

*EN BANC*

**G.R. No. 252117: IN THE MATTER OF THE URGENT PETITION FOR THE RELEASE OF PRISONERS ON HUMANITARIAN GROUNDS IN THE MIDST OF THE COVID-19 PANDEMIC, ALMONTE, *et al.*, Petitioners, v. PEOPLE OF THE PHILIPPINES, *et al.*, Respondents.**

Promulgated:

July 28, 2020

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**SEPARATE OPINION**

**ZALAMEDA, J.:**

On 08 March 2020, the President issued Presidential Proclamation (PP) 922 declaring a state of public health emergency throughout the Philippines upon confirmation by the Secretary of Health of local transmission of coronavirus disease (COVID-19).<sup>1</sup> The present Petition was filed on 09 April 2020, a month after the issuance of PP 922.

Fearful that the contagion will catch up to them while in detention, petitioners seek succor from this Court, asking for temporary liberty through bail or personal recognizance based on equity (Sections 1<sup>2</sup> and 5(5)<sup>3</sup> of

<sup>1</sup> Presidential Proclamation No. 922, Sec. 5; this state of public health emergency shall remain in force and effect until lifted or withdrawn by the President, and has not been lifted or withdrawn as of this date.

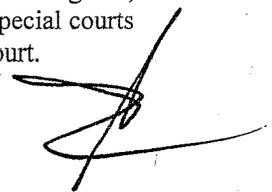
<sup>2</sup> SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

<sup>3</sup> SECTION 5. The Supreme Court shall have the following powers:

x x x x

(5) 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. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.



Article VIII of the 1987 Constitution, in relation to Rule 3, Section 1<sup>4</sup> of A.M. No. 10-4-20-SC). The Petition is filed directly before this Court as an exception to the procedures on applications for bail<sup>5</sup> or personal recognizance,<sup>6</sup> as well as the different modes of judicial review under the Rules of Court.

Petitioners describe themselves as belonging to the “vulnerable or at-risk groups [to contract COVID-19] by reason of their medical and/or physical conditions”<sup>7</sup> and are “currently committed in places of detention where it is impossible to practice self-isolation, social distancing, and other COVID-19 precautions.”<sup>8</sup> The table<sup>9</sup> below summarizes petitioners’ situation on their respective ages, health conditions, and actual detention facilities:

	<b>Petitioner</b>	<b>Case (Case number, crime charged, case status)</b>	<b>Condition (Age, health)</b>	<b>Actual Detention Facility</b>
1	Dionisio S. Almonte	Not specified	62, non-proliferative diabetic retinopathy	Metro Manila District Jail 4 (MMDJ 4), Camp Bagong Diwa, Taguig City
2	Ireneo O. Atadero, Jr.	Not specified	57, hypertensive with type 2 diabetes mellitus	MMDJ 4
3	Emmanuel Bacarra <sup>10</sup>	Not specified	55, hypertensive heart disease stage 1, non-insulin dependent diabetes mellitus type 2, TC benign prostatic hypertrophy and osteoarthritis	MMDJ 4
4	Alexander Ramonita K. Birondo	Not specified	68, with bronchial asthma and dyslipidemia	MMDJ 4
5	Winona Marie O. Birondo	Not specified	61, bronchial asthma cellulitis and dyslipidemia	Taguig City Jail Female Dorm, Camp

<sup>4</sup> RULE 3: THE EXERCISE OF JUDICIAL FUNCTION

SECTION 1. The Supreme Court [is] a court of law. -The Court is a court of law. Its primary task is to resolve and decide cases and issues presented by litigants according to law. However, it may apply equity where the court is unable to arrive at a conclusion or judgment strictly on the basis of law due to a gap, silence, obscurity or vagueness of the law that the Court can still legitimately remedy, and the special circumstances of the case.

<sup>5</sup> Revised Rules on Criminal Procedure, Rule 114; *Cortes v. Catral*, A.M. No. RTJ-97-1387, 10 September 1997.

<sup>6</sup> Republic Act (RA) No. 10389, Recognizance Act of 2012. *See also* Implementing Guidelines (<http://probation.gov.ph/wp-content/uploads/2014/10/Implementing-Guidelines-ROR.pdf> [last accessed 07 July 2020]).

<sup>7</sup> Petition, p. 6.

<sup>8</sup> *Id.* at 12.

<sup>9</sup> *Id.* at 12-16.

