

Trial in Absentia Sans Arraignment Unconstitutional

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SUBJECT(S): CRIMINAL LAW, CRIMINAL PROCEDURE, TRIAL IN ABSENTIA

The Article looks into the issue of a Trial in Absentia without having made an arraignment of the defendant. The Author begins by providing a definition of arraignment as established in Section 1 of Rule 116 of the 1973 Constitution. An enumeration of the requisites for a trial in absentia to proceed is provided for, one of which includes the necessity of arraignment. The Author proceeds by looking into the importance of an arraignment as seen through Philippine jurisprudence. The Article also relates such subject into the matters of the Military Tribunals, by discussion of the rights of an accused under such court. Parts of Presidential Decree (P.D.) No. 39 were reproduced by the Author, specifically commenting on the Section 5(c), which gives the accused the right to be present at the arraignment, and the necessary elements in order for a trial to proceed without the presence of the accused. From the foregoing law, the Author presents a series of questions regarding the process and requirements under it and provides his resolutions regarding the Constitution and P.D. No. 39.