



IN THE SUPREME COURT OF ALABAMA

March 16, 2023

CORRECTED ORDER

IT IS ORDERED that Rule 7.2(a) and Rule 7.2(b), 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 7.2 Effective March 16, 2023, be adopted to read in accordance with Appendix C to this order;

IT IS FURTHER ORDERED that the amendment of Rule 7.2(a) and Rule 7.2(b) and the adoption of the Committee Comments thereto are effective immediately; and

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 7.2:

"Note from the reporter of decisions: The order amending Rule 7.2(a) and Rule 7.2(b), Alabama Rules of Criminal Procedure, and adopting the Committee Comments thereto, effective March 16, 2023, is published in that volume of *Alabama Reporter* that contains Alabama cases from __ So. 3d."

Parker, C.J., and Shaw, Wise, Bryan, Sellers, Mendheim, Stewart, Mitchell, and Cook, JJ., concur.

Witness my hand and seal this 16th day of March, 2023.

Megan B. Rhodeseuk

**Clerk of Court,
Supreme Court of Alabama**

**FILED
March 16, 2023
Clerk of Court
Supreme Court of Alabama**



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APPENDIX A

Rule 7.2(a), Ala. R. Crim. P.

(a) Before Conviction.

(1) In accordance with § 15-13-3(a), Ala. Code 1975, a defendant charged with capital murder is not eligible for bail if the court is of the opinion, on the evidence adduced, that he or she is guilty of the offense. If the court sets bail for a defendant charged with capital murder, it may impose the least onerous condition or conditions contained in Rule 7.3(b) that will reasonably assure the defendant's appearance or that will eliminate or minimize the risk of harm to others or to the public.

(2) In accordance with § 15-13-3(b), Ala. Code 1975, a defendant charged with an offense listed in § 15-13-3(b)(1) may be denied bail. Before determining whether bail is to be set, the court must hold a pretrial detention hearing and consider the factors enumerated in § 15-13-3(b)(5). If the court sets bail for a defendant charged with an offense listed in § 15-13-3(b)(1), it may impose the least onerous condition or conditions contained in Rule 7.3(b) that will reasonably assure the defendant's appearance or that will eliminate or minimize the risk of harm to others or to the public at large.

(3) Any defendant charged with an offense bailable as a matter of right (i.e., offenses other than those listed in § 15-13-3(a) and § 15-13-3(b)(1)) may be released pending or during trial on his or her personal recognizance or on an appearance bond unless the court or magistrate determines that such a release will not reasonably assure the defendant's appearance as required, or that the defendant's being at large will pose a real and present danger to others or to the public at large. If such a determination is made, the court may impose the least onerous condition or conditions contained in Rule 7.3(b) that



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will reasonably assure the defendant's appearance or that will eliminate or minimize the risk of harm to others or to the public at large. In making such a determination, the court may take into account the following:

(i) The age, background and family ties, relationships and circumstances of the defendant.

(ii) The defendant's reputation, character, and health.

(iii) The defendant's prior criminal record, including prior releases on recognizance or on secured appearance bonds, and other pending cases.

(iv) The identity of responsible members of the community who will vouch for the defendant's reliability.

(v) Violence or lack of violence in the alleged commission of the offense.

(vi) The nature of the offense charged, the apparent probability of conviction, and the likely sentence, insofar as these factors are relevant to the risk of nonappearance.

(vii) The type of weapon used, e.g., knife, pistol, shotgun, sawed-off shotgun.

(viii) Threats made against victims and/or witnesses.

(ix) The value of property taken during the alleged commission of the offense.



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(x) Whether the property allegedly taken was recovered or not; damage or lack of damage to property allegedly taken.

(xi) Residence of the defendant, including consideration of real property ownership, and length of residence in his or her place of domicile.

(xii) In cases where the defendant is charged with a drug offense, evidence of selling or pusher activity should indicate a substantial increase in the amount of bond.

(xiii) Consideration of the defendant's employment status and history, the location of the defendant's employment, e.g., whether employed in the county where the alleged offense occurred, and the defendant's financial condition.

(xiv) Any enhancement statutes related to the charged offense.



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APPENDIX B

Rule 7.2(b), Ala. R. Crim. P.

(b) Bail Schedule. The following schedule is established as a general rule for circuit, district, and municipal courts in setting bail for persons charged with bailable offenses. Except where release is required in the minimum schedule amount pursuant to the Rules of Criminal Procedure, courts should exercise discretion in setting bail above or below the scheduled amounts.

BAIL SCHEDULE

Recommended Range

Felonies:

Capital murder	\$50,000	to	No Bail Allowed
Murder	\$15,000	to	No Bail Allowed
Offenses listed in § 15-13-3(b)(1) (other than murder)	\$10,000	to	No Bail Allowed
Drug manufacturing and trafficking	\$5,000	to	\$1,500,000
Class A felony	\$10,000	to	\$60,000
Class B felony	\$5,000	to	\$30,000
Class C felony	\$2,500	to	\$15,000
Class D felony	\$1,000	to	\$10,000

Misdemeanors (not included elsewhere in schedule):

Class A misdemeanor	\$300	to	\$6,000
Class B misdemeanor	\$300	to	\$3,000
Class C misdemeanor	\$300	to	\$1,000
Violation	\$300	to	\$500

Municipal-Ordinance Violations: \$300 to \$1,000

Traffic-Related Offenses:



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DUI	\$1,000	to	\$7,500
Reckless driving	\$300	to	\$1,000
Speeding	\$300	to	\$500
Other traffic violations	\$300	to	\$500



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APPENDIX C

Committee Comments to Amendment to Rule 7.2 Effective March 16, 2023

Rule 7.2 has been amended to reflect changes effected by recent amendments to Art. I, § 16, Ala. Const. 2022, and § 15-13-3, Ala. Code 1975. Rule 7.2(a) has been expanded to address offenses that are not "bailable as a matter of right." The first sentence of Rule 7.2(a)(1) tracks the language of § 15-13-3(a), and Rule 7.2(a)(2) references the procedures applicable under § 15-13-3(b) before a trial court can make a determination as to whether to set bail for a defendant who has been charged with an offense listed in § 15-13-3(b)(1).

The "Bail Schedule" contained in Rule 7.2(b) has been amended to reflect that, in addition to capital murder, murder and the other offenses listed in § 15-13-3(b)(1) are now offenses for which bail is no longer available "as a matter of right." The minimum bail amount for "Offenses listed in § 15-13-3(b)(1) (other than murder)" has been set at \$10,000.

Finally, the footnote to the "Bail Schedule" has been removed from the rule. The minimum bail amount reflected in the schedule for "violation and misdemeanor cases" is \$300, in accordance with § 15-13-105, Ala. Code 1975.