<sup>10</sup> Data entered twice in petition under (c) and (q).

				Bagong Diwa, Taguig City (Female Dorm)
6	Rey Claro Casambre	Not specified	68, diabetes mellitus with vascular and neurologic complications	MMDJ 4
7	Ferdinand T. Castillo	Not specified	60, hypertension	MMDJ 4
8	Francisco O. Fernandez, Jr.	Not specified	71, hypertensive cardiovascular disease and chronic obstructive pulmonary disease	MMDJ 4
9	Renante Gamara	Not specified	62 (nothing further)	MMDJ 4
10	Vicente P. Ladlad	Not specified	70, chronic obstructive pulmonary disease (emphysema) and hypertension	MMDJ 4
11	Ediesel R. Legaspi	Not specified	62, hypertension	MMDJ 4
12	Adelberto A. Silva	Not specified	72, hypertension, had post triple percutaneous transluminal coronary angioplasty and post myocardial infarction in 2002	MMDJ 4
13	Alberto L. Vil- lamor	Not specified	63, type 2 diabetes mellitus, hypertension stage 2, microalbuminuria, dermatophy and neuropathy	MMDJ 4
14	Virginia B. Villamor	Not specified	65, hypertension with bronchial asthma, chronic recurrent major depressive disorder	Female Dorm
15	Cleofe Lag- tapon	Not specified	66 (nothing further)	Female Dorm
16	Geann Perez	Not specified	21, leprosy	Female Dorm
17	Oliver B. Ros- ales	Not specified	48, ischemic heart disease, peripheral neuropathy, acid peptic disease	MMDJ 4
18	Norberto A. Murillo	Not specified	66, hypertension and diabetes mellitus type 2	Manila City Jail
19	Reina Mae Nasino	Not specified	22, pregnant	Manila City Jail
20	Dario Tomada	Not specified	60, diabetes mellitus type 2, bronchial asthma, T/C chronic obstructive pulmonary disease	Manila City Jail
21	Oscar Belleza	Not specified	63, hypertension, post craniotomy due to sub acute subdural hematoma left fronto parietal area, suffered cerebrovascular accident, has mass in right infra auricular area	Manila City Jail
22	Lilia Bucatcat	Not specified	73 (nothing further)	Serving sen- tence at the Correctional

				Institute for Women (CIW), Mandaluyong City
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The Petition raises just one issue: whether petitioners, who are elderly, sickly, and with other medical conditions, should be released on humanitarian considerations in the context of COVID-19.<sup>11</sup> Meanwhile, this Court formulated the following issues during deliberations:

- A. Whether the instant Petition filed directly before this Court may be given due course.
- B. Whether the Nelson Mandela Rules are enforceable in Philippine courts.
- C. Whether the petitioners may be given provisional liberty on the ground of equity.
- D. Whether the Court has the power to pass upon the State’s prerogative of selecting appropriate police power measures in times of emergency.<sup>12</sup>

I vote to DENY the Petition.

*Petitioners’ Direct Recourse to this Court for Provisional Liberty on the Ground of Equity*

The determination on the propriety of the instant Petition for provisional liberty may be given due course on the ground of equity, upon an inquiry on the following: 1) jurisdiction of the Court over applications for bail or recognizance; 2) compliance by petitioners with the procedures for applications for bail or recognizance; and 3) exemption of petitioners from complying with the procedures for such applications.

**This Court is clearly not among those vested with jurisdiction over applications for bail or recognizance under the Rules and the law.** The jurisdiction over both applications for bail and recognizance lies with the trial courts.<sup>13</sup> To be sure, Rule 114 of the Revised Rules on Criminal Procedure governs applications for bail, while Republic Act (RA) No. 10389 governs applications for recognizance.

Also, the issues raised by petitioners, particularly those that entail the determination of the due execution and authenticity of their submitted

<sup>11</sup> Petition, p. 34.  
<sup>12</sup> *Per curiam ponencia*, p. 5.  
<sup>13</sup> Revised Rules on Criminal Procedure, Rule 114, Section 4; RA 10389, Section 5.

documents, involve a determination of facts best addressed to the sound discretion of the trial courts. **Indeed, petitioners ought to have submitted their applications for temporary release before the respective courts where their cases are pending.** And even if We are to take cognizance of the Petition, petitioners failed to substantiate their right to be released on bail or recognizance.

In determining the amount of bail, the trial courts consider the following factors: financial ability of the accused to give bail; nature and circumstances of the offense; penalty for the offense charged; character and reputation of the accused; age and health of the accused; weight of the evidence against the accused; probability of the accused appearing at the trial; forfeiture of other bail; if the accused was a fugitive from justice when arrested; and pendency of other cases where the accused is on bail.<sup>14</sup>

On the other hand, RA 10389 lists the following requirements for an application for recognizance and the disqualifications for such application:

SEC. 6. *Requirements.* — The competent court where a criminal case has been filed against a person covered under this Act shall, upon motion, order the release of the detained person on recognizance to a qualified custodian: Provided, That all of the following requirements are complied with:

- (a) A sworn declaration by the person in custody of his/her indigency or incapacity either to post a cash bail or proffer any personal or real property acceptable as sufficient sureties for a bail bond;
- (b) A certification issued by the head of the social welfare and development office of the municipality or city where the accused actually resides, that the accused is indigent;
- (c) The person in custody has been arraigned;
- (d) The court has notified the city or municipal sanggunian where the accused resides of the application for recognizance. x x x x
- (e) The accused shall be properly documented, through such processes as, but not limited to, photographic image reproduction of all sides of the face and fingerprinting: Provided, That the costs involved for the purpose of this subsection shall be shouldered by the municipality or city that sought the release of the accused as provided herein, chargeable to the mandatory five percent (5%) calamity fund in its budget or to any other available fund in its treasury; and
- (f) The court shall notify the public prosecutor of the date of hearing therefor within twenty-four (24) hours from the filing of the application for release on recognizance in favor of the accused: Provided, That such hearing shall be held not earlier than twenty-four (24) hours nor later than forty-eight (48) hours from the receipt of notice by the prosecutor: Provided, further, That during said hearing, the prosecutor shall be ready to submit the recommendations regarding the application made under this Act, wherein no motion for postponement shall be entertained.

<sup>14</sup> Revised Rules on Criminal Procedure, Rule 114, Section 9.

SEC. 7. *Disqualifications for Release on Recognizance.* – Any of the following circumstances shall be a valid ground for the court to disqualify an accused from availing of the benefits provided herein:

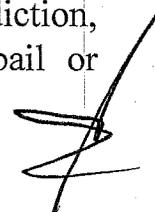
- (a) The accused had made untruthful statements in his/her sworn affidavit prescribed under Section 5(a);
- (b) The accused is a recidivist, quasi-recidivist, habitual delinquent, or has committed a crime aggravated by the circumstance of reiteration;
- (c) The accused had been found to have previously escaped from legal confinement, evaded sentence or has violated the conditions of bail or release on recognizance without valid justification;
- (d) The accused had previously committed a crime while on probation, parole or under conditional pardon;
- (e) The personal circumstances of the accused or nature of the facts surrounding his/her case indicate the probability of flight if released on recognizance;
- (f) There is a great risk that the accused may commit another crime during the pendency of the case; and
- (g) The accused has a pending criminal case which has the same or higher penalty to the new crime he/she is being accused of.

Petitioners do not seek to invalidate the established requirements for bail or recognizance, but instead claim exception therefrom due to their peculiar circumstances. **Evident, however, is petitioner's failure to comply with these clear and comprehensive requirements.** Petitioners also significantly failed to present this Court with information if the crimes for which they had been detained are bailable, or their financial status qualifies them for recognizance, and/or they have a definite plan for their temporary release.

It was only after respondents narrated the circumstances relating to the charges against petitioners that the latter were compelled to provide the Court with a more detailed, but still incomplete, information. Petitioners still failed to indicate vital information, such as the actual case numbers, motions filed in relation to their age and health condition, and court orders corresponding to such motions. They did not even assert any pending applications for bail or recognizance before the trial courts, as well as other applications or custodial arrangements, or if such had been denied.

The initial lack of candor about the nature of the crimes charged, and the context for the filing thereof, invite questions as to the legitimacy of using the threat of contracting COVID-19 in petitioners' bid to gain liberty, temporary or otherwise.

As petitioners invoke this Court's exercise of equity jurisdiction, praying for exemption from the procedures of applications for bail or



recognizance on humanitarian grounds, they present their respective ages and health statuses, as well as the existing conditions of their detention facilities to show that they are especially exposed and vulnerable to contract COVID-19. However, this prayer for exemption rests on flimsy grounds.

Out of the 22 petitioners, 17 are senior citizens, or are 60 years of age and older. There are 12 male senior citizens with health issues,<sup>15</sup> one male senior citizen without health issues,<sup>16</sup> and three male non-senior citizens with health issues.<sup>17</sup> There are two female senior citizens with health issues,<sup>18</sup> two female senior citizens without health issues,<sup>19</sup> and two female non-senior citizens with health issues. One of the two female non-senior citizens is five months pregnant at the time of the filing of the Petition but has since given birth,<sup>20</sup> while the other has leprosy.<sup>21</sup> The health issues of petitioners include diabetes and hypertension.<sup>22</sup> **However, only 17 petitioners provided copies of their medical certificates, and only six medical certificates out of the 17 were issued in 2020. None of the petitioners have been tested for, or are alleged to have, COVID-19.**

The Petition described the physical situations in the Quezon City Jail, the Cebu City Jail, the Mandaue City Jail, and the New Bilibid Prison (NBP) in Muntinlupa, to support their claim of exposure and vulnerability to contract COVID-19. Yet, none of the petitioners are confined in any of the said institutions. Petitioners are actually detained in four other different sites: MMDJ 4 in Camp Bagong Diwa, Taguig City Jail; Female Dorm, which is also in Camp Bagong Diwa, Taguig City Jail; Manila City Jail, and the CIW in Mandaluyong City.<sup>23</sup>

Petitioners emphasize that their collective actual health situation and congested detention facilities put them at greater risk of contracting COVID-19. They harp upon these facts, but conveniently ignore the reality of the absence of any incident of COVID-19 infection in their actual detention facilities. While it is true that after the filing of the Petition, and during its pendency, 20 PDLs and 1 staff tested positive for COVID-19 at the CIW where one of the petitioners is imprisoned, those who tested positive have since been transferred to the isolation facilities at the NBP.<sup>24</sup> Thus, the actual risk of petitioners contracting COVID-19 is more speculative than real.

<sup>15</sup> Dionisio S. Almonte, Alexander Ramonita K. Birondo, Rey Claro Casambre, Ferdinand T. Castillo, Francisco O. Fernandez, Jr., Vicente P. Ladlad, Ediesel R. Legaspi, Adelberto A. Silva, Alberto L. Villamor, Norberto A. Murillo, Dario Tomada, and Oscar Belleza. Petition, pp. 37-38.

<sup>16</sup> Renante Gamara. Petition, p. 38.

<sup>17</sup> Ireneo O. Atadero, Jr., Emmanuel Bacarra, and Oliver Rosales. Petition, pp. 37-38.

<sup>18</sup> Winona Marie O. Birondo and Virginia B. Villamor. Petition, pp. 37-38.

<sup>19</sup> Cleofe Lagtapon and Lilia Bucatcat. Petition, p. 38.

<sup>20</sup> Reina Mae Nasino. Petition, p. 40. Petitioner Nasino gave birth on 01 July, and returned to Manila City Jail on 02 July. <https://www.philstar.com/nation/2020/07/05/2025696/detainee-seeks-hospital-stay-after-giving-birth> (last accessed 06 July 2020).

<sup>21</sup> Ge-ann Perez. Petition, p. 39.

<sup>22</sup> Petition, pp. 37-40.

<sup>23</sup> *Id.* at 12-16.

**In seeking for their temporary release through bail or recognizance, petitioners are primarily asking this Court to turn a blind eye to the established requirements which take into account the nature and gravity of the crimes charged.** Petitioners ultimately want the Court to controvert Art. III, Section 13 of the 1987 Constitution, which provides that “[a]ll persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. x x x” Most of the petitioners are incarcerated for non-bailable crimes and offenses. Even conceding the extraordinary backdrop of this case, humanitarian reasons alone cannot justify the utter disregard of the Constitution, the law, and the rules of procedures.

If only to belabor the point, judicial policy dictates that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of our primary jurisdiction.<sup>25</sup> And since petitioners failed to show that they have exhausted the appropriate remedies before the lower courts, *i.e.*, by filing applications for bail and recognizance therein, or compelling circumstances have exempted them from disregarding the hierarchy of courts, the Petition must be denied.

*The Court issued Guidelines for Both  
the Temporary and Permanent  
Release of Qualified PDLs*

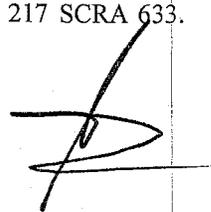
Recognizing that We cannot assume the role of the trial courts concerning applications for bail or recognizance, the Court has issued circulars on the trial courts’ conduct of procedures on both the **temporary and permanent release of qualified persons deprived of liberty (PDLs)**. These circulars serve as further proof that the entire judiciary was in operation regardless of the threat of contracting COVID-19. In the same vein, this Court acknowledged the congestion in detention facilities nationwide and the consequent high risk of PDLs contracting COVID-19. This Court, by itself or through the Office of the Court Administrator (OCA), issued these circulars as part of its response to the demands brought about by COVID-19.

First, on 31 March 2020, we issued AC No. 33-2020<sup>26</sup> directing the online filing of complaints or information, and posting of bail due to the rising number of COVID-19 infection. The OCA released the corresponding

<sup>24</sup> <https://www.cnnphilippines.com/news/2020/4/21/Women-s-Correctional-more-COVID-19-infections.html> (last accessed 11 May 2020).

<sup>25</sup> *Santiago v. Vasquez*, G.R. Nos. 99289-90, 27 January 1993; 291 Phil. 664 (1993); 217 SCRA 633. Emphasis added.

<sup>26</sup> <http://sc.judiciary.gov.ph/11145/> (last accessed 06 July 2020).



guidelines, OCA 89-2020,<sup>27</sup> on 03 April 2020. Second, on 20 April 2020, the OCA issued OCA Circular No. 91-2020<sup>28</sup> to address the **temporary or permanent release of qualified PDLs**, reminding judges to adhere to the Guidelines for Decongesting Jails by Enforcing the Rights of the Accused Persons to Bail and to Speedy Trial (A.M. No. 12-11-2-SC, effective 1 May 2014),<sup>29</sup> particularly Sections 5 (release after service of minimum imposable penalty) and 10 (provisional dismissal). Third, AC No. 38-2020<sup>30</sup> dated 30 April 2020 set the guidelines for reduced bail and recognizance as modes for the **temporary release of qualified PDLs** during this public health emergency, pending resolution of their cases.

As a result, 9,731 PDLs from 17 March to 29 April 2020 were released nationwide. This number has since increased to 33,790 as of 22 June 2020.<sup>31</sup> The Chief Justice's far-reaching efforts to further decongest our detention facilities, especially in light of the situation brought about by COVID-19, is truly commendable.

Corollary to this Court's initiatives, on 15 April 2020,<sup>32</sup> the Department of Justice (DOJ), through the Board of Pardons and Parole (BPP), issued Board Resolution No. OT-04-15-2020, or the Interim Rules on Parole and Executive Clemency (Interim Rules).<sup>33</sup> The BPP addresses the congestion in the national penitentiaries by advocating the **permanent release of qualified PDLs**. As of 10 June 2020, the DOJ's efforts resulted to 749 PDLs' release on parole and 356 PDLs' receipt of executive clemency.<sup>34</sup> **The combined efforts of this Court, the OCA, and the DOJ has brought about the release of 34,895 PDLs from 17 March to 22 June 2020.**

*The Enforceability of the Nelson Mandela Rules in the Philippines vis-à-vis the State's Prerogative of Selecting Appropriate Police Power Measures in Times of Emergency*

Petitioners cite Rules 13, 16, 18, 22, 24, 25, 27, 30, 42, 109, and 111 of the Revised UN Standard Minimum Rules for the Treatment of Prisoners, or

<sup>27</sup> <http://sc.judiciary.gov.ph/11165/> (last accessed 06 July 2020).

<sup>28</sup> <http://sc.judiciary.gov.ph/11234/> (last accessed 06 July 2020).

<sup>29</sup> <http://oca.judiciary.gov.ph/wp-content/uploads/2014/04/A.M.-No.-12-11-2-SC.pdf> (last accessed 06 July 2020).

<sup>30</sup> <http://sc.judiciary.gov.ph/11306/> (last accessed 06 July 2020).

<sup>31</sup> Re: Updated Report on the Number of Persons Deprived of Liberty (PDLs) Released from Custody, Memorandum from the OCA to the Office of the Chief Justice dated 02 July 2020.

<sup>32</sup> Published 30 April 2020, and to take effect on 15 May 2020.

<sup>33</sup> <https://law.upd.edu.ph/wp-content/uploads/2020/04/DOJ-BR-No-OT-04-15-2020.pdf> (last accessed 06 July 2020)

<sup>34</sup> Letter of DOJ Secretary Menardo I. Guevarra to Chief Justice Diosdado M. Peralta dated 15 June 2020.

the Nelson Mandela Rules (Mandela Rules),<sup>35</sup> in support of their claim that the State has the duty to protect the health and safety of its prisoners.

The Mandela Rules, however, must be read in their entirety and in the proper context. The Expert Group that formulated the Mandela Rules articulated the standard of adequate systems in penal institutions. It also recognized that the said Rules are not capable of wholesale application in all places because of the difference in the legal, social, economic, and geographical situations in each country. The preliminary observations which preface the Nelson Mandela Rules bear witness to this recognition:

Preliminary observation 1

The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management.

Preliminary observation 2

1. **In view of the great variety of legal, social, economic and geographical conditions in the world, it is evident that not all of the rules are capable of application in all places and at all times.** They should, however, serve to stimulate a constant endeavor to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.

2. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of these rules as a whole. **It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.**<sup>36</sup>

These preliminary observations allow us to characterize the measures that this Court has undertaken for the temporary and permanent release of PDLs, as well as the practices introduced by the officials of the BJMP, under the Department of the Interior and Local Government (DILG), and the BuCor, under the DOJ,<sup>37</sup> as part of our country's compliance with United

<sup>35</sup> On 17 December 2015, the United Nations' General Assembly, in A/Res/70/175, approved the recommendation of the Expert Group that the Rules should be known as "the Nelson Mandela Rules," to honor the legacy of the late President of South Africa, Nelson Rolihlahla Mandela, who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and the promotion of a culture of peace.

<sup>36</sup> <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> (last accessed 10 July 2020).

<sup>37</sup> The DOJ has also initiated the same response in the Bureau of Immigration (BI) which reported on 14 May 2020 that its 75 personnel and 84 foreign detainees in Camp Bagong Diwa have all tested negative for COVID-19. The 84 out of 400 detainees were tested because they are at greater risk of contracting COVID-19. They are either senior citizens or have underlying medical conditions. All detainees are required to sanitize. The BI detention facility undergoes "rigorous cleaning and continuous

Nations standards and as part of our country's response in catering to the needs of PDLs brought about by COVID-19.<sup>38</sup> Section 4(a) of RA 10575, or The Bureau of Corrections Act of 2013, expressly states that "the safekeeping of inmates shall include decent provision of quarters, food, water, and clothing in compliance with United Nations standards."

The BJMP and the BuCor have prohibited jail visits since March 2020 to minimize PDLs' exposure to the COVID-19 virus.<sup>39</sup> They have also implemented a "no *paabot*" policy prohibiting bringing food and other personal items into the detention facilities and penal institutions.<sup>40</sup> Aside from information campaigns involving both personnel and PDLs,<sup>41</sup> there have been activities such as distribution of vitamins to personnel<sup>42</sup> and PDLs,<sup>43</sup> production of face masks,<sup>44</sup> and distribution of sanitation and disinfection materials.<sup>45</sup> PDLs are also given the means for electronic money transfer<sup>46</sup> and for video calls (*e-dalaw*).<sup>47</sup>

Measures put in place for addressing tuberculosis in Philippine detention facilities have been replicated to address probable COVID-19 cases. These measures include conducting infection control protocols (proper entry screening<sup>48</sup> and mass screenings inside detention facilities), creating isolation units for infected patients to halt further spread of the disease,<sup>49</sup> and installing quarantine areas for discharged patients.<sup>50</sup> Medical practitioners assigned to detention facilities and penal institutions have been identified.<sup>51</sup> PDLs who are sick, especially those who have fever, cough, and

disinfection." Visits have been temporarily prohibited.  
<https://tribune.net.ph/index.php/2020/05/14/foreign-inmates-bi-personnel-negative-of-covid-19/> (last accessed 06 July 2020).

<sup>38</sup> From the verified reports of the BJMP and BuCor submitted by the OSG as annexes to its Comment. Annex A – Verified Report, BJMP, pp. 17-18; Annex C – Verified Report, BJMP, pp. 2-7, 13, 17.

<sup>39</sup> Annex E – Verified Report, BJMP, pp. 1-2; Annex E – Compendium of Policies, BuCor, p. 7.

<sup>40</sup> Annex E – Compendium of Policies, BuCor, p. 24.

<sup>41</sup> Annex B – Verified Report, BJMP, p. 4; Annex A – Management of CIW, BuCor, pp. 91-10; Annex B – Management in the NBP, BuCor, pp. 5-6; Annex C – Best Practices, BuCor.

<sup>42</sup> Annex B – Verified Report, BJMP, pp. 3-4; Annex C – Verified Report, BJMP, p. 2; Annex D – Verified Report, BJMP, p. 1; Annex E – Verified Report, BJMP, p. 4; Annex B – Management in the NBP, BuCor, pp. 1-2.

<sup>43</sup> Annex B – Verified Report, BJMP, p. 6; Annex D – Verified Report, BJMP, p. 7; Annex E – Verified Report, BJMP, p. 6; Annex B – Management in the NBP, BuCor, pp. 7-8.

<sup>44</sup> Annex C – Verified Report, BJMP, p. 14; Annex A – Management of CIW, BuCor, pp. 11-15.

<sup>45</sup> Annex B – Verified Report, BJMP, p. 7; Annex C – Verified Report, BJMP, pp. 12-13; Annex D – Verified Report, BJMP, pp. 2, 7.

<sup>46</sup> Annex A – Verified Report, BJMP, pp. 8-9, 20; Annex B – Verified Report, BJMP, pp. 11-12; Annex D – Verified Report, BJMP, p. 12; Annex E – Verified Report, BJMP, p. 10.

<sup>47</sup> Annex A – Verified Report, BJMP, p. 7; Annex C – Verified Report, BJMP, p. 14; Annex D – Verified Report, BJMP, p. 10; Annex E – Verified Report, BJMP, p. 10.

<sup>48</sup> Annex B – Verified Report, BJMP, p. 14; Annex C – Verified Report, BJMP, pp. 14-16; Annex D – Verified Report, BJMP, pp. 12-13; Annex E – Verified Report, BJMP, p. 15; Annex A – Management of CIW, BuCor, pp. 3-8; Annex B – Management in the NBP, BuCor, pp. 3-4, 9-22.

<sup>49</sup> Annex A – Verified Report, BJMP, pp. 9-15; Annex B – Verified Report, BJMP, p. 31; Annex C – Verified Report, BJMP, pp. 17-20; Annex E – Verified Report, BJMP, pp. 11-13; Annex F – Verified Report, BJMP; Annex D – Isolation Practices, BuCor.

<sup>50</sup> Annex A – Management of CIW, BuCor, pp. 1-3.

<sup>51</sup> Annex G – Verified Report, BJMP.

colds, undergo medical consultations at the designated isolation areas.<sup>52</sup> The PDLs who tested positive in the CIW have been admitted to the Mandaluyong City Medical Center and the National Kidney and Transplant Institute.<sup>53</sup> Psycho-social activities,<sup>54</sup> including psychotherapy,<sup>55</sup> are continuously conducted.

Petitioners also enumerated the countries that released PDLs because of the fear of the spread of COVID-19 infections. We would like to point out that the release of PDLs who are similarly situated to petitioners in terms of age and health should be done with extreme caution. Utmost prudence in releasing PDLs with health issues and senior citizens is justified as their release may further endanger their health.<sup>56</sup> Petitioners, however, did not show whether they will be in a better physical environment, or be better protected, upon gaining their temporary freedom. Petitioners did not even inform this Court of the COVID-19 situation in the areas they propose to stay during their temporary release.

Moreover, the countries<sup>57</sup> that released PDLs followed a stringent set of criteria in determining who may be released, such as the kind of cases filed, the length of the sentence served, and a plan for release. Only a few of these countries have released their political prisoners. Iran granted leave to thousands of PDLs, including political prisoners, sometime in March and extended this leave until 20 May 2020.<sup>58</sup> The grant was based allegedly on dubious terms of good behavior and payment of exorbitant bail. As a result, several prisoners have since returned to prison despite the extension.<sup>59</sup> Egypt released four women who were accused of “inciting a protest,” “disseminating false information,” and “possession of material disseminating false information” after payment of bail. Egypt also released 15 politicians and activists who had been “arbitrarily detained” for months.<sup>60</sup> Some of Egypt’s political prisoners who remain in detention have been tested for COVID-19.<sup>61</sup> However, tens of thousands remain in prison for peacefully exercising their rights to freedom of expression, protest, and

<sup>52</sup> Annex A – Verified Report, BJMP, pp. 7, 20; Annex B – Verified Report, BJMP, p. 11; Annex A – Verified Report, BJMP, pp. 14-16; Annex A – Management of CIW, BuCor, pp. 16-17.

