

Alabama Rules of Criminal Procedure

Rule 30. Appeals from municipal and district courts.

Rule 30.3. Notice and perfection of appeal; bond on appeal.

(a) NOTICE OF APPEAL. A defendant may appeal from a final judgment in a criminal case entered by a municipal or a district court for trial de novo in the circuit court by filing with the clerk of the municipal or the district court a written notice of appeal within fourteen (14) days from the date of pronouncement of sentence or the date of denial of a timely filed post-trial motion, whichever is later. Notice of appeal shall be served on the prosecuting attorney by the appellant or the appellant's attorney; provided, however, that notification to the prosecuting attorney shall not be a jurisdictional prerequisite for perfecting an appeal.

(b) PERFECTING APPEAL. An appeal from the municipal or the district court for trial de novo in the circuit court shall be perfected by the timely filing of a written notice of appeal and the posting of a new bond in an amount fixed by the municipal or district judge, conditioned upon the defendant's appearance before the circuit court, as well as the payment of all costs incurred in the municipal or the district court and on appeal in the circuit court; provided, however, that the court may authorize the defendant's release on the defendant's personal recognizance without any undertaking relating to, or deposit of security in lieu of, an appearance and cost bond.

A defendant sentenced to imprisonment and not released from custody on bond or personal recognizance may obtain release pending an appeal at any time by filing a bond approved by the municipal or the district court. If the defendant remains in custody, the prosecutor shall so notify the circuit court clerk, and the case shall be set for trial at the earliest practical time.

(c) APPEAL TO APPELLATE COURT. An appeal from the district or the municipal court to the Court of Criminal Appeals or the Supreme Court as provided in Rule 30.2 is perfected by filing with the clerk of the district or the municipal court a notice of appeal within forty-two (42) days from the date of pronouncement of sentence or the date of denial of a timely filed post-trial motion, whichever is later.

[Amended eff. 7-1-98.]

Committee Comments

Section (a) establishes the time for filing a notice of appeal from the final judgment of a municipal or district court to the circuit court in order for the

defendant to be entitled to a trial de novo. This provision tracks existing law now found in Ala.Code 1975, § 12-12-70(b), governing district court appeals and § 12-14-70(c) (read in conjunction with Rule 24.5) for appeals from municipal courts. Although the timely filing of a written notice of appeal is a jurisdictional prerequisite to perfecting an appeal, a bond ensuring the defendant's appearance and payment of all court costs that have been and will be incurred is also required, unless specifically waived by the court pursuant to section (b).

Section (b), which provides for a bond on appeal to secure the defendant's appearance and the payment of costs, combines the statutory requirement of Ala.Code 1975, § 12-12-70(b) and § 12-14-70(e). Since no bond amount is provided, the specific provisions now contained in § 12-14-70(c) shall continue to govern appeals from municipal courts to circuit court, i.e., "not more than twice the amount of the fine and costs, as fixed by the court, or in the event no fine is levied the bond shall be in an amount not to exceed \$1,000.00, as fixed by the court, conditioned upon the defendant's appearance before the circuit court."

Section (c) governing appeals from a municipal or district court to the Court of Criminal Appeals or Supreme Court tracks the Rules of Appellate Procedure which establish the time for appeal as forty-two (42) days from the date of judgment or the date of denial of a timely filed post-trial motion, whichever is later. The Rules of Appellate Procedure should be consulted for additional procedures for appeal, specifically Rule 8(d), governing stays and bonds for fines and costs. See § 12-22-171, regarding release on bond pending appeal to the appellate courts.

Section (d) recognizes the use by municipal and district courts of a consolidated appearance bond that will follow the defendant through appeal de novo.

**Comment to Amendment
Effective July 1, 1998**

This amendment changed the running of time within which to file a notice of appeal from the date of judgment to the date sentence is pronounced and deleted subparagraph (d), "Appearance Bond on Appeal."