



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

OCA CIRCULAR NO. 145-2023

TO : ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT : REITERATION OF OCA CIRCULAR NO. 168-2020 DATED 16 OCTOBER 2020 (RE: RESOLUTION DATED 06 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 Court in its Resolution dated 06 October 2020 in Administrative Matter No. 20-06-14-SC adopted and promulgated the *Guidelines in the Imposition of Community Service as a Penalty in Lieu of Imprisonment* to instruct magistrates on how to apply the provisions of Republic Act No. 11362, or the *Community Service Act*, together with existing remedies of the accused. To quote the Resolution on the importance of applying the said law, "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*."

Considering the foregoing, and as a reminder to all concerned judges of the first and second level courts, reiterated and quoted herein **for guidance and strict observance** are the pertinent provisions of the subject guidelines, *viz*:

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; (b) apply for probation as provided by law; or (c) 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. xxx xxx
7. xxx xxx

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. xxx xxx
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. xxx xxx

12. xxx xxx

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.

31 March 2023



RAUL B. VILLANUEVA
Court Administrator