



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

OCA CIRCULAR NO. 168-2020

TO : ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS

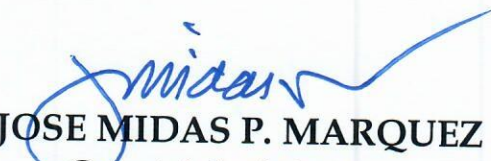
RE : GUIDELINES IN THE IMPOSITION OF COMMUNITY SERVICE AS PENALTY IN LIEU OF IMPRISONMENT

For the information and guidance of all first and second level courts, appended herein as Annex "A" is the Resolution dated 6 October 2020 of the Court *En Banc* in Administrative Matter No. 20-06-14-SC (*Guidelines in the Imposition of Community Service as a Penalty in lieu of Imprisonment*).

The Resolution shall take effect on 2 November 2020, after publication in two (2) newspapers of general circulation.

Strict compliance is hereby enjoined.

16 October 2020


JOSE MIDAS P. MARQUEZ
Court Administrator



Republic of the Philippines
Supreme Court
Manila

A.M. No. 20-06-14-SC

**GUIDELINES IN THE IMPOSITION OF
COMMUNITY SERVICE AS PENALTY IN LIEU OF
IMPRISONMENT**

Whereas, the Congress passed Republic Act No. 11362 or the *Community Service Act* which was signed into law by the President on August 8, 2019;

Whereas, Republic Act No. 11362 promotes restorative justice and jail decongestion by authorizing the court in its discretion to require community service in lieu of service in jail for offenses punishable by *arresto menor* and *arresto mayor*;

Whereas, there is a need to adopt the necessary guidelines to instruct magistrates on how apply the provisions of Republic Act No. 11362 together with existing remedies of the accused;

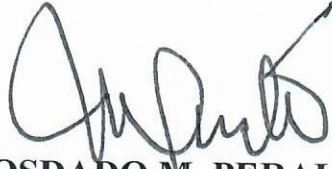
Whereas, pursuant to the provisions of Section 5(5), Article VIII of the 1987 Constitution, the Supreme Court has the power to adopt and promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged;

Whereas, the Supreme Court issued Memorandum Order No. 56-2020 dated September 7, 2020 creating a Technical Working Group composed of Chief Justice Diosdado M. Peralta as Chairperson, Supreme Court Associate Justice Alexander G. Gesmundo as the Working Chairperson, Court Administrator Jose Midas P. Marquez, Deputy Court Administrator Raul B. Villanueva, Presiding Judge Lorna Francisca C. Chua-Cheng (Regional Trial Court, Br. 168, Marikina City), Presiding Judge Myra B. Quiambao (Regional Trial Court, Br. 203, Muntinlupa City), Presiding Judge Anne Perpetual S. Rivera-Sia (Metropolitan Trial Court, Br. 12, Manila) and Presiding Judge Kirk M. Aniñon (Metropolitan Trial Court, Br. 44, Pasay City) as members and Atty. Khiel L. Crisostomo (Office of Chief Justice Diosdado M. Peralta) and Atty. Rigor R. Pascual (Office of Associate Justice Alexander G. Gesmundo) as members of the Secretariat; and

Whereas, the Technical Working Group has submitted to the Supreme Court *En Banc* its proposed guidelines to implement Republic Act No. 11362 for consideration and approval.

NOW THEREFORE, the Supreme Court *En Banc* hereby adopts and promulgate the Guidelines in the Imposition of Community Service as a Penalty in lieu of Imprisonment.

October 6, 2020.



DIOSDADO M. PERALTA
Chief Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



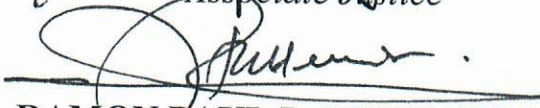
MARVIC M.V.F. LEONEN
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

On leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice



Republic of the Philippines
Supreme Court
Manila

A.M. No. 20-06-14-SC

**GUIDELINES IN THE IMPOSITION OF
COMMUNITY SERVICE AS PENALTY IN LIEU OF IMPRISONMENT**

Section 3 of Republic Act No. 11362 which amended Article 88 of Act No. 3815 or the Revised Penal Code reads:

Art. 88a. Community Service. The court in its discretion may, in lieu of service in jail, require that the penalties of *arresto menor* and *arresto mayor* be served by the defendant by rendering community service in the place where the crime was committed, under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case, which shall be under the supervision of a probation officer: Provided, That the court will prepare an order imposing the community service, specifying the number of hours to be worked and the period within which to complete the service. The order is then referred to the assigned probation officer who shall have responsibility of the defendant.

