1993 REVISED RULES ON APPEALS FROM RESOLUTIONS IN PRELIMINARY INVESTIGATIONS/REINVESTIGATIONS

Read online (full-text search, related cases, audio case brief): https://batas.org/library/c4801d2cb9b9/

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

SECTION 1. What May Be Appealed — Only resolutions of the Chief of State Prosecutor/Regional State Prosecutor/Provincial or City Prosecutor dismissing a criminal complaint may be the subject of an appeal to the Secretary of Justice except as otherwise provided in Section 4 hereof.

Appeals from the resolutions of provincial/city prosecutors where the penalty prescribed for the offense charged does not exceed prision correccional, regardless of the imposable fine, shall be made to the Regional State Prosecutors who shall resolve the appeals with finality, pursuant to Department Order No. 318 dated August 28, 1991 as amended by D.O. No. 34 dated February 4, 1992, D.O. No. 223 dated August 11, 1992 and D.O. No. 45 dated February 2, 1993. Such appeals shall also be governed by these rules.

SECTION 2. When to Appeal — The appeal must be filed within a period of fifteen (15) days from receipt of the questioned resolution by the party or his counsel. The period shall be interrupted only by the filing of a motion for reconsideration within ten (10) days from receipt of the resolution and shall continue to run from the time the resolution denying the motion shall have been received by the movant of his counsel.

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

a. date of receipt of the appealed resolution; date of filing of the motion for reconsideration, if any; and date of receipt of the resolution on the motion for reconsideration;

b. names and addresses of the parties;

c. the investigation slip number (I.S. No.) and/or criminal case number and the title of the case;

d. the venue of the preliminary investigation;

e. a clear and concise statement of the facts, the assignment of errors, and the legal basis upon which the appeal is taken;

f. in case of a finding of probable cause, that appellant has filed in court a motion to defer further proceedings; and

g. proof of service of a copy of the appeal to the adverse party or his counsel and the prosecutor either by personal delivery or registered mail evidenced by the registry receipts and affidavit of mailing.

The appellant shall annex to his appeal copies of the material and pertinent affidavits/sworn statements and evidence submitted in the preliminary investigation and the resolution appealed from.

The prosecutor shall inform the Department of the action of the court on the motion to defer further proceedings.

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

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

SECTION 5. Answer — Within a non-extendible period of fifteen (15) days from receipt of copy of the appeal, the appellee shall file a verified answer indicating therein the date of copy of the appeal was received with proof of service of the answer to the appellant. If no answer is filed, the case shall be resolved on the basis of the appeal.

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

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

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

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

a. That the offense has prescribed;

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

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

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

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

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

SECTION 11. Repealing Clause — This supersedes Department Circular No. 7 dated 25 January 1990.

SECTION 12. Effectivity — This Circular shall take effect on August 1, 1993 after the same shall have been published in a newspaper of general circulation.

Adopted: 30 June 1993

(Sgd.) FRANKLIN M. DRILON
Secretary

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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.