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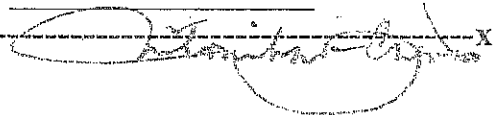
G.R. No. 249027 – NARCISO B. GUINTO (RELEASED AND REARRESTED PRISONER N216P-3611) AND INMATES OF NEW BILIBID PRISON, INCLUDING ROMMEL BALTAR, ESMUNDO MALLILLIN, ALDRIN GALICIA, HENRY ALICNAS, DENMARK JUDERIAL, JUANITO MIÑON, JR., FROMENCIO ENACMAL, BENJAMIN IBAÑEZ, RICKY BAUTISTA, EDDIE KARIM, ALFREDO ROMANO, JR., MARIO SARMIENTO, DANILO MORALES, AND ALEX RIVERA, Petitioners, v. DEPARTMENT OF JUSTICE, BUREAU OF CORRECTIONS, BUREAU OF JAIL MANAGEMENT AND PENOLOGY, AND PHILIPPINE NATIONAL POLICE, Respondents.

G.R. No. 249155 – INMATES OF NEW BILIBID PRISON as represented by RUSSEL A. FUENSALIDA, TOSHING YIU, BENJAMIN D. GALVEZ, CERILO C. OBNIMAGA, URBANO D. MISON, ROLAND A. GAMBA, PABLO Z. PANAGA, and ROMMEL T. DEANG, Petitioners, v. HON. DOJ SECRETARY MENARDO GUEVARRA, HON. DILG SECRETARY EDUARDO AÑO, HON. BUCOR DIRECTOR GENERAL GERALD BANTAG, and HON. BJMP CHIEF ALLAN SULLANO IRAL, Respondents.

Promulgated:

April 3, 2024

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CONCURRING OPINION

GESMUNDO, C.J.:

I concur in the *ponencia* circulated by the esteemed Associate Justice Maria Filomena D. Singh in the above-captioned case. I write this Concurring Opinion to share my perspective on the applicability of the benefits granted by Republic Act No. 10592¹ to convicted offenders, whether recidivists, habitual delinquents, escapees, or those convicted of heinous crimes.

These are two consolidated Petitions for *Certiorari* and Prohibition assailing the validity of the 2019 Revised Implementing Rules and

¹ An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code. Approved on May 29, 2013.



Regulations of Republic Act No. 10592² (2019 IRR) insofar as it excludes persons convicted of heinous crimes from the application of Good Conduct Time Allowance (GCTA). In G.R. No. 249027, Narciso B. Guinto (Released and Rearrested Prisoner N216P-3611) and Inmates of the New Bilibid Prison, including Rommel Baltar, Esmundo Mallillin, Aldrin Galicia, Henry Alicnas, Denmark Juderial, Juanito Miñon, Jr., Fromencio Enacmal, Benjamin Ibañez, Ricky Bautista, Eddie Karim, Alfredo Romano, Jr., Mario Sarmiento, Danilo Morales, and Alex Rivera (Guinto et al.) are inmates of the New Bilibid Prison's Maximum Security Compound who have been convicted of heinous crimes. They contend that persons convicted of heinous crimes are not prevented from earning the benefits of Republic Act No. 10592. The phrase "persons charged with heinous crimes" contemplates only a person who is undergoing preventive imprisonment, not one serving sentence due to his or her conviction. Meanwhile, Inmates of the New Bilibid Prison as represented by Russel A. Fuensalida, Toshing Yiu, Benjamin D. Galvez, Cerilo C. Obnimaga, Urbano D. Mison, Roland A. Gamba, Pablo Z. Panaga, and Rommel T. Deang (Inmates of New Bilibid Prison) in G.R. No. 249155 assert that the 2019 IRR goes beyond the letter of Republic Act No. 10592 and is, thus, invalid.³ Guinto et al. and Inmates of New Bilibid Prison are collectively referred to as petitioners.

The *ponencia* nullified Rule IV, Section 2 and Rule VII, Section 2 of the 2019 IRR of Republic Act No. 10592. It ordered the Department of Justice (DOJ), Bureau of Corrections (BuCor), Bureau of Jail Management and Penology (BJMP), Philippine National Police, DOJ Secretary Menardo Guevarra, Department of Interior and Local Government Secretary Eduardo Año, BuCor Director General Gerald Bantag, and BJMP Chief Allan Sullano Iral (collectively, respondents) to compute the GCTA of petitioners in accordance with its ruling. The *ponencia* held that persons convicted of heinous crimes are not excluded from the benefits granted under Republic Act No. 10592. It elucidated that Section 3 of Republic Act No. 10592, which amended Article 97 of the Revised Penal Code, used the coordinating conjunction "or" to join two independent clauses. It further noted that "or" is used to express alternative ideas. It concluded that the use of comma (",") and "or" separates the two categories entitled to GCTA, which are: (1) any offender qualified for credit for preventive imprisonment, pursuant to Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail. Citing Associate Justice Alfredo

² Issued on September 16, 2019.