The defendant shall likewise be required to undergo rehabilitative counseling under the social welfare and development officer of the city or municipality concerned with the assistance of the Department of Social Welfare and Development (DSWD). In requiring community service, the court shall consider the welfare of the society and the reasonable probability that the person sentenced shall not violate the law while rendering the service.

Community service shall consist of any actual physical activity which inculcates civic consciousness, and is intended towards the improvement of a public work or promotion of a public service.

If the defendant violates the terms of the community service, the court shall order his/her re-arrest and the defendant shall serve the full term of the penalty, as the case may be, in jail, or in the house of the defendant as provided under Article 88. However, if the defendant has fully complied with the terms of the community service, the court shall order the release of the defendant unless detained for some other offense.

The privilege of rendering community service in lieu of service in jail shall be availed of only once.

Thus, all judges concerned shall observe these guidelines in allowing rendition of community service in lieu of imprisonment in the service of penalty for *arresto menor* or *arresto mayor*:

1. After promulgation of judgment or order where the imposable penalty for the crime or offense committed by the accused is *arresto menor* or *arresto mayor*, it shall be the court's duty to inform the accused of and announce in open court his/her options within fifteen (15) calendar days from date of promulgation, to wit: (a) file an appeal; (2) apply for probation as provided by law; or (3) apply that the penalty be served by rendering community service in the place where the crime was committed. It shall further be explained to the accused that if he/she chooses to appeal the conviction, such resort thereto bars any application for community service or probation.
2. In the event accused opts to apply for community service, the application must be filed within the period to perfect an appeal. Likewise, said application shall be resolved within five (5) calendar days from the filing thereof. For this purpose, the court should set a hearing to render or promulgate the ruling on the said application within the said period.
3. If the accused was required to post bail, pending resolution of the application for community service he/she may also move that he/she be allowed on temporary liberty under the same bond he/she posted or be granted recognizance as provided for under Section 15, Rule 114 of the Revised Rules on Criminal Procedure.
4. Upon receipt of the application for community service, the court shall immediately notify the following officers: (a) the barangay chairperson or his/her authorized representative of the barangay where the crime was committed; (b) a representative from the provincial or city's Probation Office; and, (c) the local government unit's Social Welfare Development Officer (SWDO).

The court may resort to electronic service of the notices to the above officers.

5. The notice shall direct the barangay chairperson or his/her authorized representative to submit a proposed community service program for accused on or before the scheduled hearing on the application. The SWDO shall also be directed to recommend a rehabilitative counseling program and schedule for the accused that shall be incorporated in the barangay's proposal. The following programs of the Parole and Probation Office in relation to community service may also be considered:

- a. Mentoring and Intergenerational Service;
 - b. Economic Development;
 - c. Citizenship and Civic participation-experiential activities which involve solving community problems; and
 - d. Involvement in Crime Prevention projects.
6. In assessing the recommendations of the barangay chairperson or his/her authorized representative and SWDO, the court shall take into account that the type of program for community service shall (i) consist of actual physical activity which inculcates civic consciousness; (ii) intended towards the improvement of a public work; or, (iii) promotion of public service.
7. In exercising the discretion to allow service of penalty through community service, the following factors may be taken into consideration by the court:
- a. The gravity of the offense;
 - b. The circumstances of the case;
 - c. The welfare of the society; and
 - d. The reasonable probability that the accused shall not violate the law while rendering the service.

In no case shall the benefit of the *Community Service Law* be given to the accused more than once. Also, the period for the community service to be rendered should not be more than the maximum sentence imposed by law, but not less than one-third (1/3) thereof.

If the accused has undergone preventive imprisonment, the period shall be deducted from the term of community service.

8. The court shall resolve the application for community service immediately after the hearing thereon. An order granting or denying the application shall not be appealable.

Failure of the accused to appear at the said hearing, except for justified reasons, shall be a ground to deny the application and a warrant of arrest shall be issued against the accused.

