REVISED RULES ON APPEALS FROM RESOLUTIONS IN PRELIMINARY INVESTIGATIONS/REINVESTIGATIONS

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In the interest of expeditious and efficient administration of justice, the following Rules are hereby adopted to govern appeals from resolutions in preliminary investigations/reinvestigations.

SECTION 1. What May Be Appealed . — Only resolutions of the Chief State Prosecutor/Provincial or City Prosecutor dismissing a criminal complaint may be the subject of an appeal to the Secretary of Justice.

SECTION 2. When to Appeal . — The appeal must be filed within thirty (30) days from receipt of the questioned resolution by the party or his counsel. The period shall be interrupted only by the filing of a motion for reconsideration within ten (10) days from receipt of the resolution and shall continue to run from the time the resolution denying the motion shall have been received by the movant or his counsel.

SECTION 3. Form and Contents of the Appeal . — An appeal must be verified and shall indicate and contain the following:

> a) date of receipt of the appealed resolution; date of filing of the motion for reconsideration, if any; and date of receipt of the resolution on the motion for reconsideration;
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> b) names and addresses of the parties;
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> c) the investigation slip number (I.S. No.) and/or criminal case number and the title of the case;
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> d) the venue of the preliminary investigation;
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> e) a clear and concise statement of the facts, the assignment of errors, and the legal basis upon which the appeal is taken; and
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> f) a legible and authenticated copy of the resolution.
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> The appeal must show that the adverse party or his counsel and the Prosecutor were furnished with a copy thereof either by personal delivery or by registered mail.

SECTION 4. Non- Appealable Cases; Exceptions . — No appeal may be taken from a resolution of the Chief State Prosecutor/Provincial or City Prosecutor finding probable cause except upon showing of manifest error or grave abuse of discretion. Notwithstanding the showing of manifest error or grave abuse of discretion, no appeal shall be entertained where the appellant had already been arraigned. If the appellant is arraigned during the pendency of the appeal, said appeal shall be dismissed motu propio by the Secretary of Justice.

An appeal/motion for reinvestigation from a resolution finding probable cause, however, shall not hold the filing of the information in court.

SECTION 5. Transmission of Records to the Department of Justice . — The Secretary of Justice shall, if he finds the appeal to be sufficient in form and substance, direct the Prosecutor concerned to transmit to the Department of Justice within five (5) days from receipt thereof, the complete records of the case together with his comment, if any. The record shall be chronologically arranged starting from the complaint and paged consecutively. The

transmittal shall contain the correct number of pages. Documents in local dialects other than Filipino shall be translated in English and attached to the records together with the transcript of stenographic notes, if any.

SECTION 6. Withdrawal of Appeal . — Notwithstanding the perfection of the appeal, the appellant may withdraw the same at any time before it is finally resolved, in which case the appealed resolution shall stand as though no appeal has been taken.

SECTION 7. Motion for Reinvestigation . — At any time after the appeal has been perfected and before the resolution thereof, the appellant may file a motion for reinvestigation on the ground that new and material evidence has been discovered which appellant could not with reasonable diligence have discovered during the preliminary investigation and which if produced and admitted would probably change the resolution.

SECTION 8. Procedure When Reinvestigation is Granted. — When reinvestigation is granted it shall take place in the Office of the Prosecutor from which the appeal was taken.

SECTION 9. Disposition of Appeal . — The Secretary of Justice may reverse, affirm or modify the appealed resolution. He may, motu propio or on motion of the appellee, dismiss outright the appeal on any of the following grounds:

a) That the offense has prescribed;

b) That there is no showing of any reversible error;

c) That the procedure or requirements herein prescribed have not been complied with;

d) That the appealed resolution is interlocutory in nature, except when it suspends the proceedings based on the alleged existence of a prejudicial question; or

e) That other legal or factual grounds exist to warrant a dismissal.

SECTION 10. Motion for Reconsideration — The aggrieved party may file a motion for reconsideration within a non-extendible period of ten (10) days from receipt of the resolution on the appeal, furnishing the adverse party or his counsel and the Prosecutor with copies thereof. No second motion for reconsideration shall be entertained.

SECTION 11. Repealing Clause — Ministry Circular No. 36 dated 1 July 1980 (as amended by Ministry Circular No. 8 dated 3 April 1986, Department Circular No. 17 dated 19 November 1987 and other circulars) and Department Circular No. 17 dated 26 May 1989 and other related circulars and issuances of the Secretary of Justice are hereby repealed.

SECTION 12. Effectivity — These Rules shall take effect immediately.

Adopted: 25 Jan. 1990

(SGD.) FRANKLIN M. DRILON
Secretary

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