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Criminal Procedure pc1 Normal RND GROUP 4 7 2002-01-11T07:27:00Z 2002-01-18T06:54:00Z 2 820 4675 sc 38 9 5741 9.2720 110

3. Common Procedures in First and Second Level Courts

Checklist I

Things To Do At The Arraignment Of The Accused¹¹⁸

1. The accused must be arraigned before the court where the Complaint or Information was filed or assigned for trial. The arraignment shall be made in open court by the judge or clerk by furnishing the accused with a copy of the Complaint or Information, reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty. The prosecution may call at the trial witnesses other than those named in the Complaint or Information.
2. The accused must be present at the arraignment and must personally enter his/her plea. Both arraignment and plea shall be made of record, but failure to do so shall not affect the validity of the proceedings.
3. Before the reading of the Information, where the accused is not assisted by counsel de parte, inform him/her of his/her right to counsel of his own choice and inquire from him if he/she desires to engage his/her own counsel. Unless the accused is allowed to defend himself in person, and the accused is amenable to a counsel de oficio, appoint a competent and responsible counsel de oficio for him.
4. Whenever a counsel de oficio is appointed by the court to defend the accused at the arraignment, he shall be given a reasonable time to consult with the accused as to his/her plea before proceeding with the arraignment.
5. When the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him.
6. When the accused pleads guilty but presents exculpatory evidence, his/her plea shall be deemed withdrawn and a plea of not guilty shall be entered for him.
7. The private offended party shall be required to appear at the arraignment for purposes of plea-bargaining, determination of civil liability, and other matters requiring his/her presence. In case of failure of the offended party to appear despite due notice, the court may allow the accused to enter a plea of guilty to a lesser offense which is necessarily included in the offense charged with the conformity of the trial prosecutor alone.¹¹⁹ Unless the civil action has been reserved, waived or otherwise instituted ahead, reset the case for the reception of evidence to determine the civil liability and the imposable penalty.
8. Plea of guilty to a lesser offense

At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his/her plea of not guilty. No amendment of the complaint or information is necessary.¹²⁰

9. Plea of guilty to capital offense; reception of evidence

When the accused pleads guilty to a capital offense, the court (a) shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his/her plea and (b) shall require the prosecution to prove his/her guilt and the precise degree of culpability. The accused may present evidence in his/her behalf.

10. Plea of guilty to non-capital offense; reception of evidence, discretionary

When the accused pleads guilty to a non-capital offense, the court may receive evidence from the parties to determine the penalty to be imposed.

11. Withdrawal of improvident plea of guilty

At any time before the judgment of conviction becomes final, the court may permit an improvident plea of guilty to be withdrawn and be substituted by a plea of not guilty.

12. If a 'Not Guilty' plea is entered, schedule the pre-trial of the case with due notice to the offended party/arresting officer.

13. If the accused is under preventive detention, the pre-trial conference of the case shall be held within ten (10) days after arraignment.

14. In other cases, unless a shorter period is provided by special law or Supreme Court circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period.¹²¹

15. If the accused appears to be suffering from an unsound mental condition which effectively renders him/her unable to fully understand the charge against him/her and to plead intelligently thereto, suspend the arraignment and order the accused's mental examination; and if necessary, accused's confinement for such purpose.

16. Upon motion of the accused, suspension of his/her arraignment may be allowed on any of the following grounds:

16.1 The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto. In such case, the court shall order his/her mental examination and, if necessary, his/her confinement for such purpose.

16.2 There exists a prejudicial question.

16.3 A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; provided, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office.

Note: In *People v. Alicando*,¹²² the Supreme Court held that a conviction in capital offenses cannot rest alone on a plea of guilt. The trial court must require the prosecution to prove the guilt of the appellant and the precise degree of his/her culpability beyond reasonable doubt.

¹¹⁸ Rules of Court, Rule 116.

¹¹⁹ SC Circular No. 1-89.

¹²⁰ SC Circular No. 38-98, Sec. 4.

121 SC Circular No. 38-98, Sec. 2.

122 People v Alicando, G. R. No. 117487, December 12, 1995, 251 SCRA 293.

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