DEPORTATION RULES OF PROCEDURE

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1. Under the Immigration Act, Section 8-A, the Board of Commissioners shall have exclusive jurisdiction over all deportation cases. Hence, the Board exercise authority, inter alia, to:

a. Issue warrant of arrest against an alien complained of or charged. The Board shall act as the judge under the Constitution, Article III Section 2;

b. Authorize and fix the bail for his provisional release;

c. Hear charges, evaluate evidence, formulate conclusions and submit its decision to the President;

d. Review on appeal or motu propio the decision of the Board of Special Inquiry;

e. Decide deportation cases.

2. Under the Constitution, Article III, an alien is entitled to the protection of the Bill of Rights.

Under the Immigration Act, Section 37, para. c, no alien shall be deported without being informed of the specific grounds for deportation nor without being given a hearing under these rules of procedure.

3. The Commissioner shall approve the application for search warrant before it is filed in court.

4. During custodial interrogation, the accused shall be entitled to the right to counsel. He may waive the right to counsel, but only in writing, and in the presence of counsel. After arrest, the Special Prosecutor shall make a phone call to the consul-general concerned inform him of the arrest, and of the suspect's right to counsel.

The suspect shall be allowed to make one phone call to his lawyer, and one phone call to his family. He shall be allowed to receive visitors, including media, only as regulated.

5. The Special Prosecutor shall conduct preliminary investigation, under the laws now governing such investigation in the fiscal's office. He may avail of the service of any member of the Law Division.

6. When the Intelligence Division makes an arrest after surveillance (commonly known as a raid), under the Constitution, Article III, Section 13, the Special Prosecutor shall recommend bail, bearing in mind the probability that the suspect may jump bail.

7. The Rules of Court shall be applied when feasible, but are not compulsory.

8. The Board of Commissioners sits en banc in open court. The Special Prosecutor shall represent the state and the private complainant, if any. The CLAO lawyer or counsel of choice shall represent the defense. The Board shall be assisted by a clerk of court who shall be a lawyer, two stenographers; and if necessary, a court interpreter. Stenographers may charge fees of P5 per page of the transcript.

9. The Board shall arraign the accused. Then the prosecution shall immediately present evidence and rest its case. The defense shall present evidence and rest its case. Each party shall present no more than two witnesses, unless the Board gives special permission.

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Counsel shall have three days to file simultaneous written memoranda.

The Board shall promulgate judgment after seven days.

10. After promulgation, the Board shall send by messenger a copy of the judgment to the President, who may issue an order reversing it. If not, under Section 8-A, the decision shall become final and executory after 30 days from promulgation. On that date, the Board shall issue a Warrant of Deportation.

11. The Board shall hear evidence only at the trial in chief. It shall not hear rebuttal or sur-rebuttal evidence.

Counsel shall conduct only direct and cross examination of the witness. They shall not conduct re-direct or re-cross examination.

Written memorandum shall be brief and concise. It shall specify the facts sought to be disputed, and the legal provisions sought to be applied.

The proceedings shall be summary in nature, in order to prevent escape under detention, and recidivism.

Adopted: 25 Jan. 1988

(SGD.) MIRIAM DEFENSOR SANTIAGO
Commissioner

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