

OCA CIRCULAR NO. 75-2002, December 11, 2002

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TO: ALL FIRST LEVEL COURT JUDGES

RE: ISSUANCE OF WARRANTS OF ARREST

he last sentence of Section 6 (b) Rule 112 of the Revised Rules of Criminal Procedure, as amended states that:

"x x x However, without waiting for the conclusion of the of the investigation, the judge may issue a warrant of arrest if he finds after an examination in writing and under oath of the complainant and his witness in the form of searching questions and answers, that a probable cause existing and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice."

In Administrative matter No. MTJ-93-773, entitled "Atty. Jose A. Bersales, complainant vs. Judge Diosdado C. Arriesgado, respondent," (3 September 1996, 261 SCRA 320), this Court restated the rule that:

"Whether or not to issue a warrant of arrest is discretionary on the part of the municipal trial court judge who conducts the preliminary investigation. Even if the judge finds probable cause, it is not mandatory for him to issue a warrant to arrest; under section 6 (b), Rule 112 of the Rules of Court, he must further find "that there is a necessity of placing the respondent under Immediate custody in order not to frustrate the ends of justice.x x x."

"X x x one of the raison d'etre of preliminary investigation is to 'secure the innocent against hasty, malicious and oppressive the trouble, expense and anxiety of public accusation of crime, from the trouble, expense and anxiety of public trial and to protect the State from useless and expensive prosecution. x x x"

First level court judges are therefore reminded not to hastily issue warrants of arrest but to do so only after a careful and judicious examination of the facts and circumstances of the case under their consideration.

Please be guided accordingly.

11 December 2002

PRESBITERO J. VELASCO, JR.

Court Administrator

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