



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

**OCA CIRCULAR NO. 104-2019**

**TO : ALL JUDGES AND CLERKS OF COURT OF  
THE SECOND LEVEL COURTS**

**SUBJECT : COURT EN BANC RESOLUTION DATED 4  
JUNE 2019 IN A.M. NO. 18-03-16-SC (RE:  
ADOPTION OF PLEA BARGAINING  
FRAMEWORK IN DRUG CASES)**

For the information, guidance and strict compliance of all concerned, appended herein as Annex "A" is the Resolution dated 4 June 2019 of the Honorable Court *En Banc* in **A.M. No. 18-03-16-SC** (*Re: Adoption of Plea Bargaining Framework in Drug Cases*).

Any prior circular from the Office of the Court Administrator on this matter which is contrary to the foregoing is hereby superseded.

05 July 2019

  
**JOSE MIDAS P. MARQUEZ**  
Court Administrator



Annex "A"

Republic of the Philippines  
Supreme Court  
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated June 4, 2019, which reads as follows:

“A.M. No. 18-03-16-SC (Re: Adoption of Plea Bargaining Framework in Drug Cases). - On August 15, 2017, an En Banc Decision in G.R. No. 226679 – Salvador Estipona, Jr. v. Hon. Frank E. Lobrigo was rendered whereby Section 23 of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, as amended, was declared unconstitutional for being contrary to the rule-making authority of the Supreme Court under Section 5(b), Article VIII of the 1987 Constitution. On April 10, 2018, the Court issued a Resolution ordering the adoption of the Plea Bargaining Framework in Drug Cases.

Meanwhile, Department Circular No. 027 dated June 26, 2018 of the Department of Justice (Re: Amended Guidelines on Plea Bargaining for Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”) similarly allows plea bargaining and provides for an acceptable plea bargain under Sections 7 and 13, R.A. No. 9165, thus:

Offense Charged in Information		Acceptable Plea Bargain	
Section	Penalty	Section	Penalty
Section 7. Employees or Visitors of a Den, Dive or Resort (Only if the accused is charged as a visitor of the drug den)	12 yrs and 1 day to 20 yrs and Fine from ₱100k to ₱500k	Section 12. Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs OR Sec. 15. Use of Dangerous Drugs	6 months and 1 day to 4 years, and a Fine ranging from ₱10k to ₱50k  6 months Rehab (1 <sup>st</sup> offense)  6 years and 1 day to 12 years, and a Fine Ranging from ₱50k to ₱200k (for 2 <sup>nd</sup> offense)

<p>Section 13. <i>Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings</i></p> <p>(Plea bargaining is allowed from Section 13 of R.A. 9165 to Section 11, paragraph 3 of the same statute where the quantity of the drugs involved is less than 5 grams (in cases of "shabu," opium, cocaine, etc.) and less than 300 grams of marijuana. If the quantity of dangerous drugs involved exceeds the above amounts, plea bargaining is prohibited.)</p>	<p>Maximum Penalties provided under Section 11 regardless of quantity or purity</p>	<p>Section 11, par. 3. <i>Possession of Dangerous Drugs.</i></p> <p>(Plea bargaining is allowed where the quantity of "shabu," opium, morphine, heroin, cocaine, et al., is less than 5 grams and marijuana is less than 300 grams. If the quantity of dangerous drugs involved exceeds the above quantities, no plea bargaining is allowed.)</p>	<p>12 yrs and 1 day to 20 yrs, and a Fine from ₱300k to ₱400k</p>
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On April 24, 2019, the Philippine Judges Association (PJA), through its President, Hon. Judge Felix P. Reyes, wrote the Court requesting for the inclusion of Section 7 (*Employees and Visitors of a Den, Dive or Resort*) and Section 13 (*Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings*) of R.A. No. 9165 to the Plea Bargaining Framework in Drug Cases dated April 10, 2018. With the inclusion of the said provisions to the plea bargaining framework, the PJA expects to reduce court docket by an additional 5-10% more of drug cases and also 5-10% more on jail decongestion.

On May 15, 2019, Associate Justice Diosdado M. Peralta met with the Officers of the PJA, namely: Hon. Felix P. Reyes, Hon. Maria Paz R. Reyes-Yson, Hon. Divina Gracia L. Peliño and Hon. Racquelen A. Vasquez, and Court Administrator Jose Midas P. Marquez, to discuss and review the Suggested Plea Bargaining Framework of the PJA:

Offense Charged			Acceptable Plea Bargain		Remarks
Section	Penalty	Quantity	Section	Penalty	
Section 13. <i>Possession of Dangerous Drugs During Parties, Social Gatherings or</i>	Maximum penalties provided under Section 11 regardless of quantity or purity	.01 gram to 4.99 grams	Section 12. <i>Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs</i>	6 mos and 1 day to [4 years] and fine from ₱10k to ₱50k  N.B.: The court is given the discretion to impose a minimum	In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits

Meetings				<p>period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.</p>	<p>drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his/her after - care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency, he/she will be released on time served, otherwise, he will serve his sentence in jail minus the counselling period at rehabilitation center. However, if accused applies for probation in offenses punishable under R.A. No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the law on probation shall apply.</p>
		5 grams to 9.99 grams	Section 11, par. 3. <i>Possession of Dangerous Drugs</i>	<p>12 years and 1 day to 20 years and a fine ranging from ₱300,000 to ₱400,000</p> <p>N.B.: The Court is given the discretion to impose a minimum period and a maximum period to be taken from the</p>	



				range of the penalty provided by law.	
		10 grams and above	No plea bargaining allowed		
		.01 gram to 299 grams (marijuana)	Section 12. <i>Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs</i>	6 mos and 1 day to [4 years], and a fine from ₱10k to ₱50k  N.B.: The court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.	In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his/her
		300 grams to 499 grams (marijuana)	Section 11, par. 3. <i>Possession of Dangerous Drugs</i>	12 years and 1 day to 20 years, and a fine ranging from ₱300,000 to ₱400,000.  N.B.: The Court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law.	after - care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency, he/she will be released on time served, otherwise, he will serve his sentence in jail minus the counselling period at rehabilitation center. However, if accused applies for probation in
		500 grams and above (marijuana)	No plea bargaining allowed		offenses punishable under R.A. No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the

					<p>law on probation shall apply.</p>
<p>Section 7. <i>Employees and Visitors of a Den, Dive or Resort</i></p>	<p>12 years and 1 day to 20 years and a fine ranging from ₱100,000 to ₱500,000.</p>		<p>Section 12. <i>Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs</i></p>	<p>6 mos and 1 day to [4 years], and a fine from ₱10k to ₱50k</p> <p><i>N.B.:</i> The court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.</p>	<p>In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his/her after - care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency, he/she will be released on time served, otherwise, he will serve his sentence in jail minus the counselling period at rehabilitation center. However, if accused applies for probation in offenses punishable under R.A. No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the law on probation shall apply.</p>

9

As of April 30, 2019, about Two Hundred Forty-Five Thousand Four Hundred Forty-Two (245,442) drug cases were filed nationwide, per records of the Office of the Court Administrator, Court Management Office. About Five Thousand Nine Hundred Seventy-Five (5,975) of such cases are for violation of Section 13, R.A. 9165, and around Two Thousand Seven Hundred Forty-Three (2,743) cases are for violation of Section 7, R.A. 9165, or a total of about Eight Thousand Seven Hundred Eighteen (8,718) drug cases.

NOW THEREFORE, the Supreme Court hereby orders the amendment of the Plea Bargaining Framework in Drug Cases, as follows:

Offense Charged			Acceptable Plea Bargain		Remarks
Section	Penalty	Quantity	Section	Penalty	
Section 13. <i>Possession of Dangerous Drugs</i> During Parties, Social Gatherings or Meetings	Maximum penalties provided under Section 11 regardless of quantity or purity.	.01 gram to 4.99 grams	Section 12. <i>Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs</i>	6 months and 1 day to 4 years, and a fine from ₱10,000 to ₱50,000.  <i>N.B.:</i> The court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.	In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency, he/she will be released on time served, otherwise, he/she will serve his sentence in jail minus the counselling period at rehabilitation center. However, if accused applies for probation in offenses punishable under R.A. No. 9165, other than for



				illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the law on probation shall apply.
		5 grams to 9.99 grams	Section 11, par. 3. <i>Possession of Dangerous Drugs</i>	12 years and 1 day to 20 years and a fine ranging from ₱300,000 to ₱400,000.  N.B.: The Court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law.
		10 grams and above	No plea bargaining allowed	
		.01 gram to 299 grams (marijuana)	Section 12. <i>Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs</i>	6 months and 1 day to 4 years, and a fine from ₱10,000 to ₱50,000.  N.B.: The court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.  In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency,

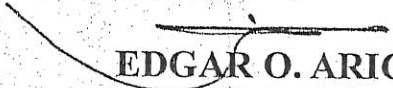


		300 grams to 499 grams (marijuana)	Section 11, par. 3. <i>Possession of Dangerous Drugs</i>	12 years and 1 day to 20 years and a fine ranging from ₱300,000 to ₱400,000.  N.B.: The Court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law.	he/she will be released on time served, otherwise, he will serve his sentence in jail minus the counselling period at rehabilitation center. However, if accused applies for probation in offenses punishable under R.A. No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the law on probation shall apply.
		500 grams and above (marijuana)	No plea bargaining allowed		
Section 7. <i>Employees and Visitors of a Den, Dive or Resort</i>	12 years and 1 day to 20 years and a fine ranging from ₱100,000 to ₱500,000.		Section 12. <i>Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs</i>  N.B.: Plea bargaining is allowed only if the person is charged solely under Section 7, and there is no other person/s charged with violation of Section 6. <i>Maintenance of a Den, Dive or Resort.</i>	6 months and 1 day to 4 years, and a fine from ₱10,000 to ₱50,000.  N.B.: The court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.	In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency, he/she will be released on time served, otherwise, he will serve his sentence in jail minus the counselling period

					at rehabilitation center. However, if accused applies for probation in offenses punishable under R.A. No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the law on probation shall apply.
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The Office of the Court Administrator is **DIRECTED** to **ISSUE** a Circular for dissemination to all concerned.” Caguioa and Carandang, JJ., on official leave. (adv103)

Very truly yours,

  
**EDGAR O. ARICHETA**  
Clerk of Court *and me*

