitted.