

1988 RULES ON CRIMINAL PROCEDURE, July 07, 1988

1988 RULES ON CRIMINAL PROCEDURE, July 07, 1988

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c25b2db2112a/>

(RULES 110-127, RULES OF COURT)

AS AMENDED PER RESOLUTION ADOPTED ON JUNE 17, 1988 AND JULY 7, 1988.

Rule 110

Prosecution of Offenses

SECTION 1. How instituted.— For offenses not subject to the rule on summary procedure in special cases, the institution of criminal actions shall be as follows:

- (a) For offenses falling under the jurisdiction of the Regional Trial Courts, by filing the complaint with the appropriate officer for the purpose of conducting the requisite preliminary investigation therein;
- (b) For offenses falling under the jurisdiction of the Municipal Trial Courts and Municipal Circuit Trial Courts, by filing the complaint with the fiscal's office. However, in Metropolitan Manila and other chartered cities, the complaint may be filed only with the office of the fiscal.

In all cases, such institution shall interrupt the period of prescription of the offenses charged. (n)

SEC. 2. The complaint or information — The complaint or information shall be in writing in the name of the People of Philippines against all persons who appear to be responsible for the offense involved. (1a)

SEC. 3. Complaint defined.—Complaint a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer or the public officer charged with the enforcement of the law violated. (2a)

SEC. 4 Information defined.—An information is an accusation in writing charging a person with an offense subscribed by the fiscal and filed with the court. (3)

SEC. 5. Who must prosecute criminal actions.— All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of the fiscal. However, in the Municipal Trial Courts or Municipal Circuit Trial Courts when there is no fiscal available, the offended party, any peace officer or public officer charged with the enforcement of the law violated may prosecute the case. This authority ceases upon actual intervention of the fiscal or upon elevation of the case to the Regional Trial Court. The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse. The offended party cannot institute criminal prosecution without including both the guilty parties, if they are both alive, nor, in any case, if the offended party has consented to the offense or pardoned the offender. The offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grand-parents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be. In case the offended party dies or becomes incapacitated before she could file the complaint and has no known parents, grandparents or guardian, the State shall initiate the criminal action in her behalf. The offended party, even if she were a minor, has the right to initiate the prosecution for the above

offenses, independently of her parents, grandparents or guardian unless she is incompetent or incapable of doing so upon grounds other than her minority Where the offended party who is a minor fails to file the complaint, her parents, grandparents, or guardian may file the same. The right to file the action granted to the parents, grandparents or guardian shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the immediately preceding paragraph. No criminal action for defamation which consists in the imputation of an offense mentioned above, shall be brought except at the instance of and upon complaint filed the offended party. (4a)

SEC. 6. Sufficiency of complaint or information — A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. When an offense is committed by more than one person, all of them shall be included in the complaint or information. (5a)

SEC. 7. Name of accused,—A complaint or information must state the name and surname of the accused or any appellation or nickname by which he has been or is known, or if his name cannot be discovered he must be described under a fictitious name with a statement that his true name is unknown. If in the course of the proceeding the true name of the accused is disclosed by him, or appears in some other manner to the court, the true name of the accused shall be inserted in the complaint or information and record. (6a)

SEC. 8. Designation of the offense.— Whenever possible, a complaint or information should state the designation given to the offense by the statute, besides the statement of the acts or omissions constituting the same, and if there is no such designation, reference should be made to the section or subsection of the statute punishing it. (7)

SEC 9. Cause of accusation.—The acts or omissions complained of as constituting the offense must be stated in ordinary and concise language without repetition, not necessarily in the terms of the statute defining the offense, but in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court pronounce proper judgment. (8)

SEC. 10. Place of the commission of the offense.—The complaint or information is sufficient if it can be understood therefrom that the offense was committed or some of the essential ingredients thereof occurred at some place within the jurisdiction of the court, unless the particular place wherein it was committed constitutes an essential element of the offense or is necessary for identifying the offense charged. (9)

SEC. 11. Time of the commission of the offense.—It is not necessary to state in the complaint or information the precise time at which the offense was committed except when time is a material ingredient of the offense, but the act may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit. (10)

SEC. 12. Name of the offended party.— A complaint or information must state the name and surname of the person against whom or against whose property the offense was committed, or any appellation or nickname by which such person has been or is known, and if there is no better way of identifying him, he must be described under a fictitious name. (a) In case of offenses against property, if the name of the offended party is unknown, the property, subject matter of the offense, must be described with such particularity as to properly identify the particular offense charged. (b) If in the course of the trial the true name of the person against whom or against whose property the offense was committed is disclosed or ascertained, the court must cause the true name to be inserted in the complaint or information. (c) If the offended party is a corporation or any other juridical person, it is sufficient to state the name of such corporation or juridical person, or any name or designation by which it has been or is known, or by which it may be identified, without necessity of averring that it is a corporation, or that it

is organized in accordance with law. (11)

SEC. 13. Duplicity of offense.—A complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses. (12)

SEC. 14. Amendment.—The information or complaint may be amended; in substance or form, without leave of court, at any time before the accused pleads; and thereafter and during the trial as to all matter of form, by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the accused. If it appears at any time before judgment that a mistake has been made in charging, the proper offense, the court shall dismiss the original complaint or information upon the filing of a new one charging the proper offense in accordance with Rule 119, Section 11, provided the accused would not be placed thereby in double jeopardy, and may also require the witnesses to give bail for appearance at the trial. (13a)

SEC. 15. Place where action is to be instituted.— (a) Subject to existing laws, in criminal prosecutions the action shall be instituted and tried in the court of the municipality or territory wherein the offense was committed or any one of the essential ingredients thereof took place. (b) Where an offense is committed on a railroad train, in an aircraft, or in an other public or private vehicle while the course of its trip, the criminal action may be instituted and tried in the court of any municipality or territory where such train, aircraft or other vehicle passed during such trip, including the place of departure and arrival. (c) Where an offense is committed on board a vessel in the course of its voyage, the criminal action may be instituted and tried in the proper court of the first port of entry or of any municipality or territory through which the vessel passed during sue voyage subject to the generally accepted principles of international law. (d) Other crimes committed outside of the Philippines but punishable therein under Article 2 of the Revised Penal Code shall be cognizable by the proper court in which the charge is first filed. (14a)

SEC. 16. Intervention of the offended party in criminal action.—Unless the offended party has waived the civil action or expressly (reserved the right to institute it separately from the criminal action, and subject to the provision of Section 5 hereof, he may intervene by counsel in the prosecution of the offense. (15a)

RULE 111

Prosecution of Civil Action

SECTION 1. Institution of criminal and civil actions. — When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action. Such civil action includes recovery of indemnity under the Revised Penal Code, and damages under Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused. A waiver of any of the civil actions extinguishes the others. The institution of, or the reservation of the right to file, any of said civil actions separately waives the others. The reservation of the right to institute the separate civil actions shall be made before the prosecution starts to present its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation. In no case may the offended party recover damages twice for the same act or omission of the accused. When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate or exemplary damages, the filing fees for such civil action as provided in these Rules shall constitute a first lien on the judgment except in an award for actual damages. In cases wherein the amount of damages, other than actual, is alleged in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court for trial, (1a)

SEC. 2. Institution of separate civil action. — Except in the cases provided for in Section 3 hereof, after the criminal action has been commenced, the civil action which has been reserved cannot be instituted until final

judgment has been rendered in the criminal action. (a) Whenever the offended party shall have instituted the civil action as provided for in the first paragraph of Section 1 hereof before the filing of the criminal action and the criminal action is subsequently commenced, the pending civil action shall be suspended, in whatever stage before final judgment it may be found, until final judgment in the criminal action has been rendered. However, if no final judgment has been rendered by the trial court in the civil action, the same may be consolidated with the criminal action upon application with the court trying the criminal action. If the application is granted, the evidence presented and admitted in the civil action shall be deemed automatically reproduced in the criminal action, without prejudice to the admission of additional evidence that any party may wish to present. In case of consolidation, both the criminal and the civil actions shall be tried and decided jointly. (b) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. (3a)

SEC. 3. When civil action may proceed independently. —In the cases provided for in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action which has been reserved may be brought by the offended party, shall proceed independently of the criminal action, and shall require only a preponderance of evidence. (2a)

SEC. 4. Judgment in civil action not a bar.—A final judgment rendered in a civil action absolving the defendant from civil liability is no bar to a criminal action. (4)

SEC. 5. Elements of prejudicial question. — The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed, (n)

SEC. 6. Suspension by reason of prejudicial question.—A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the fiscal or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests. (5a)

RULE 112

Preliminary Investigation

SECTION 1. Definition.—Preliminary investigation is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial, (1a)

SEC. 2. Officers authorized to conduct preliminary investigation.— The following may conduct a preliminary investigation:

(a) Provincial or city fiscals and their assistants;(b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts;(c) National and Regional state prosecutors; and(d) Such other officers as may be authorized by law.

Their authority to conduct preliminary investigation shall include all crimes cognizable by the proper court in their respective territorial jurisdictions. (2a)

SEC. 3. Procedure.—Except as provide for in Section 7 hereof, no complaint information for an offense cognizable" the Regional Trial Court shall be filed with out a preliminary investigation having been first conducted in the following manner: (a) The complaint shall state the known n address of the respondent and be accompanied by affidavits of the complainant his witnesses as well as other supporting documents, in such

number of copies there are respondents, plus two (2) copies for the official file. The said affidavits be sworn to before any fiscal, state prosecutor or government official authorized administer oath, or, in their absence unavailability, a notary public, who must certify that he personally examined affiants and that he is satisfied that voluntarily executed and understood affidavits. (b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss the same if he finds, no ground to continue with the inquiry or issue a subpoena to the respondent, attaching thereto a copy of the complaint, affidavits, and other supporting documents. Within ten (10) days from receipt thereof, the respondent shall submit counter-affidavits and other supporting documents. He shall have the right to examine all other evidence submitted by the complainant. Such counter-affidavits and other supporting evidence submitted by the respondent shall also be sworn to and certified as prescribed in paragraph (a) hereof and copies thereof shall be furnished by him, to the complainant. If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall base his resolution on the evidence presented by the complainant. (e) If the investigating officer believes there are matters to be clarified, he set a hearing to propound clarificatory Questions to the parties or their witnesses, fixing which the parties shall be afforded opportunity to be present but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the investigating officer which the latter may propound to the parties or witnesses concerned. (f) Thereafter, the investigation shall be deemed concluded, and the investigating officer shall resolve the case within ten (10) days therefrom. Upon the evidence adduced, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

SEC. 4. Duty of investigating fiscal.— If the investigating fiscal finds cause to hold respondent for trial, he shall prepare the resolution and corresponding information. He shall certify under oath that he, & shown by the record, an authorized officer, has personally examined the complainant and his witnesses, that there is reasonable ground to believe that a crime committed and that the accused is probably guilty thereof, that the accused was informed of the complaint and of the evidence submitted against him and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend dismissal of the complaint. In either case, he shall forward the records of the case to the provincial or city fiscal or chief state prosecutor within five (5) days this resolution. The latter shall take appropriate action thereon within ten (10) days from receipt thereof, immediately informing the parties of said action. No complaint or information may be filed or dismissed by an investigating fiscal without prior written authority or approval of the provincial or city fiscal or chief state prosecutor. Where the investigating assistant fiscal recommends the dismissal of the case but his findings are reversed by the provincial or city fiscal or chief state prosecutor on the ground that a probable cause exists, the latter may, by himself, file the corresponding information against the respondent or direct any other assistant fiscal or state prosecutor to do so, without conducting another preliminary investigation. If upon petition by a proper party, the Secretary of Justice reverses the resolution of the provincial or city fiscal or chief state prosecutor, he shall direct the fiscal concerned to file the corresponding information without conducting another preliminary investigation or to dismiss or move for dismissal of the complaint or information. (5a)

SEC. 5. Duty of investigating judge.— Within ten (10) days after the conclusion of the preliminary investigation, the investigating judge shall transmit to the provincial or city fiscal, for appropriate action, the resolution of the case, stating briefly the findings of facts and the law supporting his action, together with the entire records of the case, which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused; (d) the order of release of the accused and cancellation of his bail bond, if the resolution is for the dismissal of the complaint. Should the provincial or city fiscal disagree with the findings of the investigating judge on the existence of probable cause, the fiscal's ruling shall prevail, but he must explain his action in writing furnishing the parties with copies of his

resolution, not later than thirty (30) days from receipt of this records from the judge. If the accused is detained, the fiscal shall order his release. (12a)

SEC. 6. When warrant of arrest may issue.- (a) By the Regional Trial Court— Upon the filing of an information, the Regional Trial Court may issue a warrant for the arrest of the accused. (b) By the Municipal Trial Court—If the municipal trial judge conducting the preliminary investigation is satisfied after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice, he shall issue a warrant of arrest, (n)

SEC. 7. When accused lawfully arrested without warrant. —When a person is lawfully arrested without a warrant for an offense cognizable by the Regional Trial Court the complaint or information may be filed by the offended party, peace officer or fiscal without a preliminary investigation having been first conducted, on the basis of the affidavit of the offended party or arresting officer or person. However, before the filing of such complaint or information, the person arrested may ask for a preliminary investigation by a proper officer in accordance with this Rule, but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, with the assistance of a lawyer and in case of non-availability of a lawyer, a responsible person of his choice. Notwithstanding such waiver, he may apply for bail as provided in the corresponding rule and the investigation must be terminated within fifteen (15) days from its inception. If the case has been filed in court without a preliminary investigation having been first conducted, the accused may within five (5) days from the time he learns of the filing of the information, ask for a preliminary investigation with the same right to adduce evidence in his favor in the manner prescribed in this Rule. (15a)

SEC. 8. Record of preliminary investigation.—The record of the preliminary investigation whether conducted by a judge or a fiscal, shall not form part of the record of the case in the Regional Trial Court However, the said court, on its own initiative or that of any party, may order the production of the record or any part thereof whenever the same shall be necessary in the resolution of the case or any incident therein, or shall be introduced as evidence by the party requesting for its production (n)

SEC. 9. Cases not falling under the original jurisdiction of the Regional Courts nor covered by the Rule on Summary Procedure.— (a)Where filed with the fiscal. If the complaint is filed directly with the fiscal or state prosecutor, the procedure outlined Section 3 (a) of this Rule shall be observed. The fiscal shall take appropriate action based on the affidavits and other supporting documents submitted by the complainant (b)Where filed directly with the Municipal Trial Court.—If the complaint formation is filed directly with the Municipal Trial Court, the procedure provided for in Section 3 (a) of this Rule shall likewise be observed. If the judge finds no sufficient ground to hold the respondent trial, he shall dismiss the complaint or information. Otherwise, he shall issue a warrant of arrest after personally examining in writing and under oath the complainant and his witnesses in the form of searching questions and answers, (n)

Rules 113

Arrest

SECTION 1. Definition of arrest —Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense, (1a)

SEC. 2. Arrest; how made.— An arrest is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest, and the person No violence or unnecessary force shall be used in making an arrest, and the person rested shall not be subject to any greater restraint than is necessary for his detention.

SEC. 3. Duty of arresting officer.—It shall be the duty of the officer executing the warrant without unnecessary delay to arrest p accused and to deliver him to the nearest lice station or jail. (3a)

SEC. 4. Execution of warrant. — The head of the office to whom the warrant of arrest has been delivered for execution shall cause the warrant to be executed within ten (10) days from receipt thereof. Within ten (10) days after the expiration of such period, ^officer to whom it was assigned for exe-pm, shall make a report to the judge who issued the warrant and, in case of failure to execute the same, shall state the reasons therefor. (n)

SEC. 5. Arrest without warrant; when lawful —A peace officer or a private person may, without a warrant, arrest a person: (a) When, in his presence, the person to arrested has committed, is actually committing, or is attempting to commit an offense; (b) When an offense has in fact just been committed, and he has personal knowledged If facts indicating that the person to be arrested has committed it; and (c) When the person to be arrested is a prisoner who has escape from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 12, Section 7. (6a, 17a)

SEC. 6. Time of making arrest —An arrest may be made on any day and at any fine of the day or night (7)

SEC. 7. Method of arrest by officer by virtue of warrant. — When making an arrest by virtue of a warrant the officer shall inform the person to be arrested of the cause of the arrest and of the fact that a warrant has been issued for his arrest, except when he flees or forcibly resists before the officer has opportunity so to inform him or when the giving of such information will imperil the arrest. The officer need not have the warrant m his possession at the time of the arrest but after the arrest, if the person arrested so requires, the warrant shall be shown to him as soon as practicable. (8)

SEC. 8. Method of arrest by officer without warrant. — When making an arrest without a warrant, the officer shall inform the person to be arrested of his authority and the cause of the arrest, unless the person to be arrested is then engaged in the commission of an offense or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the officer has opportunity so to inform him, or when the giving of such information will imperil the arrest. (9)

SEC. 9. Method of arrest by private person.—A private person when making an arrest shall inform the person to be arrested of the intention to arrest him and cause of the arrest, unless the person to be arrested is then engaged in the commission of an offense, or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the person making the arrest has opportunity so to inform him, or when the giving of such information will imperil the arrest. (10)

SEC. 10. Officer may summon assistance -An officer making a lawful arrest may orally summon as many persons as he deems necessary to aid him in making the arrest. Every person so summoned by an officer shall aid him in the making of such arrest, when he can render such aid without detriment to himself. (11)

SEC. 11. Right of officer to break into building or enclosure.—An officer in order to make an arrest either by virtue of a warrant, or when authorized to make such arrest for an offense without a warrant, as provided in Section 5 may break into any building or enclosure in which the person to be arrested is or is reasonably believed to be, if he is refused admittance thereto, after he has announced his authority and purpose. (12a)

SEC. 12. Right to break out of building or enclosure to effect release.—Whenever an officer has entered the building or enclosure in accordance with the provisions of the preceding section, he may break out therefrom when necessary for the purpose of liberating himself. (13a)

SEC. 13. Arrest after escape or rescue.— If a person lawfully arrested escapes or is rescued any person may immediately pursue or retake him without a warrant at any time and in any place within the Philippines. (15a)

SEC. 14. Right of attorney or relative to visit person arrested.—Any member of the bar shall, at the request of the person arrested or of another acting in his behalf have the right to visit and confer privately with such person, in the jail or any other place of custody at any hour of the day or in urgent cases of the night. This right shall also be exercised by any relative of the person arrested subject to reasonable regulation. (18a)

RULE 114

Bail

SECTION 1. Bail defined.—Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, conditioned upon his appearance before any court as required under the conditions hereinafter specified. Bail may be given in the form of corporate surety, property bond, cash deposit, or recognizance. (1a)

SEC. 2. Conditions of the bail; requirements. —All kinds of bail are subject to the following conditions: (a) The undertaking shall be effective upon approval and remain in force at all stages of the case until its final, determination, unless the proper court directs otherwise; (b) The accused shall appear before the proper court whenever so required by the court or these Rules; (c) The failure of the accused to appear at the trial without justification despite due notice shall be deemed an express waiver of his right to be present on the date specified in the notice. In such case, the trials may proceed in absentia; and (d) The accused shall surrender himself for execution of the final judgment. The original papers shall state the full name and address of the accused, the amount of the undertaking and the conditions herein required. Photographs (passport size) taken recently showing the face, left and right profiles of the accused must be attached thereto. (2a)

SEC. 3. Bail, a matter of right; exception. — All persons in custody shall, before final conviction, be entitled to bail as a matter of right, except those charged with a capital offense or an offense which, under the law, at the time of its commission and at the time of the application for bail, is punishable reclusion perpetua, when evidence of guilt; is strong, (n)

SEC. 4. Capital offense defined. — A capital, offense, as the term is used in these Rules, is an offense which, under the law existing, at the time of its commission and at the of the application to be admitted to may be punished with death. (7a)

SEC. 5. Capital offense, burden of proof. - On the hearing of all application for admission to bail filed by any person who is in custody for the commission of a capital offense, the prosecution has the burden of showing that evidence of guilt is strong. The evidence presented during the bail hearings shall be considered automatically reproduced at the trial, but, upon motion of either party, the court may recall any witness for additional examination unless the witness is dead, outside of the Philippines or otherwise unable to testify. (7a)

SEC. 6. Notice of application to fiscal.—When admission to bail is a matter of discretion, the court must give reasonable notice of the hearing to the fiscal or require him to submit his recommendation. (8a)

SEC. 7. Bond, where filed.—A person in custody for a bailable offense may file such bail fixed by the court where the case is pending or may apply for bail with any Regional Trial Court sitting in the province or city where he is held. In the absence of the regional trial judges or municipal circuit trial judge of said place may accept bonds filed therein or hear and decide application for bail. (n)

Sec. 8. Court supervision of detainees.— The court shall exercise supervision over all persons in custody for the

purpose of eliminating all unnecessary detention. The executive judges of the Regional Trial Courts shall conduct monthly personal inspections of provincial, city and municipal jails and their prisoners within their respective jurisdictions, to inquire into their proper accommodation and health, the number of detainees, the condition of the jail facilities, the segregation of sexes and minors from the adults, the observance of the right of detainees to confer privately with counsel, and the elimination of conditions disadvantageous to the detainees. In cities and municipalities to be specified by the Supreme Court, the municipal trial judges or municipal circuit trial judges shall conduct monthly personal inspections of municipal jails of their respective municipalities, and submit a report to the executive judge of the Regional Trial Court having jurisdiction therein. A monthly report of such visitation shall be submitted by the executive judges to the Court Administrator, stating the total number of detainees, at least the names of those held for more than thirty (30) days, the duration of detention, the crime charged, the status of the case, the cause for detention, and other pertinent Information. (n)

Sec. 9. Bail, when not required; reduced bail or recognizance. — No bail shall be required when the law or these Rules so provide. When a person has been in custody for a period equal to or more than the possible maximum imprisonment of the offense charged to which he may be sentenced, he shall be released immediately, without prejudice to the continuation of the trial thereof or the proceedings on appeal. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment. A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on a reduced bail or on his own recognizance, at the discretion of the court. (n)

Sec. 10. Amount of bail; guidelines.— The judge who issued the warrant or granted the application shall fix a reasonable amount of bail considering primarily, but not limited to the following guidelines:

(a) Financial ability of the accused to give bail;(b) Nature and circumstances of the offense;(c) Penalty of the offense charged;(d) Character and reputation of the accused;(e) Age and health of the accused;(f) The weight of the evidence against the accused ;(g) Probability of the accused appearing in trial;(h) Forfeiture of other bonds;(i) The fact that accused was a fugitive from justice when arrested; and(j) The pendency other of cases in which the accused is under bondExcessive bail shall not be required. (n)

Sec. 11. Qualification of sureties in property bail bond.— The necessary qualification of sureties to a property bail bond shall be as follows: (a) Each of them must be a resident owner of real estate within the Philippines; (b) Where there is only one surety, his real estate must be worth at least the amount of the undertaking; (c) In case there are two or more sureties, they may justify severally in amounts less than that expressed in the undertaking if the entire sum justified to is equivalent to the whole amount of bail demanded. In all cases, every surety must be worth the amount specified in his own undertaking over and above all just debts, obligations and property exempt from execution. (9a)

Sec. 12. Justification of sureties.— Every surety shall justify by affidavit taken before the judge, that each possesses the qualifications named in the preceding section, and shall be required to describe the property given as security, stating the nature of his title thereto, the encumbrances thereon, the number and amount of other bonds entered into by him and remaining undischarged, and his other liabilities. The court may further examine the sureties upon oath concerning their sufficiency in such manner as it may deem proper. No bond shall be approved unless the surety is qualified. (10a)

Sec. 13. Corporate surety.— Any domestic or foreign corporation licensed as a surety in accordance with law and currently authorized to act as such may provide bail by a bond subscribed jointly by the accused and an officer duly authorized by its board of directors. (n).

Sec. 14. Property bond, how posted. — A property bond is an undertaking constituted as lien on the real property given as security for the amount of the bail. Upon approval of the bond, the court shall within ten (10) days order the accused to cause, the annotation of the lien on the original torrens title on file with the Register of Deeds, if the land is registered, or if unregistered, in the Registration Book on the space provided therefor, in the office of the Register of Deeds for the province or city where the land lies, and on the corresponding tax declaration in the office of the provincial and municipal assessor concerned. Non-compliance with the order shall be sufficient cause for cancellation of the property bond. (n)

Sec. 15. Release on bail or recognizance. — The accused must be discharged upon approval of the bail by any judge. The judge accepting the bail shall forward the release papers to the court where the case is pending. Whenever allowed, pursuant to Section 9 hereof, the court may release the accused on his own recognizance or that of a responsible person. An accused released on bail may be re-arrested without the necessity of a warrant if he attempts to depart from the Philippines without prior permission of the court where the case is pending. (11a)

Sec. 16. Increase or reduction of bail.— After the accused shall have been admitted to bail, the court may, upon good cause shown, either increase or reduce the amount of the same. If increased, the accused may be committed to custody unless he gives bail in the increased amount thereof within a reasonable period. An accused held to answer a criminal charge but who is released without bail on the filing of a complaint or information, may, at any subsequent stage of the proceedings whenever a strong showing of guilt appears to the court be required to give bail in the amount fixed, or in lieu thereof may be committed to custody. (12a)

Sec. 17. Deposit of cash as bail.— The accused or any person acting; in his behalf may deposit in cash with the nearest collector of internal revenue, or provincial, city or municipal treasurer the amount of bail fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the court must discharge him from custody. Money thus deposit shall be considered as bail and applied to the payment of any fine and costs and the excess, if any shall be returned to the accused or to whoever made the deposit. (14a),

SEC 18. Forfeiture of bail bond.— When the presence of the accused is specifically required by the court, or these Rules, his bondsmen shall be notified to produce him before the court on a given date. If the accused fails to appear in persons as required, the bond shall be declared forfeited and the bondsmen are given thirty (30) days within which to produce their principal and to show cause why a judgment should not be rendered against them for the amount of their bond. Within the said period, the bondsmen: (a) must produce the body of their principal or give the reason for his non-production; and (b) must explain satisfactorily why the accused did not appear before the court when first required to do so. Falling in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bond, and the court shall not reduce or otherwise mitigate the liability of the bondsmen, except when the accused has been surrendered or is acquitted. (15a)

Sec. 19. Cancellation of bail bond.— Upon application filed with the court and after due notice to the fiscal, the bail bond may be cancelled upon surrender of the accused or proof of his death. The bail bond shall be deemed automatically cancelled upon acquittal of the accused or dismissal of the case or execution of the final judgment of conviction. In all instances, the cancellation shall be without prejudice to any liability on the bond. (16a)

SEC. 20. Sureties may arrest accused.— For the purpose of surrendering the accused, the bondsmen may arrest him, or on written authority endorsed on a certified copy of the undertaking may cause him to be arrested by any police officer or any other person of suitable age and discretion. (17a)

SEC. 21. No bail after judgment; exception. — No bail shall be allowed after the judgment has become final. However, in case the accused has applied for probation, he may be allowed temporary liberty under his bail bond,

but if no bail was filed or the accused is incapable of filing one, the court may allow his release on recognizance to the custody of a responsible member of the community. In no case shall bail be allowed after the accused has commenced to serve sentence. (18a)

Rule. 115

Rights of Accused

SECTION 1. Rights of accused at the trial. In all criminal prosecutions, the accused shall be entitled:(a) To be presumed innocent until the contrary is proved beyond reasonable doubt;(b) To be informed of the nature and cause of the accusation against him;(c) To be present and defend in person and by counsel at every stage of the proceedings, from the arraignment to the promulgation of the judgment. The accused may, however, waive his presence at the trial pursuant to the stipulations set forth in his bail bond, unless his presence is specifically ordered by the court for purposes of identification. The absence of the accused without any justifiable cause at the trial on a particular date of which he had notice shall be considered a waiver of his right to be present during that trial. When an accused under custody had been notified of the date of the trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained. Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his right without the assistance of counsel;(d) To testify as a witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him;(e) To be exempt from being compelled to be a witness against himself;(f) To confront and cross-examine the witnesses against him at the trial. Either party may utilize as part of its evidence the testimony of a witness who is deceased, out of or cannot with due diligence be found in the Philippines, unavailable or otherwise unable to testify, given in another case or proceeding, judicial or administrative, involving the same parties and subject matter, the adverse party having had the opportunity to cross-examine him;(g) To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf;(h) To have a speedy, impartial and public trial; and(i) To have the right of appeal in all cases allowed and in the manner prescribed by law. (1a)

Rule 116

Arraignment and Plea

SECTION 1. Arraignment and plea; how made.— (a) The accused must be arraigned before the court where the complaint or information has been filed or assigned for trial. The arraignment must be made in open court by the judge or clerk by furnishing the accused a copy of the complaint or information the list of witnesses, reading the same in the language or dialect known to him and asking him whether he pleads guilty or not guilty. The prosecution may, however, call at the trial witnesses other than those named in the complaint or information, (1a, R-116) (b) The accused must be present at the arraignment and must personally enter his plea. Both arraignment and plea shall be made of record, but a failure to enter of record shall not affect the validity of the proceeding (2a, R-116; 1a, R-118; 3a, R-118)] (c) If the accused refuses to plead, or makes a conditional plea of guilty, a plea of not guilty shall be entered for him (2a, R-118)

SEC. 2. Plea of guilty to a lesser offense . —The accused, with the consent of the offended party and the fiscal, may be allowed by the trial to plead guilty to a lesser offense, regardless of whether or not it is necessarily included in the crime charged, or is cognizable by a court of lesser jurisdiction than the trial court. No amendment of the complaint or information is necessary. A conviction under this plea shall equivalent to a conviction of the offense, charged for purposes of double jeopardy (4a, R-118)

SEC. 3. Plea of guilty to capital offense reception of evidence. —When the accused pleads guilty to a capital offense the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf. (5a, R-118)

SEC 4. 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. (5a, R-118)

SEC. 5. Withdrawal of improvident plea not 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. (6a, R-118))

SEC. 6. Duty of court to inform accused of his right to counsel — Before arraignment, the court shall inform the accused of his right to counsel and shall ask him if he desires to have one. Unless the accused is allowed to defend himself in person, or he has employed counsel of his choice, the court must assign a counsel de oficio to defend him. (3a, R-116)

SEC. 7. Appointment of counsel de oficio — The court, considering the gravity of the offense and the difficulty of the questions at may arise, shall appoint as counsel de oficio only such members of the bar in good standing who, by reason of their experience and ability may adequately defend the accused. But in localities where such members of the bar are not available, the court may appoint any person, resident of the province and of good repute for probity and ability to defend the accused. (4a, R-116)

