

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

OCA CIRCULAR NO. 90-2018

TO

: ALL JUDGES AND CLERKS OF COURT OF THE

SECOND LEVEL COURTS

SUBJECT: PLEA BARGAINING FRAMEWORK IN DRUGS

CASES

For the information and guidance of all second level courts, appended herein as Annex "A" is the Resolution dated 10 April 2018 of the Court *En Banc* in Administrative Matter No. 18-03-16-SC (Adoption of the Plea Bargaining Framework in Drugs Cases).

Strict compliance is hereby enjoined.

4 May 2018

JOSE MIDAS P. MARQUEZ
Court Administrator

MBC/RDS/my/cir am18-03-16-sc.pleabargaining



Republic of the Philippines Supreme Court Baguio City

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated APRIL 10, 2018, which reads as follows:

"A.M. No. 18-03-16-SC (Adoption of the Plea Bargaining Framework in Drugs Cases).- On August 15, 2017, an En Banc Decision in G.R. No. 226679 - Salvador Estipona, Jr. vs. Hon. Frank E. Lobrigo was rendered whereby Section 23 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, was declared unconstitutional for being contrary to the rule-making authority of the Supreme Court under Section 5(5), Article VIII of the 1987 Constitution;

On April 3, 2018, the Court *En Banc* deliberated upon and discussed Administrative Matter No. 18-03-16-SC regarding the Suggested Plea Bargaining Framework submitted by the Philippine Judges Association;

On April 5, 2018, Justice Diosdado M. Peralta met with the Officers of the Philippine Judges Association, namely: Hon. Felix P. Reyes (President), Hon. Frank E. Lobrigo (Senior Vice-President), Hon. Francisco P. Felizmenio (VP Legal), Hon. Maria Paz R. Reyes-Yson (Secretary General), Hon. Divina Gracia L. Peliño and Hon. Racquelen A. Vasquez (Presidential Advisers), to discuss the revisions on the plea bargaining framework, which was made simpler and easier to understand, and addressed the concerns raised in the *En Banc* Agenda of April 3, 2018;

On April 6, 2018, a revised plea bargaining framework, which is more simplified, incorporated therein the suggestions of the members of the *En Banc* and were submitted and, on April 10, 2018, was further deliberated upon and, thereafter, the *En Banc* approved the same with modifications containing the suggested revision of Associate Justice Presbitero J. Velasco, Jr. regarding exception to probation of offenses involving illegal drug-trafficking or pushing under Section 5 in relation to Section 24 of R.A. No. 9165, and the suggestion of Associate Justice Teresita J. Leonardo-De Castro to make clearer the non-applicability of plea bargaining in cases where the penalty is life imprisonment or life imprisonment to death;

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

Offense Charged			Acceptable	Plea Bargain	Remarks
Section	Penalty	Quantity	Section	Penalty	
Section 11,	12 years &	.01 gram	Section 12.	6 months	In all instances,
par. 3.	1 day to 20	to 4.99	Possession	and 1 day	whether or not
Possession of	years and	grams	of	to 4 years	the maximum
Dangerous	fine	W	Equipment,	and a fine	period of the
Drugs (Where	ranging		Instrument,	ranging	penalty imposed
quantity of	from	n n	Apparatus	from	is already
shabu, opium,	₱300,000	-	and Other	₱10,000 to	served, drug
morphine,	to		Parapher-	₱50,000	dependency test
heroin,	₱400,000		nalia for		shall be
cocaine is less			Dangerous	<i>N.B.:</i> The	required. If
than 5 grams)			Drugs	court is	accused admits
				given the	drug use, or
	950*		- 14 15 15 24 15	discretion	denies it but is
	a e c		8 _a	to impose a	found positive
				minimum	after drug
			2 S	period and	dependency test,
	16.			a maximum	he/she shall
£	100		3	period to be	undergo
	39			taken from	treatment and
			9	the range of	rehabilitation for
	g a	200		the penalty	a period of not
¥ 0	# 60 H		50 KD	provided by	less than 6
	9		[9]	law. A	months. Said
	e	e g		straight	period shall be
и ,		10 T		penalty	credited to
	v			within the	his/her penalty
	4			range of 6	and the period
×.				months and	of his after-care
N.		11 alt		1 day to 1	and follow-up
				year may	program is
.,	****			likewise be	penalty is still
			2	imposed.	unserved. If
Section 11,	12 years	.01 gram	Section 12.	6 months	accused is found
par. 3.	and 1 day	to 299.99	Possession	and 1 day	negative for
Possession of	to 20 years	grams	of	to 4 years	drug
Dangerous	and fine	0-0000	Equipment,	and a fine	use/dependency,
Drugs (Where	ranging	90	Instrument,	ranging	he/she will be
quantity of	from fine	2 2	Apparatus	from	released on time
marijuana is	from	8	and Other	₱10,000 to	served,
less than 300	₱300,000		Paraphern	₱50,000	otherwise,
grams)	to		alia for	20,000	he/she will serve
- '	₱400,000	H.,	Dangerous	<i>N.B.:</i> The	his sentence in
	and American		Drugs	court is	jail minus the
				given the	counseling
				discretion	period at
				5.1501.011011	porton at

