



Supreme Court of the Philippines
Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 04-11
November 2004

A.M. No. 04-2-04-SC

RE: REVISED UPGRADING SCHEDULE OF THE LEGAL FEES IN THE SUPREME COURT AND THE LOWER COURTS UNDER RULE 141 OF THE RULES OF COURT

The Court Resolved to **NOTE** and **REFER** to the Committee on Revision of the Rules of Court, for study and recommendation thereon, the (a) Letter, dated 06 September 2004 of Atty. Jose Anselmo I. Cadiz, National President, IBP, transmitting the IBP Resolution urging the Court to suspend the implementation of the revised rates of legal fees under Rule 141 of the Rules of Court; and (b) Aforesaid Resolution, dated 04 September 2004.

The Court further Resolved to **AFFIRM** the actions of the Honorable Associate Justices, in its informal meeting held on 20 September 2004, and **SUSPEND** the new rates of the legal fees under Rule 141, effective 21 September 2004, viz.:

- (a) Solemnization of marriage:
- (b) Motions: and
- (c) Compulsory counterclaims." Chico-Nazario, J. on leave.

Very truly yours,

Sgd. LUZVIMINDA D. PUNO
Clerk of Court

EN BANC

A.M. No. 00-5-03-SC

RE: AMENDMENTS TO THE REVISED RULES OF CRIMINAL PROCEDURE TO GOVERN DEATH PENALTY CASES

RESOLUTION

Acting on the recommendation of the committee on Revision of the Rules of Court submitting for this Court's consideration and approval the Proposed Amendments to the Revised Rules of Criminal Procedure To Govern Death Penalty Cases, the Court Resolved to APPROVE the same.

The amendments shall take effect on October 15, 2004 following its publication in a newspaper of general circulation not later than September 30, 2004.

September 28, 2004.

Sgd. HILARIO G. DAVIDE, JR.
Chief Justice

Sgd. REYNATO S. PUNO
Associate Justice

Sgd. ARTEMIO V. PANGANIBAN
Associate Justice

Sgd. LEONARDO A. QUISUMBING
Associate Justice

Sgd. CONSUELO YNARES- SANTIAGO
Associate Justice

Sgd. ANGELINA SANDOVAL GUTIERREZ
Associate Justice

Sgd. ANTONIO T. CARPIO
Associate Justice

Sgd. MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

Sgd. RENATO C. CORONA
Associate Justice

Sgd. CONCHITA CARPIO-MORALES
Associate Justice

Sgd. ROMEO J. CALLEJO, JR.
Associate Justice

(on leave)
ADOLFO S. ASCUNA
Associate Justice

Sgd. ANTE TINGA
Associate Justice

(on leave)
MINITA V. CHICO-NAZARIO
Associate Justices

**AMENDED RULES
TO GOVERN REVIEW OF
DEATH PENALTY CASES**

Rule 122, Section 3 and 10, and Rule 124, Section 12 and 13, of the Revised Rules of Criminal Procedure, are amended as follows:

Rule 122

Sec. 3. *How appeal taken.* - (a) The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be by notice of appeal filed with the court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.

(b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.

(c) The appeal in cases where the penalty imposed by the Regional Trial Court is *reclusion perpetua*, life imprisonment or where a lesser penalty is imposed for offenses committed on the same occasions or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, *reclusion perpetua*, or life imprisonment is imposed, shall be by notice of appeal to the Court of Appeals in accordance with paragraph (a) of this Rule.

(d) No notice of appeal is necessary in cases the Regional Trial Court imposed the death penalty. The Court of Appeals shall automatically review the judgment as provided in Section 10 of this Rule. (3a)

x x x

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 Court of Appeals for automatic review and judgment within twenty days but not earlier than fifteen days from the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten days after the filing thereof by the stenographic reporter. (10a)

x x x

Rule 124

Sec. 12. *Power to receive evidence.* - The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence and perform 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. Trials or hearings in the Court of Appeals must be continuous and must be completed within three months, unless extended by the Chief Justice. 12(a)

Sec. 13. *Certification or appeal of case to the Supreme Court.* - (a) Whenever the Court of Appeals finds that the penalty of death should be imposed, the court shall render judgment but refrain from making an entry of judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

(b) Where the judgment also imposes a lesser penalty for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more severe offense for which the penalty of death is imposed, and the accused appeals, the appeal shall be included in the case certified for review to the Supreme Court.

(c) In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals,

Judges; observing and applying the old rules on preliminary investigation which consist of two stages – preliminary examination and preliminary investigation proper – constitute gross ignorance of the law

Presidential decree 911 upon which Section 3 of Rule 112 of the Revised Rules on Criminal Procedure is based removed the preliminary examination stage and integrated it into the preliminary investigation proper. Now, the proceedings consist of only one stage.

Respondent failed to observe the new rule. **(A.M. No. MTJ-04-1521, July 27, 2004)**

Sheriff: sheriffs cannot insist on seizing property already the subject of a prior warrant of seizure

In *Mamanteo versus Magumun* the property supposed to be seized by the deputy sheriff in a replevin suit had already been impounded by the DENR and forfeited in favor of the government. Ruling that said property was in *custodia legis*, the Supreme Court held that the sheriff could not insist on seizing the property already the subject of a prior warrant of seizure. Under the said circumstance, the sheriff should inform the court in his partial return of the situation and wait for the judge's instructions on the proper procedure to be observed.

Respondent should have done the same in this case. **(A.M. No. P-03-1721, September 30, 2004)**

Sheriff: proper execution of money judgment

Under Rule 39, Section 9, of the Rules of Court, the sheriff in the execution of money judgment is required to first make a demand of the obligor the immediate payment of the full amount stated in the writ of execution before a levy can be made.

Respondent failed to observe the proper procedure to be observed under the Rules. He did not give the obligors the opportunity to pay the judgment debt, thus, he is remiss in the performance of his duty. **(A.M. No. P-04-1767, August 12, 2004)**

Sheriff: sheriffs should observe Section 14 of Rule 39 on the return of writs of execution

The writ of execution is returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If it cannot be satisfied in full within 30 days after his receipt of the writ, the sheriff shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The sheriff shall make a report to the court every 30 days on the proceedings taken therein until the judgment is satisfied in full or its effectivity expires.

Respondent failed to observe the correct procedure as provided in said rule. **(A.M. No. P-04*1782, July 30, 2004)**

Sheriff: engaging in an amorous relationship with a woman other than one's wife constitutes disgraceful and immoral conduct which is a grave offense

Respondent sheriff committed said offense when he engaged in an amorous relationship with a woman not his wife. **(A.M. No. P-04-1836, July 30, 2004)**

Clerk of Court; directing the release of detainees from confinement constitutes usurpation of judicial function

There is usurpation of judicial function when a person who is not a judge attempts to perform an act the authority for which the law has vested only upon a judge.

Respondent should have not, for lack of authority, directed the release of the detainees. **(A.M. No. P-02-1662, July 28, 2004)**

Chancellor, Philippine Judicial Academy

Ameurфина A. Melencio Herrera

Head, Research and Linkages Office

Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva Atty. Orlando B. Cariño

Editorial Assistants

Atty. Jack Andrew O. Miranda
Atty. Amelia T. Guillamun

Staff

Romano A. Zapico
Rodrigo G. Javier
Blythe M. Lumague

The *PHILJA Fax/Electronic Alerts* is issued monthly by the Research and Linkages Office of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel No. (02)552-9518; Telefax; (02)552-9526 E-mail address: research_philja@yahoo.com

If you have any Fax No. or E-mail address, please let us know so we could send direct to you the "Alerts."