9. In the event the court needs time to resolve the application, the court shall set the order for promulgation within twenty four (24) hours from the hearing thereof and require the presence of accused and his/her counsel, including the representatives from the concerned barangay, city or municipal Probation Office and SWDO.

10. The community service order shall provide for the following:

- a. The details of the community service program;

- b. The specific number of hours to be accomplished and period within which to complete the service;
- c. The referral of accused to the probation office having jurisdiction over the place where the crime was committed for supervision;
- d. A statement requiring the concerned probation officer to provide a final report on the accused's compliance with the program within five (5) calendar days from expiration of the period and recommendation for discharge if applicable;
- e. A statement requiring the SWDO to submit a report within five (5) calendar days after completion of rehabilitative counseling; and
- f. The imposition of additional conditions as may be warranted by the circumstances of the case.

The community service order shall take effect upon its issuance in open court, at which time, the court shall inform the accused of the consequences thereof and explain that failure to comply with the terms or commission of another offense, he/she shall be re-arrested to serve the full term of the penalty.

11. After the period of community service and upon consideration of the report and recommendation of the probation officer and SWDO, the court may order the final discharge of accused upon finding that he/she has fulfilled the terms and conditions of his community service and thereupon, the case is deemed terminated. The accused, probation officer and SWDO shall each be furnished with a copy of such order.
12. If the accused is sentenced with a penalty higher than *arresto menor* or *arresto mayor*, and on appeal the penalty was lowered to *arresto menor* or *arresto mayor*, which became final and executory, the accused may, upon written application with the court of origin, seek community service in lieu of imprisonment, which may be acted upon subject to the provisions of these guidelines.

With respect hereto, in no case shall community service be allowed if the defendant is a habitual delinquent.

13. In the event the court denies the application for community service, and the period to appeal has not yet lapsed, the accused may still choose to appeal the said judgment or apply for probation.
14. An accused who has applied and was granted probation in a previous case is not disqualified to apply for community service in a subsequent case.

These guidelines shall take effect on November 2, 2020, after publication in two (2) newspapers of general circulation.

Manila, October 6, 2020.

FORM 1 : Promulgation Order

- If imposable penalty for the crime or offense committed by the accused is *arresto menor* or *arresto mayor*.

REPUBLIC OF THE PHILIPPINES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

For: _____

Accused.

X-----X

O R D E R

In today's promulgation of judgment, accused (name) is present with counsel *de parte/de officio* (name).

Upon motion, the dispositive portion of the decision was read to accused in open court.

The court also informed the accused of the following remedies available to him: (1) file an appeal; (2) apply for probation provided no disqualification exists; or (3) apply that the penalty be served by rendering community service in the place where the crime was committed.

FORM 2: Application for Community Service

REPUBLIC OF THE PHILIPPINES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

For: _____

_____,
Accused.

X-----X

APPLICATION FOR COMMUNITY SERVICE

The accused, by counsel, respectfully applies for the imposition of community service in lieu of service in jail, pursuant to the provisions of Republic Act No. 11362 (R.A. 11362) and A.M. No. _____ (Guidelines in the Imposition of Community Service as Penalty).

In support of this application, accused states:

1. Accused-applicant is of legal age and residing at _____. On (date of promulgation of judgment), accused **pleaded guilty / was convicted** of (designation of crime or offense) by this Honorable Court and sentenced to suffer the penalty of *arresto mayor / arresto menor*.
2. Accused-applicant submits that he/she has not previously availed of the benefits of R.A. 11362 and no appeal has been perfected as of the filing of this application.
3. Accused-applicant is physically able and willing to comply with the terms of the community service program that this court may deem fit for him/her and undergo rehabilitative counseling.
4. That the grant of his/her application will not depreciate the gravity of the crime/offense charged nor cause any undue risk that during the period of community service, accused-applicant will commit another crime.

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that the Application for Community Service be approved.

Other reliefs just and equitable in the premises are likewise sought.

FORM 3: Notice

REPUBLIC OF THE PHILIPPINES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

For: _____

_____,
Accused/s.

X-----X

NOTICE OF HEARING

TO: Barangay Chairperson/Authorized Representative
Barangay _____, District _____
City of _____

Probation Officer/Authorized Representative
Municipality / City / Province

Social Welfare Development Officer
Municipality/City/Province

FOR: Hearing on the Application for Community Service of accused-applicant (name)

GREETINGS:

You are hereby notified that the application for community service will be heard in the **(Court)**, Branch _____, located at **(address)** on **Date and Time of Hearing.**

You are hereby required to appear and testify if necessary on the application.