-		4 ^{17 - 1}	a Til An		
	Y W			to impose a	rehabilitation
1 Te 1				minimum	center.
2 8				period and	However, if
				a maximum	accused applies
			raff et	period to be	for probation in
				taken from	offenses
2 2				the range of	A CONTRACTOR OF THE PROPERTY O
5	8" 4			the penalty	under R.A. No.
8 8 8	Fax 90 -20		ess _{pe} a el v	provided by	
	1 -2			law. A	for illegal drug
				straight	trafficking or
				penalty	pushing under
				within the	
* * * *				range of 6	relation to Sec.
				months and	24 thereof, then
	m 21 0 1			1 day to 1	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Hi Na					
Ye				year may	probation shall
		****		likewise be	apply.
Section 11,	20 years to	5	G 1 1	imposed.	
par. 2.	life	5 grams to 9.99	Section 11,	12 years	
Possession of	Et E.	10 to	par. 3.	and 1 day	
	imprison-	grams	Possession	to 20 years	
Dangerous Drugg (Whom	ment and		of	and a fine	
Drugs (Where	fine		Dangerous	ranging	
quantity of shabu, opium,	ranging		Drugs	from	
, A	from			₱300,000 to	
morphine,	₱400,000			₱400,000	3.0
heroin,	to	The state of the s	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
cocaine is 5	₱500,000	Taring and the		<i>N.B.</i> : The	Ma A
grams or more		2 14 2 2 E		court is	
but not				given the	
exceeding 10	90g (F)			discretion	9 8
grams)		134 W 14 144		to impose a	
				minimum	
** ** ** **	for the second			period and	
				a maximum	
				period to be	7
<i>d</i> a				taken from	
				the range of	
				the penalty	
#				provided by	
				law.	
		10 grams	No plea		
		and above	bargaining		
	5		allowed		
Section 11,	20 years to	300 grams	Section 11,	12 years	
par. 2.	life	to 499	par. 3.	and 1 day	4 97 0 38
Possession of	imprison-	grams	Possession	to 20 years	
Dangerous	ment and	a) 85	of	and a fine	No. 2
Drugs	fine		Dangerous	ranging	4
	ranging	15 W = 10 W/100	Drugs	from	

