

IN THE SUPREME COURT OF ALABAMA
July 15, 2020

ORDER

IT IS ORDERED that Rule 46, Alabama Rules of Judicial Administration, "Juror Selection and Qualification," be adopted to read in accordance with Appendix A to this order;

IT IS FURTHER ORDERED that the Committee Comments to Rule 46, Alabama Rules of Judicial Administration, be adopted to read in accordance with Appendix B to this order;

IT IS FURTHER ORDERED that the adoption of Rule 46 and 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 46:

"Note from the reporter of decisions: The order adopting Rule 46 and the Committee Comments thereto, effective July 15, 2020, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

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

Witness my hand this 15th day of July, 2020.



Clerk, Supreme Court of Alabama

**FILED
July 15, 2020
2:35 pm
Clerk
Supreme Court of Alabama**

APPENDIX A

Rule 46. Juror Selection and Qualification

(A) Qualifications. A prospective juror is qualified to serve on a jury if the prospective juror is generally reputed to be honest and intelligent and is esteemed in the community for integrity, good character, and sound judgment and also:

(1) Is a citizen of the United States, has been a resident of the county for more than 12 months, and is 19 years old or older;

(2) Is able to read, speak, understand, and follow instructions given by a judge in the English language;

(3) Is capable by reason of physical and mental ability to render satisfactory jury service and is not afflicted with any permanent disease or physical weakness whereby the prospective juror is unfit to discharge the duties of a juror;

(4) Has not lost the right to vote by conviction for any offense involving moral turpitude;

(5) Does not display any signs and symptoms associated with diseases known to be transmitted through respiration; and

(6) Meets any other requirement for qualification that is required by law.

(B) Electronic Verification. In the discretion of the presiding circuit-court judge, a juror summons issued may include instructions for a prospective juror to, if possible, electronically verify his or her qualifications to serve on a jury through an Internet-based data-processing program maintained by the Administrative Office of Courts ("AOC"). Each prospective juror completing such an electronic verification shall declare, to the best of his or her ability, that he or she meets the qualifications to serve on a jury listed in subsection (A).

(C) Administration of the Oath. Upon the completion of an electronic verification of his or her qualifications to

serve on a jury, each prospective juror shall be required to affirm or disaffirm the following oath, provided on the Internet-based data-processing program maintained by AOC:

"Do you solemnly swear (or affirm) that you have well and truly answered all questions propounded to you touching on your qualifications as a juror, so help you God?"

Receipt and acceptance of a prospective juror's affirmation of the oath through the AOC data-processing program by the clerk of court or the judge shall be deemed an acknowledgment of the prospective juror's affirmation of the oath.

(D) Disqualification. If a prospective juror completing an electronic verification does not meet the qualifications for serving as a juror or disaffirms the oath prescribed in subsection (C), the clerk or the court shall notify the prospective juror that he or she is not qualified to serve on a jury and/or inform the prospective juror that his or her service is not required.

(E) Other Methods of Verification of Qualifications. If a prospective juror is unable or elects not to electronically verify the qualifications set out in subsection (A) and electronically affirm the oath prescribed in subsection (C), ascertaining the prospective juror's qualifications to serve on a jury and administering the oath to the prospective juror may be effected as otherwise provided by law.

APPENDIX B

Committee Comments to Rule 46 Effective July 15, 2020

Rule 46 creates an alternative plan for juror selection and qualification to those provided in Title 12, Chapter 16, Ala. Code 1975. Specifically, in accordance with the provisions of § 12-16-146, Ala. Code 1975, Rule 46 provides the presiding circuit-court judge with the discretion to approve the use of a centralized electronic data-processing program maintained by the Administrative Office of Courts to facilitate the juror-qualification process.

In addition to the juror qualifications prescribed by § 12-16-60, Ala. Code 1975, subsection (A)(5) requires that each prospective juror "not display the signs and symptoms associated with diseases known to be transmitted through respiration." This qualification was added in response to the outbreak of the novel coronavirus disease beginning in 2019 ("COVID-19") as an attempt to mitigate some of the risks of disease transmission presented by the juror-selection and juror-qualification plans provided in Title 12, Chapter 16. In recognition of the fact that other novel respiratory diseases may pose dangers similar to those posed by COVID-19, however, the additional qualification disqualifies prospective jurors displaying features of any disease similar to those of COVID-19.

Subsection (E) acknowledges that a prospective juror may be unable or unwilling to electronically verify his or her qualifications to serve on a jury and electronically affirm the oath set out in subsection (C). It is imperative for courts to ascertain that prospective jurors possess the qualifications required by law. § 12-16-6, Ala. Code 1975. Therefore, subsection (E) notes that the other juror-selection and juror-qualification methods authorized by Title 12, Chapter 16, may be used. Under such circumstances, however, each of the qualifications set out in subsection (A), including the qualification in subsection (A)(5), must still be met.