FAIL NOT UNDER PENALTY OF LAW.

WITNESS, the _____, Presiding Judge of this Court,
_____.

Branch Clerk of Court

FORM 4: Order setting application for hearing and submission of reports

REPUBLIC OF THE PHILIPPINES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

FOR: _____

_____,
Accused.

X-----X

ORDER

Accused (name) filed on (date) his/ her "*Application for Community Service*".

Let the application be set for hearing on (date and time). Let notice be issued to the barangay chairperson/authorized representative of the place where the offense/crime was committed, the Probation Officer of city/municipality and the Social Welfare Development Officer of the city/municipality.

In accordance with A.M. No. _____, the barangay chairperson/authorized representative and the SWDO are hereby ordered to submit a proposed community service program and rehabilitative counseling schedule on or before the hearing on the application, failing which shall be cause for sanction.

The Branch Clerk of Court of this court is hereby directed to furnish the said officers with a copy of the decision promulgated by this court as well as the necessary data pertinent to the above-entitled case.

Pending the application, accused _____ shall continue to be on provisional liberty under the same cash bail.*

SO ORDERED.

_____, _____.

Presiding Judge

*If accused posted bail

FORM 5: Barangay Checklist

Proposed Community Service Program

For: (name of accused/applicant)

Place where service shall be accomplished: (street/barangay)

(To be accomplished by the Barangay and submitted on or before the hearing)

No. of Hours/Days	Barangay Programs/Projects
	Pollution control and protection of environment (street sweeping, garbage disposal, unclogging of canals, tree planting)
	Traffic and/or crowd control in barangay roads
	Peace and order programs (night watch and crime prevention campaigns)
	Maintenance and/or repair of barangay properties (cleaning of barangay hall, barangay patrol, barangay covered courts, etc.)
	Information dissemination of various national, local and barangay programs (such as giving away leaflets, aid in announcements)
	Projects involving delivery of basic services such as: (provide a list if applicable) a. _____ b. _____ c. _____ d. _____
	Other projects/programs requiring physical activity a. _____ b. _____ c. _____

Prepared by: (Authorized Representative of barangay)

Approved by: (Barangay Chairperson)

FORM 6: Community Service Order

REPUBLIC OF THE PHILIPPINES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

FOR: _____

_____,
Accused.

X-----X

O R D E R

Acting on the *Application for Community Service* filed by accused (name) and considering the reports prepared and submitted by Barangay Chairperson (name) of Barangay _____, District _____, City of _____ and SWDO (name) of (municipality/city), the court grants the said application, subject to the following conditions:

1. Accused-applicant shall report initially to the Probation and Parole Office at _____ within _____ from receipt of the Order granting the application.
2. He/She shall, thereafter, report to his Supervising Probation and Parole Officer on and *at least* _____, for a period of _____.
3. He/She shall reside at (**address**) and shall not change his residence without prior approval of the Chief Probation and Parole Officer, or Court, as the case may be.
4. He/She shall not commit any crime or any other offense.
5. He/She shall render community service in (**place**) and undergo rehabilitative counseling as follows:

Details: (Project/s)
Hours to be served:
Period:

6. He/She shall allow the Supervising Probation and Parole Officer or an authorized Volunteer Aide to monitor his/her compliance with the program;
7. He/She shall undergo medical, psychological or psychiatric examination and treatment and enter and remain in a specified institution, when required for that purpose.
8. He/She shall devote himself to a specific employment and shall not change said employment without prior notice to the supervising officer and/or pursue a prescribed secular study or vocational training.
9. He/She shall refrain from association with persons of questionable character.
10. He/She shall cooperate with his program of supervision, and shall satisfy other conditions related to his rehabilitation and not unduly restrictive of his liberty or incompatible with his freedom of conscience.
11. In the event that accused-applicant fails to observe the preceding conditions and/or has committed any material misrepresentation in his/her application, the grant may be revoked by the Court or the conditions thereof modified.

SO ORDERED.

_____ , _____.

Presiding Judge

Copy furnished:

Public Prosecutor

Defense Counsel

Accused

Parole and Probation Office

Barangay Chairperson/Authorized Representative

Social Welfare and Development Officer