



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



Annex "A"

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, par. 3. <i>Possession of Dangerous Drugs</i> (Where quantity of shabu, opium, morphine, heroin, cocaine is less than 5 grams)	12 years & 1 day to 20 years and fine ranging from ₱300,000 to ₱400,000	.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 ranging 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 after-care and follow-up program is penalty is still unserved. If
Section 11, par. 3. <i>Possession of Dangerous Drugs</i> (Where quantity of marijuana is less than 300 grams)	12 years and 1 day to 20 years and fine ranging from fine from ₱300,000 to ₱400,000	.01 gram to 299.99 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 ranging from ₱10,000 to ₱50,000  <i>N.B.:</i> The court is given the discretion	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 counseling period at

				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.	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.
Section 11, par. 2. <i>Possession of Dangerous Drugs</i> (Where quantity of shabu, opium, morphine, heroin, cocaine is 5 grams or more but not exceeding 10 grams)	20 years to life imprisonment and fine ranging from P400,000 to P500,000	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 P300,000 to P400,000  <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.	
		10 grams and above	No plea bargaining allowed		
Section 11, par. 2. <i>Possession of Dangerous Drugs</i>	20 years to life imprisonment and fine ranging	300 grams to 499 grams	Section 11, par. 3. <i>Possession of Dangerous Drugs</i>	12 years and 1 day to 20 years and a fine ranging from	

(Where the quantity of marijuana is 300 grams or more but not exceeding 500 grams	from P400,000 to P500,000			P300,000 to P400,000  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.	
		500 grams and above	No plea bargaining allowed		
Section 12. <i>Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs</i>	6 months and 1 day to 4 years and fine ranging from P10,000 to P50,000		Section 15. <i>Use of Dangerous Drugs</i>	6 months treatment and rehabilitation	If accused admits drug use, or denies drug use but found positive after drug dependency test.
				Undergo counselling program at rehabilitation center	If accused is found negative for drug use/dependency
Section 14. <i>Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings</i>	Maximum penalty in Section 12		Section 15. <i>Use of Dangerous Drugs</i>	6 month treatment and rehabilitation	If accused admits drug use, or denies drug use but found positive after drug dependency test.
				Undergo counselling program at rehabilitation center	If accused is found negative for drug use/dependency
Section 5. <i>Sale, Trading, etc. of Dangerous Drugs (Methamphetamine)</i>	Life Imprisonment to Death and fine ranging from	.01 gram to .99 grams (methamphetamine hydrochloride	Section 12. <i>Possession of Equipment, Instrument, Apparatus and Other</i>	6 months and 1 day to 4 years and a fine ranging from P10,000 to	In all instances, whether or not the maximum period of the penalty imposed is already served, drug

<p><i>hydrochloride or shabu only)</i></p>	<p>₱500,000 to ₱10,000,000</p>	<p>or shabu only)</p>	<p><i>Paraphernalia for Dangerous Drugs</i></p>	<p>₱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.</p>	<p>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 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 counseling 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</p>
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					relation to Sec. 24 thereof, then the law on probation shall apply.
		1.00 gram and above (methamphetamine hydrochloride or shabu only)	No plea bargaining allowed		
Section 5. <i>Sale, Trading, etc. of Dangerous Drugs (Marijuana only)</i>	Life Imprisonment to Death and fine ranging from P500,000 to P10,000,000	.01 gram to 9.99 grams of marijuana only	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 ranging from P10,000 to P50,000  <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 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


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					served, otherwise, he/she will serve his sentence in jail minus the counseling 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.
		10.00 grams of marijuana only and above	No plea bargain allowed		

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)  
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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

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\*HON. JOSE MIDAS P. MARQUEZ (x)

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Supreme Court

HON. FELIX P. REYES (reg)

PJA President

Branch 272, Marikina City

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\*For circularization

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