



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

OCA CIRCULAR NO. 91-2020

TO : ALL JUDGES OF THE FIRST AND SECOND LEVEL  
COURTS

RE : RELEASE OF QUALIFIED PERSONS DEPRIVED OF  
LIBERTY

Considering the continuing congestion of detention facilities nationwide and the consequent high risk of Persons Deprived of Liberty (PDLs) being afflicted with Covid-19, "[t]here is a need to effectively implement existing policies laid down by the Constitution, the laws and the rules respecting the accused's right to bail and to speedy trial in the context of decongesting our detention jails and humanizing the conditions of detained persons pending the hearing of their cases," as provided in the Resolution of the Court *en banc* in A.M. No. 12-11-2-SC dated 18 March 2014.

Accordingly, ALL JUDGES of the first and second level courts are hereby REMINDED to ADHERE to the Guidelines for Decongesting Holding Jails by Enforcing the Rights of the Accused Persons to Bail and to Speedy Trial (Guidelines), as prescribed in the above Resolution of the Court *en banc*, particularly Sections 5 and 10 thereof, quoted herein, as follows:

*"Sec. 5. Release after service of minimum imposable penalty. - The accused who has been detained for a period of at least equal to the minimum of the penalty for the offense charged against him shall be ordered released motu proprio or upon motion and after notice and hearing, on his own recognizance without prejudice to the continuation of the proceedings against him. [Sec. 16, Rule 114 of the Rules of Court and Sec. 5 (b) of R.A. 10389]*

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*Sec. 10. Provisional dismissal.* - (a) When the delays are due to the absence of an essential witness whose whereabouts are unknown or cannot be determined and, therefore, are subject to exclusion in determining compliance with the prescribed time limits which caused the trial to exceed one hundred eighty (180) days, the court shall provisionally dismiss the action with the express consent of the detained accused.

(b) When the delays are due to the absence of an essential witness whose presence cannot be obtained by due diligence though his whereabouts are known, the court shall provisionally dismiss the action with the express consent of the detained accused provided:

(1) the hearing in the case has been previously twice postponed due to the non-appearance of the essential witness and both the witness and the offended party, if they are two (2) different persons, have been given notice of the setting of the case for third hearing, which notice contains a warning that the case would be dismissed if the essential witness continues to be absent; and

(2) there is proof of service of the pertinent notices of hearings or subpoenas upon the essential witness and the offended party at their last known postal or e-mail addresses or mobile phone numbers.

(c) For the above purpose, the public or private prosecutor shall first present during the trial the essential witness or witnesses to the case before anyone else. An essential witness is one whose testimony dwells on the presence of some or all of the elements of the crime and whose testimony is indispensable to the conviction of the accused."

ALL JUDGES of the first and second level courts are therefore DIRECTED to immediately conduct an inventory of their pending criminal cases to determine if they have cases which may be covered by the above Guidelines, and if so, to comply with the said Guidelines without unnecessary delay, using their sound discretion. They shall immediately act motu proprio on cases of PDLs who have been detained for a period at least equal to the minimum of the penalty for the offense charged, and if warranted, may release such detainees on their own recognizance, provided the court is assured of where the accused can be located while their cases are on-going trial, e.g., the accused must provide contact numbers and exact address where they will be residing and contact


numbers of at least 2 (two) of their nearest of kins with their exact addresses as well.

Motions for recognizance and provisional dismissal of cases resulting to the release of the PDLs from detention may be considered urgent and must be immediately set for hearing.

If release orders are warranted, Judges may apply the pertinent provisions of Supreme Court Administrative Circular 33-2020 and OCA Circular No. 89-2020 on the electronic transmission of said release orders.

Please be guided accordingly.

20 April 2020

  
JOSE MIDAS P. MARQUEZ  
COURT ADMINISTRATOR