

Republic of the Philippines
Supreme Court
Manila

EN BANC

A.M. No. 15-08-02-SC

**GUIDELINES FOR THE PROPER USE OF
THE PHRASE “WITHOUT ELIGIBILITY FOR PAROLE”
IN INDIVISIBLE PENALTIES**

This matter relates to the proper use of the phrase “*without eligibility for parole*” in indivisible penalties.

I.

Republic Act (R.A.) No. 9346, enacted on June 24, 2006, prohibited the imposition of the death penalty. As a consequence, the Court may no longer affirm the death sentences imposed by the courts *a quo* or itself impose the death penalty. Sections 2 and 3 of this law provide:

SECTION 2. In lieu of the death penalty, the following shall be imposed:

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

SECTION 3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

Section 2 of the Indeterminate Sentence Law (Act No. 4103 as amended by Act No. 4225) states that the Act shall not apply to, among others, persons convicted of offenses punishable with the death penalty or life imprisonment. Notably, there was no reference to persons convicted of offense punishable with *reclusion perpetua*. However, the Court, in several cases, has considered the penalty of *reclusion perpetua* to be synonymous to life imprisonment for purposes of the Indeterminate Sentence Law, and

has ruled that this law does not apply to persons convicted of offenses punishable with *reclusion perpetua*.

Parole is extended only to those convicted of divisible penalties. *Reclusion perpetua* is an indivisible penalty and carries no minimum nor maximum period. Section 5 of the Indeterminate Sentence Law provides that it is after “any prisoner shall have served the minimum penalty imposed on him” that the Board of Indeterminate Sentence may consider whether such prisoner may be granted parole. With no “minimum penalty” imposable on those convicted of a crime punishable by *reclusion perpetua*, then even prior to the enactment of R.A. No. 9346, persons sentenced by final judgment to *reclusion perpetua* could not have availed of parole under the Indeterminate Sentence Law.¹

Since the distinction between *reclusion perpetua* and *reclusion perpetua* without eligibility for parole is more apparent than real, then there is no more need to append the phrase “without eligibility for parole” to qualify the penalty of *reclusion perpetua*.

If at all, the qualification of “without eligibility for parole” may be applied to qualify *reclusion perpetua* in order to **emphasize** that the appellant should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

In cases where the death penalty is not warranted, the phrase “without eligibility for parole” does not need to describe and be affixed to *reclusion perpetua*; it is understood that convicted persons penalized with an *indivisible penalty* are not eligible for parole.

This usage will provide uniformity to the Court’s promulgated decisions and resolutions and thus prevent confusion.

II.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase “without eligibility for parole”:

- (1) In cases where the death penalty is not warranted, there is no need to use the phrase “without eligibility for parole” to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and
- (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of “without eligibility for parole” shall be


¹ See Concurring Opinion of Justice Tinga in *People v. Tubongbanua*, 532 Phil. 434, (2006).

used to qualify reclusion perpetua in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

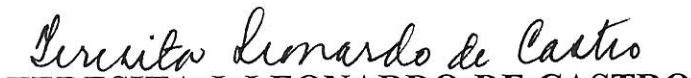
This Resolution shall take effect immediately.

Manila, August 4, 2015.

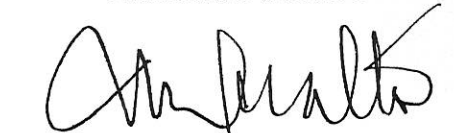
(On leave)
MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Acting Chief Justice


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

(On leave)
BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice