

Alabama Rules of Criminal Procedure

Rule 3. Arrest warrant or summons upon commencement of criminal proceedings; search warrant.

Rule 3.4. Service of summons.

The summons may be served by any law enforcement officer in the same manner as a summons in a civil action, except that service may not be by publication. At the law enforcement officer's discretion and expense, a summons may be served by certified mail, requiring a signed receipt or some equivalent thereof. In the event the summons is served by certified mail, return of the receipt signed by the defendant shall be prima facie evidence of service. The law enforcement officer serving the summons shall make return of the summons in the same manner as provided in Rule 3.3(c) for making return of an arrest warrant.

Committee Comments

Rule 3.4 is designed to make service of the summons as easy and expeditious as possible. The function of the summons is solely to apprise the defendant of the charges filed against him and to notify the defendant to appear. Since the use of the summons will allow for more efficient use of the time of law enforcement officers, the rule provides that service may be made in any manner which accomplishes that purpose. Because, unlike the case of civil summons, no sanctions attach, nor are rights lost, if the defendant does not appear as ordered (other than that a warrant for the defendant's arrest will be issued), neither the state nor the defendant will be in a worse position than had a warrant been issued initially.

The person serving the summons should be guided by considerations of convenience and economy as well as the certainty of probability that the defendant will personally receive the notification. The rule is similar to the comparable provision in Rule 4(d)(3), Fed.R.Crim.P.

As to a corporate defendant, summons is necessary, and before proceeding ex parte there must be a procedure established, as in civil actions, to show due notification.