SEC. 8. Time for counsel de oficio to prepare for arraignment. — Whenever a counsel de oficio is assigned by the court to defend the accused at the arraignment, he shall be given at least one hour to consult with the accused as to his plea before proceeding with arraignment. (5a, R-116)

SEC. 9. Time to prepare for trial. — After a plea of not guilty, the accused is entitled to two (2) days to prepare for trial unless the court for good cause grants him further fie. (5a, R-116; 7a, R-118)

SEC. 10. Bill of particulars. — Accused may, at or before arraignment, move for a bill of particulars to enable him properly to plead to prepare for trial. The motion shall specify the alleged defects and the details desired, (6a, R-116)

SEC. 11. Production or inspection of mate-, evidence in possession of prosecution.— On motion of the accused showing good cause and with notice to all parties, the court, in order to prevent surprise, suppression, or alteration, may order the prosecution to produce and permit the inspection and copying or photographing, of any written statements given by the complainant and other .witnesses in any investigation of the of the offense conducted by the prosecution or any other investigating officers, as well as of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not otherwise privileged, which constitute or contain evidence material to any matter involved in the case, and which are in the possession or under the control of the prosecution, the police, or any other law investigating agencies. (8a, R-118)

SEC. 12. Suspension of arraignment.— The arraignment shall be suspended, if at the time thereof: (a) 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 mental examination and, if necessary, his confinement for such purpose. (b) The court finds the existence of a valid prejudicial question, (n)

Rule 117

Motion to Quash

SECTION 1. Time to move to quash. — At any time before entering his plea, the accused may move to quash the complaint or information, (1a)

SEC. 2. Form and contents.—The motion to quash shall be in writing signed by the accused or his counsel. It shall specify distinctly the factual and legal grounds there-for and the court shall consider no grounds other than those stated therein, except lack of jurisdiction over the offense charged. (3a, 4a, 5a,)

SEC. 3. Grounds.—The accused may move to quash the complaint or information on any of the following grounds:

- (a) That the facts charged do not constitute an offense;
 - (b) That the court trying the case has no jurisdiction over the offense charged or the person of the accused;
 - (c) That the officer who filed the information had no authority to do so;
 - (d) That it does not conform substantially to the prescribed form;
 - (e) That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses;
 - (f) That the criminal action or liability has been extinguished;
 - (g) That it contains averments which, if true, would constitute a legal excuse or justification; and (h) That the accused has been previously convicted or in jeopardy of being convicted, or acquitted of the offense charged.
- (2a)

SEC. 4. Amendment of complaint or Information. —If the motion to quash is based on an alleged defect in the complaint or information which can be cured by amendment, the court shall order the amendment to be made. (2a)

SEC. 5. Effect of sustaining the motion to quash. — If the motion to quash is sustained the court may order that another information be filed. If such order is made the accused, if in custody, shall remain so unless he shall be admitted to bails If such order is not made or if having been made another information is not filed within a time to be specified in the order, or within such further time as the court may allow for good cause shown the accused, if in custody, shall be discharged therefrom, unless he is also in custody on some other charge. (7a)

SEC. 6. Order sustaining the motion to quash not a bar to another prosecution; exception. — An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in Section 3, subsections (f) and (h) of this Rule. (8a)

SEC. 7 Former conviction or acquittal; double jeopardy. — When an accused has been convicted or acquitted or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information. However, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information under any of the following instances:

- (a) the graver offense developed due to supervening facts arising from the same act or omission constituting the former charge
- (b) the facts constituting the graver charge became known or were discovered only after the filing of the former complaint or information; or
- (c) the plea of guilty to the lesser offense was made without the consent of the fiscal and of the offended party.

In any of the foregoing cases, where the accused satisfies or serves in whole or in part the judgment, he shall be credited with the same in the event of conviction for the graver offense. (9a)

SEC. 8. Failure to move to quash or to allege any ground therefor.—The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion shall be deemed a waiver of the grounds of a motion to quash, except the grounds of no offense charged, lack of jurisdiction over the offense charged, extinction of the offense or penalty and jeopardy as provided for in paragraphs (a), (b), (f) and (h) of Section B of this Rule. (10a)

Rule 118

Pre-Trial

SECTION 1. Pre-trial; when proper.—To expedite the trial, where the accused and counsel agree, the court shall conduct a pretrial conference on the matters enumerated in Section 2 hereof, without impairing the rights of the accused, (n)

SEC. 2. Pre-trial conference; subjects.— the pre-trial conference shall 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; and (e) Such other matters as will promote a fair and expeditious trial, (n)

SEC. 3. 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. (n)

SEC. 4. Pre-trial agreements must be signed.— No agreement or admission made or entered during the pre-trial conference shall be used in evidence against the accused unless reduced to writing and signed by him and his counsel. (n)

Rule 119

TRIAL

SECTION 1. Notice of trial.— The parties shall be notified of the date of trial at least two (2) days before such date. (1a)

SEC. 2. Continuous trial until terminated; postponements. — Trial once commenced shall continue from day to day as far as practicable until terminated; but for good cause, it may be postponed for a reasonable period of time. (2a)

SEC. 3. Order of trial.— The trial shall proceed in the following order: (a) The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability. (b) The accused may present evidence to prove his defense; and damages, if any, arising from the issuance of any provisional remedy in the case. (c) The parties may then respectively present rebutting evidence only, unless the court, in furtherance of justice, permits them to present additional evidence bearing upon the main issue. (d) Upon admission of the evidence, the case shall be deemed submitted for decision unless the court directs the parties to argue orally or to submit memoranda. (e) However, when the accused admits the offense charged in the complaint or information but interposes a lawful defense, the order of trial may be modified accordingly. (3a)

SEC. 4. Application for examination of witness for accused before trial.— When the accused has been held to answer for an offense, he may, upon motion with notice to all other parties, have witnesses conditionally examined in his behalf in the manner hereinafter provided, but not otherwise. The motion shall state: (a) the name and residence of the witness; (b) the substance of his testimony; and (c) that the witness is so sick or infirm as to

afford reasonable ground for believing that he will not be able to attend the trial, or resides more than 100 kilometers from the place of trial and has no means to attend the same, or that, apart from the foregoing, other similar circumstances exist that would make him unavailable or prevent him from attending the trial. The accused and such other evidence as the court may require. (4a)

SEC. 5. Examination of defense witness; how made. — If the court is satisfied that the examination of witness for the accused is necessary, an order will be made directing that the witness be examined at a specified time and place, and that a copy of the order be served on the fiscal within a given time prior to that fixed for the examination. The examination will be taken before any judge or if not practicable, any member of the Bar in good standing so designated by the judge in the order, or, if the order be granted by a court of superior jurisdiction, before an inferior court to be designated in the order. The examination shall proceed notwithstanding the absence of the fiscal, if it appears that he was duly notified of the hearing. A written record of the testimony shall be taken. (5a)

SEC. 6. Bail to secure appearance of material witness.— When the court is satisfied, upon proof or oath, that a material witness will not testify when required, it may upon the motion of either party order the witness to post bail in such sum as may be deemed proper. Upon refusal to post bail, the court shall commit him to prison until he complies or is legally discharged after his testimony has been taken. (6a)

Sec. 7. Examination of witness for the prosecution. — Where it shall satisfactorily appear that the witness for the prosecution is too sick or infirm to appear at the trial as directed by the order of the court, or has to leave the Philippines with no definite date of returning thereto, he may forthwith be conditionally examined before the judge or the court where the case is pending. Such examination in the presence of the accused, or after reasonable notice to attend the examination has been served on him, will be conducted in the same manner as an examination at the trial. Failure or refusal on the part of the accused to attend the examination after notice hereinbefore provided, shall be considered a waiver. The statement thus taken may be admitted in behalf of or against the accused. (7a)

SEC. 8. Trial of several accused.—When two or more accused are jointly charged with any offense, they shall be tried jointly, unless the court in its discretion upon motion of the fiscal or any accused orders separate trials for one or more accused. (8a)

SEC. 9. Discharge of accused to be state witness. — When two or more persons are jointly charge with the commission of any offense, upon motion of the prosecution before resting its case, the court may direct one or more of the accused to be discharged with their consent so that they may be witnesses for the state when after requiring the prosecution to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge, the court is satisfied that:

- (a) There is absolute necessity for the testimony of the accused whose discharge is requested;
- (b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;
- (c) The testimony of said accused can be substantially corroborated in its material points;
- (d) Said accused does not appear to be the most guilty;
- (e) Said accused has not at any time been convicted of any offense involving moral turpitude.

