

Alabama Rules of Criminal Procedure

Rule 29. Correction of Clerical Mistakes.

Clerical mistakes in judgments, orders, or other parts of the record, and errors arising from oversight or omission may be corrected by the court at anytime of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal or thereafter, such mistakes may be so corrected by the trial court. Whenever necessary, a transcript of the record as corrected may be certified to the appellate court in response to a writ of certiorari or like writ, in conformity with Rule 10(f), A.R.App.P.

Committee Comments

Rule 29 is taken directly from Rule 60(a), A.R.Civ.P., which in turn is a variation of Rule 60(a), Fed.R.Civ.P. Rule 36, Fed.R.Crim.P., is substantially the same as the first sentence of Rule 29. This rule is somewhat of a change from practice under Title 7, §§ 566-570, Code of Alabama 1940 (§§ 566-570 of Title 7 have not been recodified in the 1975 Code), which, although placed in the civil procedure section of the Code, has been construed to apply in criminal cases, *Ex Parte Hutchinson*, 264 Ala. 447, 87 So.2d 847 (1956). While the rule is intended to deal solely with correction of clerical errors and not judicial errors in the rendition of judgments and orders, evidence outside the record that was previously excluded from consideration may be received and considered. Also the rule, unlike the statute, does not have an outside time limitation, and clerical errors can be corrected under the rule even after an appeal has been completed.