

Alabama Rules of Criminal Procedure

Rule 33. Contempt.

Rule 33.4. Punishment for criminal contempt; commitment in cases of civil contempt.

(a) PUNISHMENT FOR CRIMINAL CONTEMPT. The court may not punish a person for criminal contempt under the provisions of this rule by imprisonment or a fine in excess of the maximum term of imprisonment or maximum amount of fine provided by law.

(b) COMMITMENT IN CASES OF CIVIL CONTEMPT. The court may order that a person who has been found to be in civil contempt be committed to the custody of the sheriff until such person purges himself or herself of the contempt by complying with the court's order, decree, or command.

(c) COSTS OF CONTEMPT PROCEEDING. In the event of a finding of contempt under any of the provisions of this rule, the court shall assess against the contemnor court costs in the same amount as authorized upon conviction for non-traffic misdemeanor offenses, and such costs shall be distributed in the same manner as now provided for such offenses. Court costs in municipal ordinance cases shall be assessed and distributed in the same amount and manner as now authorized for non-traffic municipal ordinance violations.

Committee Comments

Rule 33.4 applies to both Rules 33.2 and 33.3.

Section (a) references the limitations on the punishment which the court may impose. The limitations presently are found in Ala.Code 1975, §§ 12-11-30(5) (circuit court), 12-12-6 (district court) and 12-14-31 (municipal court). *Ex parte Griffith*, 278 Ala. 344, 178 So.2d 169 (1965), cert. denied, 382 U.S. 988, 86 S.Ct. 548, 15 L.Ed.2d 475 (1966), held that the Code sections apply only to criminal contempt.

In *Bloom v. Illinois*, 391 U.S. 194, 88 S.Ct. 1477, 20 L.Ed.2d 522 (1968), the United States Supreme Court held that the United States Constitution guarantees the right to a jury trial in state court prosecutions for contempt, just as it does for other crimes. In *Baldwin v. New York*, 399 U.S. 66, 69, 90 S.Ct. 1886, 26 L.Ed.2d 437 (1970), the Court held that "no offense can be deemed 'petty' for purposes of the right to trial by jury where imprisonment for more than six months is authorized." Since the maximum punishment for a criminal contempt offense under present Alabama law is ten (10) days, the constitutional limitation set forth

in *Bloom* does not attach. If more severe penalties were provided by the legislature, a jury trial might be required.