

IN THE SUPREME COURT OF ALABAMA  
MAY 7, 2015

ORDER

IT IS ORDERED that Rule 21.1 and Rule 26.1, Alabama Rules of Criminal Procedure, be amended to read in accordance with Appendices A and B, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to Amendment to Rule 26.1 Effective May 7, 2015, are adopted to read in accordance with Appendix C to this order;

IT IS FURTHER ORDERED that the amendment of Rule 21.1 and Rule 26.1 and the adoption of the Committee Comments to Amendment to Rule 26.1 Effective May 7, 2015, are effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 21.1 and Rule 26.1:

"Note from the reporter of decisions: The order amending Rule 21.1 and Rule 26.1, effective May 7, 2015, and adopting the Committee Comments to Rule 26.1 Effective May 7, 2015, is published in that volume of the Alabama Reporter that contains Alabama cases from \_\_\_ So. 3d."

Moore, C.J., and Stuart, Bolin, Parker, Murdock, Shaw, Main, Wise, and Bryan, JJ., concur.

**I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.**

**Witness my hand this 7<sup>th</sup> day of May, 2015**

*Julia Jordan Weller*  
**Clerk, Supreme Court of Alabama**

## APPENDIX A

### Rule 21.1. Instructions to the Jury

At the close of the evidence or at such other time during the trial as the court reasonably directs, either party may file and, in such event, shall serve on the opposing party written requests that the court instruct the jury on the law as set forth in those requests. The court shall inform counsel of its proposed action upon the requests before counsel's argument to the jury, but the court shall instruct the jury after the arguments are completed. However, in the sentencing phase of the trial of a capital case, the court may, in its discretion, instruct the jury at the beginning of the proceeding. If the trial court elects to do so, it shall not be required to instruct the jury again after the arguments are completed, but it may if the court believes the interest of justice so requires. The judge shall write on each request "given" or "refused," as the case may be, and the request shall thereby become a part of the record. Each request marked "given" shall be read to the jury without reference as to which party filed the request. Neither a copy of the charges against the defendant nor the "given" written instructions shall go to the jury room; provided, however, that the court may, in its discretion, submit written charges to the jury. Every oral charge shall be recorded by the court reporter as it is delivered to the jury. The refusal of a requested written instruction, although a correct statement of the law, shall not be cause for reversal on appeal if it appears that the same rule of law was substantially and fairly given to the jury in the court's oral charge or in other charges given at the request of the parties. In charging the jury, the judge shall not express his or her opinion on the evidence. Submission of additional explanatory instructions shall not be required unless requested by the court.

## APPENDIX B

### Rule 26.1. Definitions; Scope

#### (a) Definitions.

- (1) "Judgment" means the adjudication of the court based upon a plea of guilty by the defendant, upon the verdict of the jury, or upon its own finding following a nonjury trial, that the defendant is guilty or not guilty.
- (2) "Sentence" means the pronouncement by the court of the penalty imposed upon the defendant after a judgment of guilty.
- (3) "Determination of guilty" means a verdict of guilty by a jury, a finding of guilty by a court following a nonjury trial, or the acceptance by the court of a plea of guilty.
- (4) "Sentencing Standards" means the worksheets, instructions, and sentence-length tables adopted by the Alabama Sentencing Commission and made effective under §§ 12-25-34.1 and 12-25-34.2, Ala. Code 1975.

#### (b) Scope.

- (1) This rule shall apply to capital cases only to the extent that the procedure in capital cases is not otherwise specified by law.
- (2) This rule shall apply to offenses designated in the Sentencing Standards only to the extent that the procedure in applicable Sentencing Standards cases is not otherwise specified in the Sentencing Standards.

## APPENDIX C

### Committee Comments to Amendment to Rule 26.1 Effective May 7, 2015

The Alabama Sentencing Standards were drafted by the Alabama Sentencing Commission pursuant to legislative mandate and were guided by historical sentencing data. The Sentencing Standards include both presumptive and voluntary worksheets, instructions, and sentence-length tables for specified offenses, depending on the offense or offenses of conviction. The Sentencing Standards may be periodically modified by the Commission. See § 12-25-1 et seq., Ala. Code 1975. Those Standards must be considered when an offender is sentenced for an applicable offense or offenses. The Sentencing Standards can be found at the Alabama Sentencing Commission's Web site: [www.sentencingcommission.alacourt.gov](http://www.sentencingcommission.alacourt.gov), under the heading "Publications," then, under the year 2013, "Presumptive and Voluntary Sentencing Standards Manual."