<sup>53</sup> Annex A – Management of CIW, BuCor, p. 1.

<sup>54</sup> Annex C – Verified Report, BJMP, pp. 9-12; Annex D – Verified Report, BJMP, pp. 9-11; Annex E – Verified Report, BJMP, p. 8.

<sup>55</sup> Annex A – Verified Report, BJMP, p. 7; Annex B – Verified Report, BJMP, pp. 5, 9.

<sup>56</sup> See the Written Ministerial Statement for Northern Ireland, <https://www.justice-ni.gov.uk/news/covid-19-temporary-release-prisoners-scheme> (last accessed 06 July 2020).

<sup>57</sup> The petitioners mentioned the United States, Canada, Germany, Ethiopia, India, Indonesia, England, Ireland and Wales, Iran, Sri Lanka, and Egypt. Petition, p. 4. Apart from the countries mentioned in the Petition, news reports say that these countries also released PDLs due to COVID-19: Afghanistan, Morocco, and Myanmar. <https://www.rappler.com/newsbreak/iq/257267-list-countries-release-prisoners-over-coronavirus-fears> (last accessed 06 July 2020)

<sup>58</sup> <https://www.voanews.com/middle-east/voa-news-iran/iran-extends-prisoner-furloughs-amid-covid-threat>

(last accessed 06 July 2020); <https://www.france24.com/en/20200419-iranian-president-says-prisoner-leave-to-be-extended> (last accessed 06 July 2020).

<sup>59</sup> <https://www.washingtonpost.com/opinions/2020/04/23/why-irans-coronavirus-pandemic-is-also-crisis-human-rights/> (last accessed 06 July 2020).

assembly.<sup>62</sup> The crimes for which Egypt's political prisoners are indicted sharply contrast with those of petitioners.

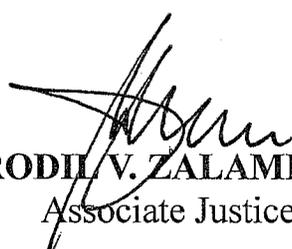
*A Final Word*

The situation that the world faces is unprecedented. These are challenging times, but the Judiciary has been equal to the task, albeit with the recognition that there is still much to be done. While the health crisis persists, the Judiciary, along with the Executive and the Legislative branches, need to re-visit their policies, re-calibrate their actions, and promptly react to the emerging needs of the times.

Still, the Court cannot act contrary to, or in excess of, its own authority, no matter how noble the intention. To insist on equity and liberality while forsaking laws, rules, and established procedures is self-defeating. Justice must always be served "according to the mandate of the law."<sup>63</sup> No one benefits from undermining the whole system.

The Judiciary and the Executive have made, and continue to take, the necessary action for both **temporary and permanent release of qualified PDLs**. The pleas of petitioners and of various organizations to decongest and improve the conditions of Philippine jails did not fall on deaf ears. The actions of this Court, the BPP, the BJMP, and the BuCor are testament to the collective recognition that decongestion is a problem needing to be addressed regardless of the existence of a public health emergency. Moreover, the ideals expressed in international instruments on the treatment of prisoners, like the Nelson Mandela Rules, should constantly be taken into account in crafting laws and in the formulation of policies.

In view of the foregoing, I vote to DENY the Petition.

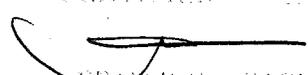
  
**RODIL V. ZALAMEDA**  
Associate Justice

<sup>60</sup> <https://www.amnesty.org/en/latest/news/2020/03/egypt-release-prisoners-of-conscience-and-other-prisoners-at-risk-amid-coronavirus-outbreak/> (last accessed 06 July 2020).

<sup>61</sup> <https://www.middleeasteye.net/news/coronavirus-egypt-tests-political-prisoners-preventive-measure> (last accessed 06 July 2020).

<sup>62</sup> <https://globalvoices.org/2020/04/28/despite-covid-19-no-respite-for-human-rights-crackdowns-in-egypt/> (last accessed on 06 July 2020).

<sup>63</sup> *Gelos v. Court of Appeals*, G.R. No. 86186, 08 May 1992; 284-A Phil. 114-124 (1992); 208 SCRA 608.

  
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National Court