



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

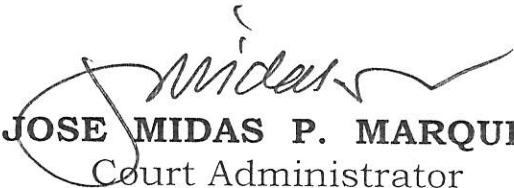
OCA CIRCULAR NO. 43-2019

TO : ALL DESIGNATED AND STATUTORY FAMILY COURT JUDGES (PRESIDING/ACTING PRESIDING/ASSISTING) OF THE REGIONAL TRIAL COURTS

SUBJECT : ISSUANCE OF THE EN BANC RESOLUTION DATED 2 OCTOBER 2018 IN A.M. 15-06-10-SC (RE: ADOPTING THE GUIDELINES FOR CONTINUOUS TRIAL OF CRIMINAL CASES IN PILOT COURTS)

For the information and compliance of all the designated and statutory Family Court Judges of the Regional Trial Courts (RTCs), the Honorable Court En Banc issued a Resolution dated 2 October 2018 in A.M. No. 15-06-10-SC (*Re: Adopting the Guidelines for Continuous Trial of Criminal Cases in Pilot Courts*) approving the applicability of the 'Revised Guidelines for Continuous Trial of Criminal Cases' to Family Courts and Regional Trial Courts Handling Family Courts Cases subject to modifications. The copy of said resolution is attached herewith as Annex "A" for reference.

20 March 2019


JOSE MIDAS P. MARQUEZ
Court Administrator



Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated OCTOBER 2, 2018, which reads as follows:

"A.M. No. 15-06-10-SC (Re: Adopting the Guidelines for Continuous Trial of Criminal Cases in Pilot Courts).- Acting on Resolution No. 05-2018 of the Committee on Family Courts and Juvenile Concerns, the Court Resolved to **APPROVE** the applicability of the 'Revised Guidelines for Continuous Trial of Criminal Case' to Family Courts and Regional Trial Courts Handling Family Courts Cases with the following modifications:

First, the Family Courts shall set the arraignment of the Child in Conflict with the Law (CICL) and the pre-trial of the case within ten (10) calendar days from date of the court's receipt of the case for a detained CICL, and within the thirty (30) calendar days from the date the court acquires jurisdiction (either by arrest or voluntary surrender) over a non-detained CICL, **UNLESS** there is a need to subject the CICL to a **diversion proceeding** pursuant to Section 37 of Republic Act No. 9344, which reads:

SEC. 37. Diversion Measures. - Where the maximum penalty imposed by law for the offense with which the child in conflict with the law is charged is imprisonment of not more than twelve (12) years, regardless of the fine or fine alone regardless of the amount, and before arraignment of the child in conflict with the law, the court shall determine whether or not diversion is appropriate.

Diversion is an alternative, child-appropriate process of determining the responsibility and treatment of a CICL on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings. "Diversion Program" is the program that the CICL is required to

of the CICL and the pre-trial as required by the *Revised Guidelines*. The periods devoted to diversion proceeding and program, which shall not exceed 45 days and two (2) years, respectively,¹ should in no way be treated as a delay in the disposition of the case.

Second, the Family Courts shall schedule the dates of trial, for both the prosecution and the defense, in a continuous manner and within the period provided in the Regular Rules/Special Rules **EXCEPT** when prevented from doing so by reason of some causes, such as **(a)** the physical, emotional or psychological condition of the victim, CICL or child witness which render it difficult for them to appear and testify in court; **(b)** their need for prior professional intervention; **(c)** the necessity of appointing a support person, facilitator, or guardian ad litem, etc. to facilitate the child's giving of testimony in court; **(d)** the need to re-arrange the courtroom or to set up special equipment like live-link television, screens, one-way mirrors, etc.; **(e)** the natural reluctance of the victim to testify owing to his or her close relationship with the offender; **(f)** the interference of the victim's family ; **(g)** the fear of the victim for her safety or security; and **(h)** other similar causes.

In these cases, the extension shall not go beyond 30 days except for justifiable reasons.

In this regard, the Family Courts shall adhere to the one-day examination of witness rule only insofar as practicable.

Third, a motion for postponement is prohibited **EXCEPT** if it is based on **(1)** acts of God, **(2)** force majeure, **(3)** physical inability of the witness to appear and testify, or **(4)** any of the above-enumerated causes.

