



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 117-2005

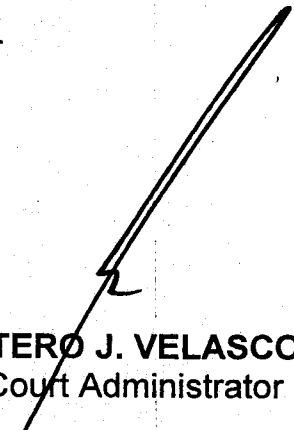
TO : ALL REGIONAL TRIAL COURT JUDGES

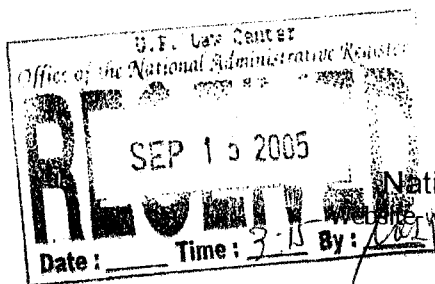
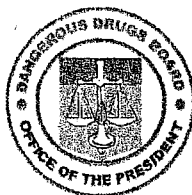
**SUBJECT : RULES ON THE SUSPENSION OF SENTENCE
OF A FIRST-TIME MINOR DRUG OFFENDER**

Pursuant to *Sections 66, 68 and 81 (b)* of Republic Act No. 9165, "*The Comprehensive Dangerous Drugs Act of 2002*", the Dangerous Drugs Board issued its Board Resolution No. 2, Series of 2005, RE: **RULES ON THE SUSPENSION OF SENTENCE OF A FIRST-TIME MINOR DRUG OFFENDER**, providing for the rules and regulations to govern the suspension of the sentence of a first-time minor drug offender as provided in Sections 66 to 71 of the said Act. Copy of which is hereto attached.

For your guidance and strict compliance.

15 November 2005.


PRESBITERO J. VELASCO, JR.
Court Administrator



Republic of the Philippines
Office of the President

DANGEROUS DRUGS BOARD

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BOARD REGULATION NO. 2
Series of 2005

SUBJECT: RULES ON THE SUSPENSION OF SENTENCE OF A FIRST-TIME MINOR DRUG OFFENDER

Pursuant to Sections, 66, 68 and 81 (b) of Republic Act No. 9165, "The Comprehensive Dangerous Drugs Act of 2002", the following rules and regulations are hereby issued to govern the suspension of the sentence of a first-time minor drug offender as provided in Sections 66 to 71 of the said Act:

Section 1. Definition of Terms. – As used herein, unless the context otherwise requires:

- a. "Act" shall refer to Republic Act No. 9165, "The Comprehensive Dangerous Drugs Act of 2002";
- b. "Board" shall refer to the Dangerous Drugs Board created under Section 77 of the Act;
- c. "Executive Director" shall refer to the Executive Director of the Board;
- d. "DOH" shall refer to the Department of Health;
- e. "DOJ" shall refer to the Department of Justice;
- f. "DOH-accredited physician" shall refer to a physician with background experience on psychological/behavioral medicine who has been authorized by the DOH to conduct drug dependency examinations and to treat drug dependents;
- g. "Drug dependent" shall refer to one who is found to suffer from drug dependence;
- h. "Center" shall refer to a DOH-accredited institution, agency or similar establishment designated by the Executive Director that undertakes the treatment, after-care and follow-up treatment of a drug dependent;
- i. "Possessor" shall refer to a person who is charged and found guilty by a court of violating Section 11 of the Act;
- j. "User" shall refer to a person who is charged and found guilty by a court of violating Section 15 of the Act;
- k. "Offender" shall refer to one who is over fifteen (15) years of age at the time he violated Section 11 or 15 of the Act but not more than eighteen (18) years of age at the time he is found guilty of said offense;
- l. "Court" shall refer to the court that found the offender guilty of violating Section 11 or 15 of the Act;
- m. "Application" shall refer to an application for the suspension of the execution of the sentence imposed by the court on an offender; and
- n. "Applicant" shall refer to the offender, his parent or guardian.

Section 2. Who may apply – The offender, his parent, or guardian, may file an application.

Bd. Reg. on rules of suspension of sentence of first time minor offenders

[Handwritten signatures and initials]

Section 3. Time of filing application. The application may be filed at any time after the court finds the offender guilty of the offense charged but before it promulgates the judgment of conviction in his case.