Evidence adduced in support of the discharge shall automatically form part of the trial. If the Court denies the motion for discharge of the accused as state witness, his sworn statement shall be inadmissible in evidence, (9a)

SEC. 10. Discharge of accused operates as acquittal. — The order indicated in the preceding section shall amount to an acquittal of the accused discharged and shall be a bar to future prosecution for the same offense, unless the accused fails or refuses to testify against his co-accused in accordance with his sworn statement constituting the

basis for his discharge. (11a)

SEC. 11. When mistake has been made in charging the proper offense.— When it becomes manifest at any time before judgment, that a mistake has been made in charging the proper offense, and the accused cannot be convicted of the offense charge, or of any other offense necessarily included therein the accused shall not be discharged, if there to be good cause to detain him. In each the court shall commit the accused to answer for the proper offense and dismiss the original upon the filing of the proper information.

SEC. 12. Appointment of acting fiscal.— When a fiscal, his assistant or deputy shall be disqualified to act, for any of the reasons stated in Section 1 Rule 137, or any other reasons, the judge or the fiscal shall communicate with the Minister of Justice in order that the latter may appoint an acting fiscal. (13a)

SEC. 13. Exclusion of the public.— The court may, *motu proprio*, exclude the public from the courtroom if the evidence to be produced during the trial is of such a character as to be offensive to decency or public morals. The court may also, on motion of the accused exclude the public from the trial except court personnel and the counsel of the parties. (14a)

SEC. 14. Consolidation of trials of related offenses.— Charges for offenses founded on the same facts, or forming part of a series of offenses of similar character may be tried jointly at the court's discretion. (15a)

SEC. 15. Demurrer to evidence.— When after the prosecution has rested its case, the accused files a motion to dismiss the case on the ground of in sufficiency of evidence, he waives the right to present evidence and submits the case for judgment basis of the evidence for the prosecution. (n)

Rule 120

JUDGMENT

SECTION 1. Judgment defined.— The term judgment as used in this Rule means the adjudication by the court that the accused is guilty or is not guilty of the offense charged, and the imposition of the proper penalty and civil liability provided for by law on the accused. (1a)

SEC. 2. Form and contents of judgment— The judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based. If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there are any; (b) the participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate action has been reserved or waived. In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party. (2a)

SEC. 3. Judgment for two or more offenses. — When two or more offenses are charged in a single complaint or information, and the accused fails to object to it before trial, the court may convict the accused of as many offenses as are charged and proved, and impose on him the penalty for each and every one of them setting out separately the findings of fact and law in each case. (3a)

SEC. 4. Judgment in case of variance between allegation and proof.— When there is variance between the offense charged in the complaint or information, and that proved or established by the evidence, and the offense as

charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved included in that which is charged or of the offense charged included in that which is proved. (4a)

SEC. 5. When an offense includes or is included in another.— An offense charged necessarily includes that which is proved, when some of the essential elements or ingredients of the former, as this is alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form a part of those constituting the latter. (5)

SEC. 6. Promulgation of judgment.— The judgment is promulgated by reading the same in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside of the province or city, the judgment may be promulgated by the clerk of court. If the accused is confined or detained in another province or city, the judgment may be promulgated by the executive judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon request of the court that rendered the judgment. The court promulgating the judgment shall have authority to accept the notice of appeal and to approve the bail bond pending appeal. The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. In case the accused fails to appear thereat the promulgation shall consist in the recording of the judgment in the criminal docket and a copy thereof shall be served upon the accused or counsel. If the judgment is for conviction, and the accused's failure to appear was without justifiable cause, the court shall further order the arrest of the accused, who may appeal within fifteen (15) days from notice of the decision to him or his counsel, (6a)

SEC. 7. Modification of judgment.— A judgment of conviction may, upon motion of the accused, be modified or set aside by the court rendering it before the judgment has become final or appeal has been perfected. A judgment in a criminal case becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or the accused has expressly waived in writing his right to appeal, or the accused has applied for probation. (7a)

SEC. 8. Entry of judgment.— After a judgment has become final it shall be entered in accordance with Rule 36. (8)

SEC. 9. Existing provisions governing suspension of sentence, probation and parole, not affected by this Rule.— Nothing in this Rule shall be construed as affecting any existing provision in the law governing suspension of sentence, probation or parole. (9)

Rule 121

NEW TRIAL OR RECONSIDERATION

SECTION 1. New trial or reconsideration.—At any time before a judgment of conviction becomes final, the court may on motion of the accused, or on its own instance with the consent of the accused, grant a new trial or reconsideration. (1a)

SEC. 2. Grounds for a new trial.— The court grant a new trial on any of the following grounds: (a) That errors of law or irregularities have been committed during the trial prejudicial to the substantial rights of the accused; (b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial, and which if introduced and admitted, would probably change the judgment. (2a)

SEC. 3 Ground for reconsideration.— The court shall grant reconsideration on the ground of errors of law or fact in the judgment, which require no further proceedings. (n)

SEC. 4. Form of motion and notice to the fiscal.— The motion for a new trial or reconsideration shall be in writing and filed with the court. It shall state the grounds on which it is based. If the motion for a new trial is based on a newly discovered evidence, it must be supported by the affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated copies of documents which it is proposed to introduce in evidence. Notice of the motion for new trial or reconsideration shall be given to the fiscal. (3a)

SEC. 5. Hearing on motion. — Where a motion for a new trial calls for the decision of any question of fact the court may hear evidence of such motion by affidavits or otherwise. (4)

SEC. 6. Effects of granting a new trial or reconsideration.— The effects of granting a new trial or reconsideration are the following: (a) When a new trial is granted on the ground of errors of law or irregularities committed during the trial, all the proceedings and evidence not affected by the commission of such errors and irregularities shall stand, but those affected thereby shall be set aside and taken anew. The court may, in the interest of justice, allow the introduction of additional evidence. (b) When a new trial is granted on the ground of newly discovered evidence, the evidence already taken shall stand, and the newly discovered and such other evidence as the court may in the interest of justice, allow to be introduced, shall be taken and considered together with the evidence already in the record. (c) In all cases, when the court grants new trial or reconsideration, the original judgment shall be set aside and a new judgment rendered accordingly. (5a)

Rule 122

APPEAL

SECTION 1. Where to appeal.— An appeal may be taken as hereinafter prescribed, from all final judgments and orders: (a) In cases decided by the Municipal Trial Court, Municipal Circuit Trial Court, or Metropolitan Trial Court, to the Regional Trial Court; and (b) In cases decided by the Regional Court, to the Intermediate Appellate Court, or to the Supreme Court in the proper cases provided by law.[2] (n)

SEC. 2. Who may appeal.— Any party may appeal from a final judgment or order, except if the accused would be placed thereby in double jeopardy. (2a)

