

**COVERAGE**  
**REMEDIAL LAW**  
**2014 BAR EXAMINATIONS**

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- 5.4.3. Who may conduct determination of existence of probable cause
- 5.4.4. Resolution of investigation prosecutor
- 5.4.5. Review
- 5.4.6. When warrant of arrest may issue
- 5.4.7. Cases not requiring a preliminary investigation
- 5.4.8. Remedies of accused if there was no preliminary investigation
- 5.4.9. Inquest

5.5. Arrest

- 5.5.1. Arrest, how made
- 5.5.2. Arrest without warrant, when lawful
- 5.5.3. Method of arrest

- a) By officer with warrant
  - b) By officer without warrant
  - c) By private person
- 5.5.4. Requisites of a valid warrant of arrest
- 5.5.5. Determination of probable cause for issuance of warrant of arrest
- 5.5.6. Distinguish probable cause of fiscal from that of a judge
- 5.6. Bail
  - 5.6.1. Nature
  - 5.6.2. When a matter of right; exceptions
  - 5.6.3. When a matter of discretion
  - 5.6.4. Hearing of application for bail in capital offenses
  - 5.6.5. Guidelines in fixing amount of bail
  - 5.6.6. Bail when not required
  - 5.6.7. Increase or reduction of bail
  - 5.6.8. Forfeiture and cancellation of bail
  - 5.6.9. Application not a bar to objections in illegal arrest, lack of or irregular preliminary investigation
  - 5.6.10. Hold departure order & Bureau of Immigration watchlist
- 5.7. Rights of the accused
  - 5.7.1. Rights of accused at the trial
  - 5.7.2. Rights of persons under custodial investigation
- 5.8. Arraignment and plea
  - 5.8.1. Arraignment and plea, how made
  - 5.8.2. When should plea of not guilty be entered
  - 5.8.3. When may accused enter a plea of guilty to a lesser offense
  - 5.8.4. Accused pleads guilty to capital offense, what the court should do
  - 5.8.5. Searching inquiry
  - 5.8.6. Improvident plea
  - 5.8.7. Grounds for suspension of arraignment
- 5.9. Motion to quash
  - 5.9.1. Grounds
  - 5.9.2. Distinguish from demurrer to evidence
  - 5.9.3. Effects of sustaining the motion to quash
  - 5.9.4. Exception to the rule that sustaining the motion is not a bar to another prosecution
  - 5.9.5. Double jeopardy
  - 5.9.6. Provisional dismissal
- 5.10. Pre-trial
  - 5.10.1. Matters to be considered during pre-trial
  - 5.10.2. What the court should do when prosecution and offended party agree to the plea offered by the accused
  - 5.10.3. Pre-trial agreement

- 5.10.4. Non-appearance during pre-trial
- 5.10.5. Pre-trial order
- 5.10.6. Referral of some cases for court annexed mediation and judicial dispute resolution
- 5.11. Trial
  - 5.11.1. Instances when presence of accused is required by law
  - 5.11.2. Requisite before trial can be suspended on account of absence of witness
  - 5.11.3. Trial *in absentia*
  - 5.11.4. Remedy when accused is not brought to trial within the prescribed period
  - 5.11.5. Requisites for discharge of accused to become a state witness
  - 5.11.6. Effects of discharge of accused as state witness
  - 5.11.7. Demurrer to evidence
- 5.12. Judgment
  - 5.12.1. Requisites of a judgment
  - 5.12.2. Contents of judgment
  - 5.12.3. Promulgation of judgment; instances of promulgation of judgment *in absentia*
  - 5.12.4. When does judgment become final (four instances)
- 5.13. New trial or reconsideration
  - 5.13.1. Grounds for new trial
  - 5.13.2. Grounds for reconsideration
  - 5.13.3. Requisites before a new trial may be granted on ground of newly-discovered evidence
  - 5.13.4. Effects of granting a new trial or reconsideration
  - 5.13.5. Application of *Neypes* doctrine in criminal cases
- 5.14. Appeal
  - 5.14.1. Effect of an appeal
  - 5.14.2. Where to appeal
  - 5.14.3. How appeal taken
  - 5.14.4. Effect of appeal by any of several accused
  - 5.14.5. Grounds for dismissal of appeal
- 5.15. Search and seizure
  - 5.15.1. Nature of search warrant
  - 5.15.2. Distinguish from warrant of arrest
  - 5.15.3. Application for search warrant, where filed
  - 5.15.4. Probable cause
  - 5.15.5. Personal examination by judge of the applicant and witnesses
  - 5.15.6. Particularity of place to be searched and things to be seized
  - 5.15.7. Personal property to be seized
  - 5.15.8. Exceptions to search warrant requirement
    - a) Search incidental to lawful arrest
    - b) Consented search
    - c) Search of moving vehicle