Section 4. Form of application; supporting documents. – An application shall be in writing, verified and shall be accompanied by the following:

- a. certified true copy of the decision of the court;
- b. original copy of the birth certificate of the offender;
- c. two (2) 2" x 2", colored photographs of the offender taken within thirty (30) days of the date of the application; and
- d. the original copy of the clearance issued to the offender by the National Bureau of Investigation and by the clerk of court of the court that rendered the decision stating that the offender has not been previously convicted of violating any provision of the Act, or of the Dangerous Drugs Act of 1972, as amended, or of the Revised Penal Code or of any special law.

If the offender ~~who~~^{APM} is a user, the following shall be attached to the application:

- a. the results of the drug confirmatory test of the offender; and
- b. certificate/clearance from the DOH that the offender has not been previously confined in a rehabilitation and treatment center and if there is no such center, has been placed under the care of a DOH-accredited physician in the region or province where the offender resides.

An application filed by the parent or guardian of the offender shall include the original or certified true copy of the birth certificate of the offender or the appointment of his guardian, as the case may be.

Section 5. Referral of application to Executive Director. - The Court shall refer the application to the Executive Director for investigation, comment and recommendation.

Section 6. Investigation. – Upon receipt of the application, the Executive Director shall investigate the offender to determine whether or not the ends of justice and the best interest of the public, as well as that of the offender and his family, will be served by the suspension of his sentence.

Section 7. Submission of Investigation Report. - The Executive Director shall submit the report on the results of his investigation to the court within thirty (30) days from receipt of the application.

Pending the submission of the investigation report, the Executive Director may petition the court to place the offender in the custody of his parent or guardian, a probation officer, or other responsible person.

Section 8. Contents of Investigation Report. – The investigation report shall contain, among others:

- a. a narration of the circumstances surrounding the offense committed by the offender;
- b. a statement as to whether or not a suspended sentence will benefit the offender;
- c. a recommendation to either suspend the sentence and the conditions therefore, or to deny the application.

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Section 9. Drug Dependency Examination. - The Executive Director shall refer the applicant who is a possessor to a DOH-accredited physician for the conduct of a drug dependency examination. The results of the examination shall be attached to the investigation report.

Section 10. Court Action. - On the basis of the investigation report, the court may issue an order denying the application or suspending all further proceedings. In the latter case, the court may -

- a. place the possessor who is not a drug dependent under the supervision and rehabilitative surveillance of the Executive Director under such conditions that the court may impose for a period ranging from six (6) months to eighteen (18) months; or
- b. commit the user and the possessor who is a drug dependent to a center or to the care of a DOH-accredited physician for at least six (6) months, with after-care and follow-up program for not more than eighteen (18) months.

The court shall furnish the Executive Director with a copy of its order.

If the user or possessor is under fifteen (15) years of age at the time of the commission of the offense, Article 192 of Presidential Decree No. 603, "The Child and Youth Welfare Code," shall apply without prejudice to the application of these Rules.

Section 11. Privilege of suspended sentence. - A user may only enjoy the privilege of a suspended sentence once.

Section 12. Record to be kept by the DOJ. - The DOJ shall keep a confidential record of the proceedings on the suspension of sentence of an offender, including all the papers and documents presented therein. The record shall not be used for any purpose other than to determine whether or not the person accused under the Act is a first-time minor offender.

However, the record of an offender who was not rehabilitated, or who escaped from a treatment and rehabilitation center, or who otherwise violated the conditions for the suspension of his sentence, shall be forwarded by the DOJ to the court and its use shall be determined by the court, taking into consideration public interest and the welfare of the offender.

Section 13. Misconduct of offender. - The head of the Center, or the DOH-accredited physician or other person who has supervision of the offender shall submit a written report to the Executive Director of any act or omission on the part of the offender that violates the terms and conditions specified in the order suspending his sentence.

Section 14. Explanation of offender. - The Executive Director shall require the offender to submit a written explanation for the reported misconduct.

Section 15. Return of offender to court. - If the explanation of the offender is not satisfactory, the Executive Director shall petition the court to lift the order of suspension and to order the offender to serve his sentence as any other convicted person.

Section 16. Final Report. - At least thirty (30) days before the expiration of the period of supervision and rehabilitative surveillance, commitment, or care of the offender, the head of the Center, or the DOH-accredited physician or other person who has supervision of the offender shall submit a final report to the Executive Director that shall indicate, among others:

- a. the response of the offender to the program of supervision/surveillance, commitment or care;
- b. a recommendation as to whether or not the offender may be discharged from supervision; and
- c. such other information as the Executive Director may require.

Section 17. Submission of Final Report to the Court. - The Executive Director shall submit the final report to the Court within ten (10) days from receipt thereof, together with his comments and recommendation thereon, if any.

