

Alabama Rules of Criminal Procedure

Rule 25. Procedure after verdict or finding of not guilty by reason of mental disease or defect.

Rule 25.2. Procedure to have the defendant involuntarily committed when defendant found not guilty by reason of mental disease or defect.

(a) TEMPORARY COMMITMENT DETERMINATION. If the defendant is found not guilty by reason of mental disease or defect, or not guilty and not guilty by reason of mental disease or defect, the court shall forthwith determine whether the defendant should be held for hearing on the issue of his involuntary commitment under Rule 25.3.

(b) FINDING OF PROBABLE CAUSE. If the court determines that there is probable cause to believe that the defendant is mentally ill and as a consequence of such mental illness poses a real and present threat of substantial harm to himself or to others, the court shall order the defendant confined for examination and treatment in an appropriate mental health facility or released upon conditions imposed by the court, until a hearing can be held under Rule 25.3 to determine whether the defendant shall be involuntarily committed to the custody of the commissioner or to such other public facility as the court may order.

(c) NO FINDING OF PROBABLE CAUSE. If the court does not determine that there is probable cause to believe that the defendant is mentally ill and poses a real and present threat of substantial harm to himself and/or others, then the defendant shall be forthwith released from custody.

Committee Comments

Rule 25.2 provides a procedure for a determination of probable cause and the holding of a hearing by the court on the issue of involuntary commitment of the defendant who is found not guilty by reason of mental disease or defect under Ala.Code 1975, § 15-16-24. The rule is taken from § 15-16-41. The release of the defendant after involuntary commitment is governed by the Criminal Psychopath Release Restriction Act, Ala.Code 1975, § 15-16-60 et seq.

These statutes provide that the court having jurisdiction of the criminal case in which the defendant is found not guilty by reason of mental disease or defect continues to have jurisdiction over the defendant for the determination of the issue of involuntary commitment and release from commitment.

Under Alabama law, civil commitments and commitments of persons found not guilty by reason of mental disease or defect are governed by separate statutes. Civil commitments are handled by the probate court.

Ala.Code 1975, § 15-16-41, provides that the defendant be placed in the custody of the sheriff. However, *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir.1984), holds that a mentally ill person is to be placed in a mental health facility rather than in a county jail. See Attorney General's Opinion 87-00018, October 16, 1986.

It has been held that it is not a violation of equal protection to impose different release standards on persons committed after being found not guilty of a criminal offense by reason of mental disease or defect as compared to release standards for persons committed involuntarily in civil proceedings, the prior criminal conduct being sufficient rational basis for the different treatment. *U.S. v. Ecker*, 479 F.2d 1206 (D.C.Cir.1973).