The extension of the periods caused by the foregoing good causes shall be excluded from the computation of the 180-day period within which trial must be completed.

Fourth, the Family Courts shall conduct mediation proceedings "on all issues under the Family Code and other laws in relation to support, custody, visitation, property relations, guardianship of minor child and other issues which can be the subject of a compromise agreement" pursuant to Rule 1 of the *Rule on Court-Annexed Family Mediation*.

Fifth, the Family Courts shall continue to conduct mediation proceedings in cases involving Republic Act No. 9262 (

notwithstanding the exclusionary provisions of Rule 1 of **A.M. No. 10-4-16-SC**, or the *Rule on Court-Annexed Family Mediation* and Section 23 of **A.M. No. 04-10-11-SC**,² or the *Rule on Violence against Women and their Children*. These exclusionary provisions shall be considered to have been superseded by **OCA Circular No. 51-2011**,³ or the *Consolidated and Revised Guidelines to Implement the Expanded Coverage of Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR)*, which provides that **“in cases under R.A. No. 9262, where the parties inform the court that they have agreed to undergo mediation on some aspects thereof, e.g., custody of minor children, separation of property, or support *pendente lite*, the court shall refer them to mediation.”**⁴

² A.M. No. 04-10-11-SC, Section 23 of said Rule provides:

“**SEC. 23 Preliminary conference. – x x x Prohibited compromise. –** The court shall not allow compromise on any act constituting the crime of violence against women and their children and other prohibited matters, such as the following:

- (1) The civil status of persons;
- (2) The validity of a marriage, declaration of nullity of a marriage or of legal separation;
- (3) Any ground for declaration of nullity or annulment of a marriage or of legal separation;
- (4) Future support;
- (5) The jurisdiction of courts; and
- (6) Future legitime.”

In addition, Section 27 of the same Rule states:

“**SEC. 27. Prohibited acts. –** The court hearing a petition for a protection order shall not order, direct, force or in any way unduly influence the applicant for a protection order to compromise or abandon any of the reliefs sought in the petition for protection under the law and this Rule. Failure to comply with this section shall render the judge administratively liable.”

³ Dated April 6, 2011



⁴ “**Mandatory Coverage for Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR)**

“The following cases shall be 1) referred to Court-annexed Mediation (CAM) and 2) be the subject of Judicial Dispute Resolution (JDR) proceedings:

- (1) All civil cases and the civil liability of criminal cases covered by the rule on Summary Procedure, including the civil liability for violation of B.P. 22, except those which by law may not be compromised;
- (2) Special proceedings for the settlement of estates;
- (3) All civil and criminal cases filed with a certificate to file action issued by the *Punong Barangay* or the *Pangkat ng Tagapagkasundo* under the Revised Katarungang Pambarangay Law
- (4) The civil aspect of Quasi Offenses under Title 14 of the Revised Penal code;
- (5) The civil aspect of less grave felonies punishable by correctional penalties not exceeding 6 years imprisonment, where the offended party is a private person;
- (6) The civil aspect of estafa, theft and libel.

Bersamin, J., on official business. Caguioa, J., on leave. Gesmundo, J., on official business. (adv34)

Very truly yours,


EDGAR O. ARICHETA
Clerk of Court 

- DWS -

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- (9) All civil cases involving title to or possession of real property or an interest therein brought on appeal from the exclusive and original jurisdiction granted to the first level courts under Section 33, par. (3) of the Judiciary Reorganization Act of 1980;
- (10) All habeas corpus cases decided by the first level courts in the absence of the Regional Trial Court judge, that are brought up on appeal from the special jurisdiction granted to the first level courts under Section 35 of the Judiciary Reorganization Act of 1980;

The following cases shall not be referred to CAM and JDR:

1. Civil cases which by law cannot be compromised (article 2035, New Civil Code);
2. Other criminal cases not covered under paragraphs 3 to 6 above;
3. Habeas Corpus petitions;
4. All cases under Republic Act No. 9262 (Violence against Women and Children); and
5. Cases with pending application for Restraining Orders/Preliminary Injunctions.

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HON. GERALDINE C. FIEL-MACARAIG (x)
Associate Justices and Vice-Chairpersons
Committee on Family Courts and Juvenile Concerns
Court of Appeals, Manila

A.M. No. 15-06-10-SC
wmd 10218 (adv34) 101518

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*For circularization