Section 18. Court action. - In line with the final report, the Court may either -

- a. order the final discharge of the offender; or
- b. promulgate the judgment of conviction of the user or a possessor who is a drug dependent who was not rehabilitated; and
 - i. commit the offender to prison for the service of his sentence or
 - ii. in lieu of imprisonment-
 1. place the offender under probation even if the sentence imposed is higher than that provided under Presidential Decree No. 968, as amended, or similar laws; or
 2. impose community service in the case of a user.

Section 19. Community service of offender. - The court, in its discretion and upon the recommendation of the Executive Director, shall fix the conditions, time and place of the community service to be performed by the user. Said offender shall be under the supervision and rehabilitative surveillance of the Executive Director.

The Executive Director shall submit a report to the court on the community service performed by the offender.

Section 20. Credit of service of sentence. - In case the court promulgates the sentence of the offender that requires imprisonment, the period spent in a Center by the offender under an order of suspension of sentence shall be deducted from the sentence to be served.

Section 21. Final discharge - If the offender whose sentence is suspended is finally discharged, the Court shall issue an order to expunge all official records in his criminal case other than the record of the proceedings to suspend sentence that the DOJ shall retain.

Section 22. Effects of final discharge. -The final discharge shall restore the offender to his status prior to the criminal case filed against him. He shall not be held thereafter to be guilty of perjury or of concealment or misrepresentation by reason of his failure to acknowledge the case or to recite any fact related thereto in response to any inquiry made of him for any purpose.

Section 23. Liability of a Person Who Violates the Confidentiality of Records. - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10, 000.00) to Fifty thousand pesos (P50,000.00), shall be imposed upon any person who, having official custody of or access to the confidential records of an offender under these Rules or anyone who, having gained possession of said records, whether lawfully or not, reveals their content to any person other than those charged with the prosecution of the offenses under the Act and its implementation. The maximum penalty shall be imposed, in addition to absolute perpetual disqualification from any public office, whenever the violator is a government official or employee. Should the records be used for an

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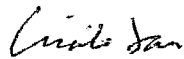
unlawful purpose, such as blackmail of the drug dependent or the members of his/her family, the penalty imposed for the crime of violation of confidentiality shall be in addition to whatever crime he may be convicted of.

Section 24. Liability of a Parent, Spouse or Guardian Who Refuses to Cooperate with the Executive Director or any Concerned Agency. – Any parent, spouse or guardian who, without valid reason, refuses to cooperate with the Executive Director or any concerned agency in the treatment and rehabilitation of an offender, or in any manner, prevents or delays the after-care, follow-up or other programs for the welfare of the offender may be cited for contempt by the court.

Section 25. Separability Clause. - If any section or portion of these Rules shall be found invalid or unenforceable, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of these Rules.

Section 26. Effectivity. – This Rules shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and after registration with the Office of the National Administrative Register (ONAR), UP Law Center, Quezon City.

APPROVED and ADOPTED this 19th day of July in the year of our Lord, 2005 at the DDB Conference Room, DDB-PDEA Building, Quezon City.

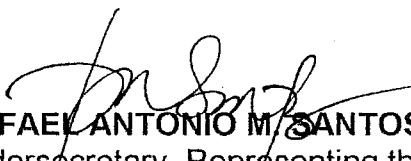


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Integrated Bar of the Philippines)
Regular Member

MIGUEL A. PEREZ-RUBIO
(President, Katotohanan Foundation-NGO)
Regular Member

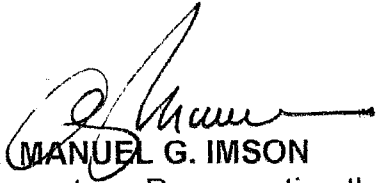
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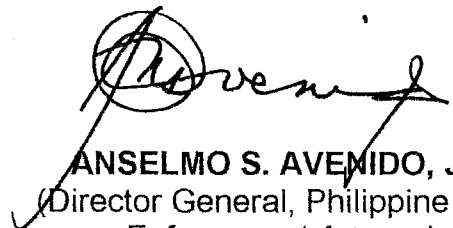
LOURDES G. BALANON
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(Director General, Philippine Drug
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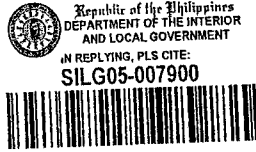


EDGAR C. GALVANTE
Undersecretary, Permanent Member,
Dangerous Drugs Board



ANGELO T. REYES

Secretary, Department of the Interior and Local Government
OIC, Chairman, Dangerous Drugs Board



Attested:



DIONISIO R. SANTIAGO

Senior Undersecretary
Executive Director, DDB

Bd. Reg. on rules of suspension of sentence of first time minor offenders