SEC. 3. How appeal taken.— (a) The appeal to the Regional Trial Court, or to the Intermediate Appellate Court in case decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be taken by filing a notice of appeal with the court which rendered the judgment or order appealed from, and by serving a copy thereof upon the adverse party. (b) The appeal to the Intermediate Appellate Court in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review. (c) The appeal to the Supreme Court in cases where the penalty imposed is life imprisonment or where a lesser penalty is imposed but involving Senses committed on the same occasion or arising out of the same occurrence that gave rise to the more serious offense for which the penalty of death or life imprisonment is imposed shall be by filing a notice of appeal in accordance with paragraph (a) of this Section. (d) All other appeals to the Supreme Court shall be by petition for review on certiorari. (e) In cases where the death penalty is imposed, the same shall be automatically reviewed by the Supreme Court as provided for in Section 10 of this Rule. (3a)

SEC. 4. Publication of notice of appeal.—If personal service of the copy of the notice of appeal can not be made upon the adverse party or his counsel, the court may order the publication of the notice in a newspaper having general circulation in the vicinity, at least once a week for a period not exceeding thirty (30) days, and such publication shall be deemed equivalent to personal service. (4a)

SEC. 5. Notice waived.— The appellee may waive his right to a notice that an appeal has been taken. The appellate court may, in its discretion entertain an appeal notwithstanding failure to give such notice if the interests of justice

so require. (5)

SEC. 6. When appeal to be taken.—An appeal must be taken within fifteen (15) days from promulgation or notice of the judgment or order appealed from. This period for perfecting an appeal shall be interrupted from the time of a motion new trial or reconsideration is filed until notice of the order overruling the motion shall have been served upon the accused or his counsel. (6a)

SEC. 7. Transcribing and filing notes of stenographic reporter upon appeal.— When notice of appeal is filed by the accused the trial court shall direct the stenographic reporter to transcribe his notes of the proceedings. When filed by the People of the Philippines the trial court shall direct the stenographic reporter to transcribe such portion of his notes of the proceedings as the court, upon motion shall specify in writing. The stenographic reporter shall certify to the correctness of the notes and the transcript thereof which shall consist of the original and four copies and shall file the original and four copies of the transcript with the clerk without unnecessary delay. In case the death penalty is imposed, the stenographic reporter shall within thirty (30) days after rendition or promulgation of the sentence, file the original and four copies of the duly certified transcript of his notes of the proceedings with the clerk, whether the accused has appealed or not. No extension of time for the filing of said transcript of stenographic notes shall be granted except by the Supreme Court and solely upon justifiable grounds. (7a)

SEC. 8. Transmission of papers to appellate court upon appeal.— Upon an appeal being taken, the clerk or judge of the court with whom the notice of appeal shall have been filed, must, within five (5) days after the filing of the notice, transmit to the clerk of the court to which the appeal is taken, the complete record in the case together with the notice of the appeal. The original and three copies of the transcript of the stenographic notes shall also be transmitted to the clerk of the appellate court together with the record, or as soon as thereafter possible. The other copy of the transcript shall remain in the lower court. (8a)

SEC. 9. Appeal to the Regional Trial Courts.— (a) Within five (5) days from the perfection of the appeal, the clerk of court shall transmit the original record to the appropriate Regional Trial Court. (b) Upon receipt of the complete record of the case and of the transcripts and exhibits, the clerk of the Regional Trial Court shall notify the parties of such fact. (c) Within fifteen (15) days from receipt of the said notice, the parties may submit memoranda and/or briefs or may be required by the Regional Trial Court to do so. After the submission of such memoranda and/or briefs, or upon the expiration of the period to file the same, the Regional Trial Court shall decide the case on the basis of the entire record of the proceedings in the court of origin and such memoranda and/or briefs as may have been filed. (n)

SEC. 10. Transmission of records in case of death penalty.— In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment, within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter. (9a)

SEC. 11. Effect of appeal by any of several accused,— (a) An appeal taken by one or more of several accused shall not affect those who did not join in the appeal; (b) The civil appeal of the offended party shall not affect the criminal aspect of the judgment or order appealed from; (c) Upon the perfection of the appeal, the execution of the judgment or order appealed from shall be stayed as to the appealing party. (10a, 11a)

SEC. 12. Withdrawal of appeal. — Notwithstanding the perfection of the appeal, the Municipal Trial Court, Municipal Circuit Trial Court, Metropolitan Trial Court or Regional Trial Court may allow the appellant to withdraw his appeal before the record has been forwarded by the clerk of court to the proper appellate court as provided in Section 8, in which case the judgment shall become final. The Regional Trial Court may also, in its

discretion, allow the appellant from the judgment of a Municipal Trial Court, Municipal Circuit Trial Court, or Metropolitan Trial Court to withdraw his appeal, provided a motion to that effect is filed before judgment of the case on appeal, in which case the judgment of the court a quo shall become final and the case shall be remanded, to the court a quo for execution of the judgment. (12a)

SEC. 13. Appointment of counsel de oficio for accused on appeal.—It shall be the duty of the clerk of the trial court upon the presentation of a notice of appeal in a criminal case, to ascertain from the appellant, if he be confined in prison, whether he desires the Intermediate Appellate Court or the Supreme Court to appoint a counsel to defend him de oficio and to transmit with the record, upon a form to be prepared by the clerk of the appellate court, a certificate of compliance with this duty and of the response of the appellant to his inquiry. (13a)

Rule 123

PROCEDURE IN THE MUNICIPAL TRIAL COURTS

SECTION 1. Uniform Procedure.— The procedure to be observed in the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall be the same as in the Regional Trial Courts, except in criminal cases governed by the Rule on Summary Procedure in Special Cases adopted on August 1, 1983, namely, (1) Violations of traffic laws, rules and regulations; (2) Violations of the rental law; (3) Violations of municipal or city ordinances; and (4) All other criminal cases where the penalty prescribed by law for the offense charged does not exceed six months imprisonment, or a fine of one thousand pesos (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom; Provided, however, that in offenses involving damage to property through criminal negligence, said Rule shall govern where the imposable fine does not exceed ten thousand pesos (P10,000.00). (n)Rule 124

PROCEDURE IN THE INTERMEDIATE APPELLATE COURT

SECTION 1. Title of the case. —In all criminal cases brought to the Intermediate Appellate Court, the party bringing the case to the appellate court shall be called the "appellant" and the adverse party the "appellee," but the title of the case shall remain as it was below, (1a)

SEC. 2. Appointment of counsel de oficio for the accused.— If it appears from the record of the case as transmitted: (a) that the accused is confined in prison, (b) without counsel de parte on appeal, and (c) signed the notice of appeal himself, then the clerk of the Intermediate Appellate Court shall designate a member of the bar to defend him, such designation to be made by rotation, unless otherwise directed by order of the court. An accused-appellant not confined in prison shall not be entitled to a counsel de oficio, unless the appointment of such counsel is requested in the appellate court within ten (10) days from receipts is established by affidavit. (2a)

SEC. 3. When brief for appellant to be filed. – Within thirty (30) days from receipt by appellant or his counsel of the notice from the clerk of the appellate court that the evidence, oral and documentary, is already attached to the record, the appellant shall file seven (7) copies of his brief with the clerk which shall be accompanied by proof of service of two (2) copies thereof upon the appellee. (3a).