- d) Check points; body checks in airport
- e) Plain view situation
- f) Stop and frisk situation
- g) Enforcement of custom laws
- h) Remedies from unlawful search and seizure

5.16. Provisional remedies

5.16.1. Nature

5.16.2. Kinds of provisional remedies

**6. Evidence**

6.1. General principles

6.1.1. Concept of evidence

6.1.2. Scope of the Rules on Evidence

6.1.3. Evidence in civil cases versus evidence in criminal cases

6.1.4. Proof versus evidence

6.1.5. *Factum probans* versus *factum probandum*

6.1.6. Admissibility of evidence

- a) Requisites for admissibility of evidence
- b) Relevance of evidence and collateral matters
- c) Multiple admissibility
- d) Conditional admissibility
- e) Curative admissibility
- f) Direct and circumstantial evidence
- g) Positive and negative evidence
- h) Competent and credible evidence

6.1.7. Burden of proof and burden of evidence

6.1.8. Presumptions

- a) Conclusive presumptions
- b) Disputable presumptions

6.1.9. Liberal construction of the rules of evidence

6.1.10. Quantum of evidence (weight and sufficiency of evidence)

- a) Proof beyond reasonable doubt
- b) Preponderance of evidence
- c) Substantial evidence
- d) Clear and convincing evidence

6.2. Judicial notice and judicial admissions

6.2.1. What need not be proved

6.2.2. Matters of judicial notice

- a) Mandatory
- b) Discretionary

6.2.3. Judicial admissions

- a) Effect of judicial admissions
- b) How judicial admissions may be contradicted

6.2.4. Judicial notice of foreign laws, law of nations and municipal ordinance

- 6.3. Object (real) evidence
  - 6.3.1. Nature of object evidence
  - 6.3.2. Requisites for admissibility
  - 6.3.3. Categories of object evidence
  - 6.3.4. Demonstrative evidence
  - 6.3.5. View of an object or scene
  - 6.3.6. Chain of custody, in relation to Section 21 of the Comprehensive Dangerous Drugs Act of 2002
  - 6.3.7. Rule on DNA Evidence (A.M. No. 06-11-5-SC)
    - a) Meaning of DNA
    - b) Applicable for DNA testing order
    - c) Post-conviction DNA testing; remedy
    - d) Assessment of probative value of DNA evidence and admissibility
    - e) Rules on evaluation of reliability of the DNA testing methodology
- 6.4. Documentary evidence
  - 6.4.1. Meaning of documentary evidence
  - 6.4.2. Requisites for admissibility
  - 6.4.3. Best Evidence Rule
    - a) Meaning of the rule
    - b) When applicable
    - c) Meaning of original
    - d) Requisites for introduction of secondary evidence
  - 6.4.4. Rules on Electronic Evidence (A.M. No. 01-7-01-SC)
    - a) Scope; coverage; meaning of electronic evidence; electronic data message
    - b) Probative value of electronic documents or evidentiary weight; method of proof
    - c) Authentication of electronic documents and electronic signatures
    - d) Electronic documents *vis-a-vis* the hearsay rule
    - e) Audio, photographic, video and ephemeral evidence
  - 6.4.5. *Parol* Evidence Rule
    - a) Application of the *parol* evidence rule
    - b) When *parol* evidence can be introduced
    - c) Distinctions between the best evidence rule and *parol* evidence rule
  - 6.4.6. Authentication and proof of documents
    - a) Meaning of authentication
    - b) Public and private documents
    - c) When a private writing requires authentication; proof of a private writing
    - d) When evidence of authenticity of a private writing is not required (ancient documents)
    - e) How to prove genuineness of a handwriting
    - f) Public documents as evidence; proof of official record
    - g) Attestation of a copy
    - h) Public record of a public document
    - i) Proof of lack of record
    - j) How a judicial record is impeached
    - k) Proof of notarial documents

- l) How to explain alterations in a document
- m) Documentary evidence in an unofficial language

6.5. Testimonial evidence

- 6.5.1. Qualifications of a witness
- 6.5.2. Competency versus credibility of a witness
- 6.5.3. Disqualifications of witnesses
  - a) By reason of mental capacity or immaturity
  - b) By reason of marriage
  - c) By reason of death or insanity of adverse party
  - d) By reason of privileged communications
- 6.5.4. Examination of a witness
  - a) Rights and obligations of a witness
  - b) Order in the examination of an individual witness
    - i. Direct examination
    - ii. Cross examination
    - iii. Re-direct examination
    - iv. Re-cross examination
    - v. Recalling the witness
  - c) Leading and misleading questions
  - d) Methods of impeachment of adverse party's witness
  - e) How the witness is impeached by evidence of inconsistent statements (laying the predicate)
  - f) Evidence of the good character of a witness
  - g) Judicial Affidavit Rule (A.M. No. 12-8-8-SC)
- 6.5.5. Admissions and confessions
  - a) *Res inter alios acta* rule
  - b) Admission by a party
  - c) Admission by a third party
  - d) Admission by a co-partner or agent
  - e) Admission by a conspirator
  - f) Admission by privies
  - g) Admission by silence
  - h) Confessions
  - i) Similar acts as evidence
- 6.5.6. Hearsay Rule
  - a) Meaning of hearsay
  - b) Reason for exclusion of hearsay evidence
  - c) Exceptions to the hearsay rule
    - i. Dying declaration
    - ii. Declaration against interest
    - iii. Act or declaration about pedigree
    - iv. Family reputation or tradition regarding pedigree
    - v. Common reputation
    - vi. Part of the *res gestae*
    - vii. Entries in the course of business
    - viii. Entries in official records