7222					
(Where the	from	n A		₱300,000 to	
quantity of	₱400,000			₱400,000	9
marijuana is	to				
300 grams or	₱500,000			<i>N.B.</i> : The	
more but not				court is	
exceeding 500				given the	
grams				discretion	*
				to impose a	
8 0			n 44	minimum	
	, c		.tt	period and	15
	(gr)		8	a maximum	
n ₂			3	W 539 S	
	*			period to be	
= 2	351			taken from	
	61	15		the range of	
		=		the penalty	
		(3)		provided by	
	= =			law.	
	· · · · · · · · · · · · · · · · · · ·	500 grams	No plea		
		and above	bargaining		
			allowed	21	
Section 12.	6 months		Section 15.	6 months	If accused
Possession of	and 1 day		Use of	treatment	
Equipment,	to 4 years		7	1000	admits drug use,
Apparatus and	and fine		Dangerous	and	or denies drug
Other	(A) (C) (C) (C) (A) (C)		Drugs	rehabilita-	use but found
1 000	ranging		21	tion	positive after
Paraphernalia	from				drug
for Dangerous	₱10,000 to		×		dependency test.
Drugs	₱50,000		⊕ =	Undergo	If accused is
				counselling	found negative
			4	program at	for drug
				rehabilita-	use/dependency
				tion center	
Section 14.	Maximum		Section 15.	6 month	If accused
Possession of	penalty in	98	Use of	treatment	admits drug use,
Equipment,	Section 12	eV	Dangerous	and	or denies drug
Apparatus and			Drugs	rehabilita-	use but found
Other		2	~10050	tion	positive after
Paraphernalia	atra es	12c.:	¥	tion	(**)
for Dangerous					drug
Drugs During			6	T In d	dependency test.
Parties, Social				Undergo	If accused is
1 22 2 2				counselling	found negative
Gatherings or	49			program at	for drug
Meetings				rehabilita-	use/dependency
G 1: 7	4.1 2		-	tion center	
Section 5.	Life	.01 gram	Section 12.	6 months	In all instances,
Sale, Trading,	Imprison-	to .99	Possession	and 1 day	whether or not
etc. of	ment to	grams	of	to 4 years	the maximum
Dangerous	Death and	(metham-	Equipment,	and a fine	period of the
Drugs	fine	phetamine	Instrument,	ranging	penalty imposed
(Methampheta	ranging	hydro-	Apparatus	from	is already
-mine	from	chloride	and Other	₱10,000 to	served, drug
				2 20,000 10	sorrod, drug

1		-		IJ	148	
hydrochl	1	₱500,000	or shabu	Parapher-	₱50,000	dependency test
or shabu	only)	to	only)	nalia for		shall be
	63	₱10,000,00		Dangerous	<i>N.B.:</i> The	required. If
1		0		Drugs	court is	accused admits
	51				given the	drug use, or
				왕	discretion	denies it but is
				80	to impose a	found positive
					minimum	after drug
			1.50		period and	dependency test,
					a maximum	he/she shall
			n	2)	period to be	undergo
		180 W		₩ ×	taken from	treatment and
		* 5 5	= 2		the range of	rehabilitation for
			s ^{pr} =		the penalty	a period of not
		æ			provided by	less than 6
		8			law. A	months. Said
	8				straight	period shall be
		a	85 =		penalty	credited to
		9. V	2	2 -	within the	his/her penalty
		e "	2		range of 6	and the period
					months and	of his after-care
			93		1 day to 1	and follow-up
		. a a a	u .		year may	program is
2					likewise be	penalty is still
					imposed.	unserved. If
						accused is found
			25			negative for
				2		drug
		w= 	ω.	9 9 18		use/dependency,
		40 _ 10 10	3			he/she will be
8		¥:			22	released on time
				, Ta		served,
-	84 F1	***	#		15	otherwise,
			¥ 10			he/she will serve
	9	*	-			his sentence in
		10	x*		1	jail minus the
3	. x			a = 45		counseling
á	w	33.5		== 0		period at rehabilitation
		¥ 4 &	54	∞.		center.
	-			2		However, if
	- 2	2 m		22		accused applies
		SI ES	*			for probation in
		= 0				offenses
				-		punishable
8		₂₀ 5)				under R.A. No.
		5 9	*		38	9165, other than
70					٨	for illegal drug
			-,			trafficking or
			8.5			pushing under
				,		Section 5 in
		<u></u>				