SEC. 4. When brief for appellee to be filed. – Within thirty (30) days from the receipt of the brief of the appellant, the appellee shall file seven copies of his brief with the clerk which shall be accompanied by proof of service of two (2) copies thereof upon the appellant. (4a)

SEC. 5. Extension of time for filing briefs. – Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended. (5)

SEC. 6. Form of briefs.— Briefs shall either be typewritten on good quality unglazed paper, or mimeographed or

printed on newsprint or brown mimeograph paper, 280 mm. in length by 216 mm. in width (commonly known as letter size). (6a)

SEC. 7. Contents of briefs.—The briefs in criminal cases shall have the same contents as provided in Sections 16 and 17 of Rule 46. The decision or order appealed from shall be copied as an appendix to the appellant's brief. (7)

SEC. 8. Dismissal of appeal for abandonment or failure to prosecute. — The appellate court may, upon motion of the appellee or on its own motion and notice to the appellant, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except in case the appellant is presented by a counsel de oficio. The court may also, upon motion of the appellee or on its own motion, dismiss the appeal if the appellant escapes from prison or confinement or jumps bail or flees to a foreign country during the pendency of the appeal. (8a)

SEC. 9. Prompt disposition of cases.— All appeals where the accused is under detention shall have precedence over other appeals. The appellate court shall hear and decide the appeal at the earliest practicable time with due regard to the rights of the parties. The accused need not be present in court during the hearing of the appeal. (9a)

SEC. 10. Judgment not to be reversed or modified except for substantial error. — No judgment shall be reversed or modified unless the appellate court after an examination of all the appeal papers is of the opinion that error was committed which injuriously affected the substantial rights of the appellant. (10)

SEC. 11. Power of appellate court on appeal. — Upon appeal from a judgment of the Regional Trial Court, the appellate court may reverse, affirm, or modify the judgment and increase or reduce the penalty imposed by the trial court, remand the case to the Regional Trial Court for new trial or retrial, or dismiss the case. (11a)

SEC. 12. Power to receive evidence. — The Intermediate Appellate Court shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. (n)

SEC. 13. Quorum of the court.— The concurrence of three (3) Justices of a division shall be necessary for the pronouncement of a judgment or resolution. Whenever the Division is composed of less than five (5) members and the necessary concurrence of three (3) Justices cannot be obtained for a decision or resolution, the Chairman of the division shall request the raffle committee of the Intermediate Appellate Court for the designation of additional Justices to participate in the case. The designation of additional Justices shall be made strictly by raffle from the Justices of the other Criminal Cases Division. Whenever a Criminal Cases Division should be of the opinion that the penalty of death or life imprisonment should be imposed in a case, the said Division after discussion of the evidence and the law involved, shall render judgment imposing the penalty of either death or reclusion perpetua as the circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review. (12a)

SEC. 14. Motion for new trial.— At any time after the appeal from the lower court has been perfected and before the judgment of the appellate court convicting the accused becomes final, the latter may move for a new trial on the ground of newly discovered evidence material to his defense, the motion to conform to the provisions of Section 4, Rule 121. (13a)

SEC. 15. Where new trial conducted.— When a new trial is granted, the Intermediate Appellate Court may refer it to the court of origin. (14a)

SEC. 16. Rehearing or reconsideration.— Motion for a rehearing or reconsideration shall be made within fifteen (15) days after notice of the decision of the court, with copies served upon the adverse party, setting forth the

grounds on which they are made. The mittimus shall be stayed during the pendency of a motion for rehearing or reconsideration. No party shall be allowed to file a second motion for rehearing or reconsideration of a final judgment or order. (15a)

SEC. 17. Judgment transmitted and filed in trial court.— When the entry of judgment of the appellate court is issued, a certified true copy of the judgment shall be transmitted to the clerk of the court from which the appeal was taken, and shall be filed by him. (16a)

SEC. 18. Application of certain rules in civil to criminal cases. — The provisions of Rules 46 to 56 relating to procedure in the Intermediate Appellate Court and in the Supreme Court in original as well as appealed civil cases shall, insofar as they are applicable and not inconsistent with the provisions of this Rule, be applied to criminal cases. (17a)

Rule 125

PROCEDURE IN THE SUPREME COURT

SECTION 1. Uniform procedure.— Unless otherwise provided by the Constitution or the law, the procedure in the Supreme Court in original as well as in appealed cases shall be the same as in the Intermediate Appellate Court, (1a)

SEC. 2. Review of decisions of the Intermediate Appellate Court.— The procedure for the review by the Supreme Court of decisions rendered by the Intermediate Appellate Court in criminal cases shall be the same as in civil cases, (2a)

SEC. 3. Decision if opinion is equally divided. — When the court en banc is equally divided in opinion or the necessary majority cannot be had, the case shall be reheard, and if in rehearing no decision is reached, the judgment of conviction of the lower court shall be reversed and the accused acquitted. (3a)

Rule 126

SEARCH AND SEIZURE

SECTION 1. Search warrant defined. — A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court. (1a)

SEC. 2. Personal property to be seized.— A search warrant may be issued for the search and seizure of personal property:

- (a) Subject of the offense;(b) Stolen or embezzled and other proceeds or fruits of the offense; and(c) Used or intended to be used as the means of committing an offense. (2a)

SEC. 3. Requisites for issuing search warrant.— A search warrant shall not issue but upon probable cause in connection with one specific offense to be determined by the judge or such other responsible officer authorized by law after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized. (3a)

SEC. 4. Examination of complainant; record. — The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath the complainant and any witnesses he may produce on facts personally known to them and attach to the record their sworn statements together with any affidavits submitted. (4a)

SEC. 5. Issuance and form of search warrant. — If the judge is thereupon satisfied of the existence of facts upon

which the application is based, or that there is probable cause to believe that they exist, he must issue the warrant, which must be substantially in the form prescribed by these Rules. (5a)

SEC. 6. Right to break door or window to effect search.— The officer, if refused admittance to the place of directed search after giving notice of his purpose and authority, may break open any outer or inner door or window of a house or any part of a house or anything therein to execute warrant or liberate himself or any person lawfully aiding him when unlawfully detained therein. (6)

SEC. 7. Search of house, room, or premise, to be made in presence of two witnesses.—No search a house, room, or any other premise shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, in the presence of two witnesses of sufficient age and discretion residing in the same locality. (7a)

SEC. 8. Time of making search. —The warrant must direct that it be served in the day time, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night. (8)

SEC. 9. Validity of search warrant.—A search warrant shall be valid for ten (10) days from its date. Thereafter it shall be void. (9)

SEC. 10. Receipt for the property seized. —The officer seizing property under the warrant must give a detailed receipt for the same to the lawful occupant of the premises in whose presence the search, and seizure were made, or in the absence of such occupant, must, in the presence of at least two witnesses of sufficient age and discretion residing in the same locality, leave a receipt in the place in which he found the seized property. (10a)

SEC. 11. Delivery of property and inventory thereof to court. — The officer must forthwith deliver the property seized to the judge who issued the warrant, together with a true inventory thereof duly verified under oath. (11a)

SEC. 12. Search incident to lawful arrest — A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of an offense, without a search warrant. (12a)

Rule 127

PROVISIONAL REMEDIES IN CRIMINAL CASES

SECTION 1. Availability of provisional remedies. – The provisional remedies in civil actions may likewise be availed of in connection with the civil action deemed instituted with the criminal action, insofar as they are applicable. (n)

SEC. 2. Attachment.— At the commencement of a criminal action or at any time thereafter, when action for the recovery of civil liability arising from the offense charged is not expressly waived or the right to institute such civil action separately is not reserved, the offended party may have the property of the accused attached as security for the satisfaction of any judgment that may be recovered from the accused, in the following cases: (a) When the accused is about to abscond from the Philippines; (b) When the criminal action is based on a claim for money or property embezzled or fraudulently misapplied or converted to the use of the accused who is a public officer, or any officer of a corporation, or an attorney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity or for a willfull violation of duty; (c) When the accused has concealed, removed, or disposed of his property, or is about to do so; and (d) When the accused resides outside the Philippines. (1a)

[1] The process whereby the accused and the prosecutor in a criminal case work out a mutually satisfactory disposition of the case subject to court approval. It usually Involves the defendant's pleading guilty to a lesser

offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that for the graver charge. (Black's Law Dictionary,. 5th Ed. 1979 p. 1037).[2] Sec. 17, RA 296, as amended; Sec. 9, B.P. 129.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.