- ix. Commercial lists and the like
- x. Learned treatises
- xi. Testimony or deposition at a former trial

6.5.7. Opinion rule

- a) Opinion of expert witness
- b) Opinion of ordinary witness

6.5.8. Character evidence

- a) Criminal cases
- b) Civil cases

6.5.9. Rule on Examination of a Child Witness (A.M. No. 004-07-SC)

- a) Applicability of the rule
- b) Meaning of "child witness"
- c) Competency of a child witness
- d) Examination of a child witness
- e) Live-link TV testimony of a child witness
- f) Videotaped deposition of a child witness
- g) Hearsay exception in child abuse cases
- h) Sexual abuse shield rule
- i) Protective orders

6.6. Offer and objection

- 6.6.1. Offer of evidence
- 6.6.2. When to make an offer
- 6.6.3. Objection
- 6.6.4. Repetition of an objection
- 6.6.5. Ruling
- 6.6.6. Striking out of an answer
- 6.6.7. Tender of excluded evidence

**7. Revised Rules on Summary Procedure**

- 7.1. Cases covered by the rule
- 7.2. Effect of failure to answer
- 7.3. Preliminary conference and appearances of parties

**8. Katarungang Pambarangay Law (P.D. No. 1508; R.A. 7610, as amended)**

- 8.1. Cases covered
- 8.2. Subject matter for amicable settlement
- 8.3. Venue
- 8.4. When parties may directly go to court
- 8.5. Execution
- 8.6. Repudiation

**9. Rule of Procedure for Small Claims Cases (A.M. No. 08-8-7-SC)**

- 9.1. Scope and applicability of the rule

- 9.2. Commencement of small claims action; response
- 9.3. Prohibited pleadings and motions
- 9.4. Appearances
- 9.5. Hearing; duty of the judge
- 9.6. Finality of judgment

## **10. Rules of Procedure for Environmental Cases (A.M. No. 09-6-8-SC)**

- 10.1. Scope and applicability of the rule
- 10.2. Civil procedure
  - 10.2.1. Prohibition against temporary restraining order and preliminary injunction
  - 10.2.2. Pre-trial conference; consent decree
  - 10.2.3. Prohibited pleadings and motions
  - 10.2.4. Temporary Environmental Protection Order (TEPO)
  - 10.2.5. Judgment and execution; reliefs in a citizen's suit
  - 10.2.6. Permanent Environmental Protection Order; writ of continuing *mandamus*
  - 10.2.7. Strategic lawsuit against public participation
- 10.3. Special proceedings
  - 10.3.1. Writ of *Kalikasan*
  - 10.3.2. Prohibited pleadings and motions
  - 10.3.3. Discovery measures
  - 10.3.4. Writ of continuing *mandamus*
- 10.4. Criminal procedure
  - 10.4.1. Who may file
  - 10.4.2. Institution of criminal and civil action
  - 10.4.3. Arrest without warrant, when valid
  - 10.2.4. Strategic lawsuit against public participation
  - 10.4.5. Procedure in the custody and disposition of seized items
  - 10.4.6. Bail
  - 10.4.7. Arraignment and plea
  - 10.4.8. Pre-trial
  - 10.4.9. Subsidiary liabilities
- 10.5. Evidence
  - 10.5.1. Precautionary principle
  - 10.5.2. Documentary evidence

## **11. Judicial Affidavit Rule (A.M. No. 12-8-8-SC)**

- 11.1. Scope and where applicable
- 11.2 Contents and Procedure
- 11.3 Application to criminal actions
- 11.4 Effect of non-compliance
- 11.5 Effect on other rules

## **12. Efficient Use of Paper Rule (A.M. No. 11-9-4-SC)**

**IMPORTANT NOTES:**

1. This listing of covered topics is not intended and should not be used by the law schools as a course outline. This was drawn up for the limited purpose of ensuring that Bar candidates are guided on the coverage of the 2014 Bar Examinations.
2. All Supreme Court decisions - pertinent to a given Bar subject and its listed topics, and promulgated up to **March 31, 2014** - are examinable materials within the coverage of the 2014 Bar Examinations.