

Alabama Rules of Criminal Procedure

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

Rule 3.5. Defective arrest warrant.

An arrest warrant shall not be invalidated nor shall any person in custody thereon be discharged because of a defect in form. The arrest warrant may be amended to remedy such defect.

Committee Comments

Rule 3.5 restates the Alabama law in that a mere defect in form, as opposed to a defect in substance, will not serve to invalidate an arrest warrant. See *Wilson v. State*, 99 Ala. 194, 13 So. 427 (1892). The problem remains for determination of what constitutes a defect in form rather than a defect in substance. Normally, aliases, fictitious names, and descriptions are considered matters of form and may be amended if shown to be incorrect.