			84		
					relation to Sec. 24 thereof, then the law on probation shall apply.
		1.00 gram and above (metham- phetamine hydro- chloride or shabu only)	No plea bargaining allowed		
Section 5. Sale, Trading, etc. of Dangerous Drugs (Marijuana only)	Life Imprisonment to Death and fine ranging from ₱500,000 to ₱10,000,00	.01 gram to 9.99 grams of marijuana only	Section 12. Possession of Equipment, Instrument, Apparatus and Other Parapher- nalia for Dangerous Drugs	6 months and 1 day to 4 years and a fine ranging from \$\mathbb{P}\$10,000 to \$\mathbb{P}\$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 after-care and follow-up program is penalty is still unserved. If accused is found negative for
					drug use/dependency, he/she will be released on time

				served,
A	- A		. 9	otherwise,
	*			he/she will serve
		20		his sentence in
	1 19		e	Telephone and the second of th
		5	8	jail minus the
				counseling
				period at
*	D 0			rehabilitation
	7.		*	center.
-	# # # # # # # # # # # # # # # # # # #	8		However, if
¥1	7	*		accused applies
			* V	for probation in
	e 5		* *	offenses
22 *			e e	punishable
		45		under R.A. No.
0		2	20	9165, other than
		# # # # # # # # # # # # # # # # # # #		for illegal drug
			9	trafficking or
				pushing under
je .				Section 5 in
			4	relation to Sec.
			*	C constant
		,		24 thereof, then
		·		the law on
				probation shall
				apply.
		.00 No plea		
		ns of bargain		
	mari	juana allowed		
	only	and	(6)	
		ove		

In all other cases where the imposable penalty is life imprisonment or life imprisonment to death, plea bargaining is not allowed. Plea bargaining is also not allowed under Section 5 (*Sale, Trading, etc.* of Dangerous Drugs) involving all other kinds of dangerous drugs, except *shabu* and marijuana.

The Office of the Court Administrator is **DIRECTED** to **ISSUE** a Circular for dissemination to all concerned." Sereno, C.J., on leave. Del Castillo, J., on leave. Reyes, Jr., J., on official leave. (adv35)

Very truly yours,

EDGAR O. ARICHETA
Clerk of Court

HON. MARIA LOURDES P. A. SERENO (x)

Chief Justice on Leave

HON. ANTONIO T. CARPIO (x)

Acting Chief Justice

HON. PRESBITERO J. VELASCO. JR. (x)

HON. TERESITA J. LEONARDO-DE CASTRO (x)

HON. DIOSDADO M. PERALTA (x)

HON. LUCAS P. BERSAMIN (x)

HON. MARIANO C. DEL CASTILLO (x)

HON. ESTELA M. PERLAS-BERNABE (x)

HON. MARVIC MARIO VICTOR F. LEONEN (x)

HON. FRANCIS H. JARDELEZA (x)

HON. ALFREDO BENJAMIN S. CAGUIOA (x)

HON. SAMUEL R. MARTIRES (x)

HON. NOEL G. TIJAM (x)

HON. ANDRES B. REYES, JR. (x)

HON. ALEXANDER G. GESMUNDO (x)

Associate Justices

Supreme Court

INTEGRATED BAR OF THE PHILIPPINES (reg)

IBP Bldg., Dona Julia Vargas Avenue

Pasig City 1505

JUDICIAL RECORDS OFFICE (x)

JUDGMENT DIVISION (x)

Supreme Court

PUBLIC INFORMATION OFFICE (x)

LIBRARY SERVICES (x)

[For uploading pursuant to A.M. No. 12-7-1-SC]

Court Administrator

→HON. JOSE MIDAS P. MARQUEZ (x)

Deputy Court Administrators

HON. RAUL B. VILLANUEVA (x)

HON. JENNY LIND R. ALDECOA-DELORINO (x)

Supreme Court

HON. FELIX P. REYES (reg)

PJA President

Branch 272, Marikina City

*For circularization

A.M. No. 18-03-16-SC kat 4/10/18 (URes35) 4/30/17