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Criminal Procedure pc1 Normal RND GROUP 4 7 2002-01-11T07:35:00Z 2002-01-19T06:58:00Z 3 874 4987 sc 41 9 6124 9.2720 110

**Checklist II****Pre-Trial**

Pre-trial; mandatory in criminal cases. – In all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall, after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:

- (a) plea bargaining;
- (b) stipulation of facts;
- (c) marking for identification of evidence of the parties;
- (d) waiver of objections to admissibility of evidence;
- (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
- (f) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.<sup>123</sup>

**Things To Do During The Pre-Trial Conference**

1. Determine and consider with the parties and counsel mutually satisfactory plea-bargaining arrangements, such, as for example, the following:

1.1 for the accused to change his/her plea to a lesser or different offense in return for the dismissal of other count/s with or without credit, for the plea of guilty as a mitigating circumstance; or

1.2 for the accused to change his/her plea of not guilty to that of guilty to one or some of the counts of a multi-count indictment in return for the dismissal of other count/s with or without credit for the plea of guilty as a mitigating circumstance; or

1.3 for the accused to change his/her plea of not guilty to that of guilty to the offense charged, in return for the offended party's waiver of the whole or part of the civil liability or damages; or

1.4 for the accused to change his/her plea of not guilty to that of guilty plea to the offense charged, in return for the elimination of one, some, or all of the generic aggravating circumstances alleged in the information/complaint; or

1.5 for the accused to plea bargain on the nature, duration or the amount of the imposable penalty within the allowable range.

### When There Is Plea Bargaining

1. The accused and his/her counsel shall manifest that they agree to enter into plea bargaining on any of the forms above-described. If the prosecution and offended party agree to the plea offered by the accused, the court issues an order making on record the plea bargaining arrived at and duly implemented.
2. In case of any such change of plea to one of guilty, proceed to receive evidence on the civil aspect before rendering judgment, unless the offended party waives civil action or his/her claim for civil liability or damages, reserves the right to institute the civil action separately, or has instituted the civil action before the criminal action.
3. Render and promulgate judgment of conviction, including therein, in the proper case, the civil liability or damages duly established by the evidence.

### When There Is No Plea Bargaining

1. Cause the marking for identification of the parties respective exhibit/s, if any,
2. Determine and consider with the parties and counsel such stipulation of facts, admission, and/or agreement as may be feasible, such as, for example:
  - 2.1 the identity of the accused;
  - 2.2 the court's territorial jurisdiction relative to the offense/s charged;
  - 2.3 the qualification of expert-witness/es;
  - 2.4 the amount of damages;
  - 2.5 the genuineness and due execution of documents; and/or,
  - 2.6 the cause of death or injury in proper cases.
2. If convenient, forthwith cause to be reduced into writing and duly signed by the parties, particularly by the accused and his/her counsel, such stipulation, admission, and/or agreement as may be directly related to any essential element of the offense/s charged. Otherwise, incorporate admissions, agreements, stipulations in the pre-trial order to be issued after the pre-trial conference, and require the parties and counsel to sign the same.
3. Determine and consider with the parties and counsel the following and such other matters as will promote a fair and expeditious trial, to wit:
  - 3.1 the number of witnesses to be presented;
  - 3.2 the approximate number of hours that will be required by the parties for the presentation of their respective evidence; and
  - 3.3 the specific trial dates needed to complete evidence presentation by all the parties which must be within a period of three (3) months from the first trial.
4. Fix the trial dates for the parties' presentation of their respective evidence inclusive of evidence in-chief and rebutting evidence, and cause the parties and their respective counsel to affix their signatures in the minutes to signify their availability on the scheduled dates.
5. Require the parties to submit to the branch clerk before leaving the court premises the names and addresses of witnesses that need to be summoned by subpoena, so that the necessary subpoena may be issued on time. Counsel or their representatives may be allowed to serve the subpoenas to insure service thereof and the submission of the

returns on time.

#### 6. Pre-trial agreement

All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel; otherwise, they cannot be used against the accused. The agreements covering the matters referred to in section 1 of this Rule shall be approved by the court.<sup>124</sup>

#### 7. Non-appearance at pre-trial conference

If the counsel for the accused or the prosecutor does not appear at the pre-trial conference and does not offer an acceptable excuse for his/her lack of cooperation, the court may impose proper sanctions or penalties.<sup>125</sup>

#### 8. Pre-trial order

After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.<sup>126</sup>

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<sup>123</sup> Rules of Court, Rule 118, Sec. 1; SC Circular No. 38-98, Secs. 2 and 3.

<sup>124</sup> Rules of Court, Rule 118, Sec. 2; SC Circular No. 38-98, Sec. 4.

<sup>125</sup> Rules of Court, Rule 118, Sec. 3; SC Circular No. 38-98, Sec. 5.

<sup>126</sup> Rules of Court, Rule 118, Sec. 4.

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