



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

OCA CIRCULAR NO. 102 - 2023-AA

TO : ALL TRIAL COURTS HANDLING DRUGS CASES

SUBJECT : GUIDELINES ON PLEA-BARGAINING IN DRUGS CASES

For the information and guidance of all concerned, below are the latest guideposts on **plea-bargaining** in drugs cases, which mandates the requirement for the accused to undergo a drug dependency test as one of the requirements to avail the plea bargaining mechanism¹ pursuant to A.M. No. 18-03-16-SC (Adoption of the Plea Bargaining Framework in Drugs Cases) dated 10 April 2018, as laid down by the Court in the consolidated cases of *People vs. Montierro* (G.R. No. 254564); *Baldadera vs. People* (G.R. No. 254564); *Re: Letter of the Philippine Judges Association Expressing its Concern over the Ramifications of the Decisions* (G.R. No. 247575); G.R. No. 250295 [A.M. No. 21-07-16-SC]; and *Re: Letter of Chief Justice Diosdado M. Peralta on the Suggested Plea-Bargaining Framework Submitted by the Philippine Judges Association* (A.M. No. 18-03-16-SC), dated 26 July 2022, thus:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.
2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.
3. Upon the receipt of the proposal for plea bargaining that is compliant with the provisions of the Court's Plea-Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.
4. As a rule, plea bargaining requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties, the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter addressed entirely to the sound discretion of the court.

¹ *People of the Philippines v. Erick Montierro y Ventocilla* (2022), at 31.


- a. Though the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in granting or denying plea bargaining, taking into account the relevant circumstances, including the character of the accused.
5. The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:
 - a. the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or
 - b. when the evidence of guilt is strong.
6. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea-Bargaining Framework in Drugs Cases.
7. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea-bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, though in accordance with the plea-bargaining framework issued by the Court, if any.
8. If the prosecution objects to the accused's plea-bargaining proposal due to the circumstances enumerated in item no. 5, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial court finds the objection meritorious, it shall order the continuation of the criminal proceedings.
9. If an accused applies for probation in offenses punishable under RA No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply.

In addition, trial courts are reminded that "to ensure that the ends of plea bargaining are achieved, [it should] independently assess the merits of the plea bargaining proposal of the accused."²

Accordingly, pursuant to the above-cited guidelines, particularly item number 7 thereof, despite the requirement of mutual agreement of the parties, judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea-bargaining proposal is inconsistent with the acceptable plea-bargain under any internal rules or guidelines of the DOJ.

20 March 2023


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² *Id.*, at 30.