³ *Ponencia*, pp. 2-6.

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Benjamin S. Caguioa, the *ponencia* illustrated the effects of Article 97 of the Revised Penal Code, as amended by Republic Act No. 10592.⁴

Accordingly, the *ponencia* declared Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 (insofar as it disqualifies persons deprived of liberty [PDLs] who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592) of the 2019 IRR as invalid and against Republic Act No. 10592 and the Constitution. It noted that, prior to Section 3 of Republic Act No. 10592's amendment to Article 97 of the Revised Penal Code, Article 97 did not contain any qualification as to the applicability of the GCTA. Rather, this limitation is found in Article 94. As the *ponencia* previously elucidated, in using the connecting conjunction "or," Article 97 granted the benefits of Republic Act No. 10592 to (1) any offender qualified for credit imprisonment pursuant to Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail. Thus, the *ponencia* declared that the DOJ exceeded the scope of its legislative power by including Rule IV, Section 2 and Rule VII, Section 2 in the 2019 IRR, thereby excluding recidivists, habitual delinquents, escapees, and PDLs convicted of heinous crimes from earning GCTA credits during the service of their sentence despite Republic Act No. 10592 itself not doing so.⁵

The *ponencia*, thus, concluded that the following may earn GCTA credits:

1. Those offenders who are not recidivists, habitual delinquents, escapees, and charged with heinous crimes under Article 29 of the Revised Penal Code, as amended by Republic Act No. 10592; and
2. Those offenders who are already convicted, regardless if they are recidivists, habitual delinquent, escapees, or convicted of heinous crimes, so long as they are in any penal institution, rehabilitation or detention center, or any local jail pursuant to Article 97 of the Revised Penal Code, as amended by Republic Act No. 10592.⁶

⁴ *Id.* at 16.

⁵ *Id.* at 17-20.

⁶ *Id.* at 20.

Citing the observations of Associate Justice Rodil V. Zalameda during the deliberations, the *ponencia* further held that the last paragraph of Rule XIII, Section 1 of the 2019 IRR, insofar as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592, should likewise be nullified. This is because Article 97 of the Revised Penal Code, as amended by Republic Act No. 10592, allows any convicted prisoner to be entitled to GCTA as long as the prisoner is in any penal institution, rehabilitation or detention center, or any other local jail.⁷

I fully agree in the *ponencia* and echo the observations of Justice Caguioa that Republic Act No. 10592 does not disqualify recidivists, habitual delinquents, escapees, and persons charged with heinous crimes from earning the benefits granted by Republic Act No. 10592. Thus, Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 (insofar as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592) of the 2019 IRR exceeded the scope of legislative power delegated by Republic Act No. 10592.

Rule IV, Section 2 of the 2019 IRR provides:

RULE IV
GOOD CONDUCT TIME ALLOWANCE (GCTA)

....

Section 2. *GCTA During Service of Sentence.* — The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 10592.

The following shall not be entitled to any GCTA during service of sentence:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL convicted of Heinous Crimes.

Meanwhile, Rule VII, Section 2 of the 2019 IRR reads as follows:

⁷ *Id.* at 20–21.

RULE VII
SPECIAL TIME ALLOWANCE FOR LOYALTY (STAL)

.....

Section 2. *Who are Disqualified.* — The following shall not be entitled to STAL:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL charged or convicted of Heinous Crimes.

On the other hand, Rule XIII, Section 1 of the 2019 IRR provides:

RULE XIII
TRANSITORY AND FINAL PROVISIONS

Section 1. *Transitory Provisions.* — The grant of time allowances to a PDL under RA No. 10592 shall be retroactive in application, provided that such PDL is not disqualified under the said law and these Rules.

However, a disqualified PDL who had been under preventive imprisonment or had commenced the service of his sentence by final judgment prior to the effectivity of RA No. 10592 shall be entitled to CPI and time allowances that had already accrued, and shall continue to be entitled to such time allowances authorized to be granted, in accordance with the applicable provisions of the RPC.

A disqualified PDL under preventive imprisonment or who has commenced the service of his sentence by final judgment after effectivity of RA No. 10592 shall not be entitled to any CPI or Time Allowances.

Meanwhile, Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, which Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 of the 2019 IRR implements, reads as follows:

ARTICLE 97. *Allowance for good conduct.* — The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the period of his sentence[.] (Emphasis supplied)

The use of comma (“,”) and the conjunction “or” separates the two categories entitled to GCTA. Thus, those entitled to GCTA are (1) any offender qualified for credit for preventive imprisonment pursuant to Article

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29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation or detention center, or any other local jail. A plain reading of Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, reveals that there is no qualification to the second category for allowance of GCTA.

On the other hand, Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, states that:

ARTICLE 29. *Period of preventive imprisonment deducted from term of imprisonment.* – Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times of any crime; and
2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall do so in writing with the assistance of a counsel and shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Credit for preventive imprisonment for the penalty of *reclusion perpetua* shall be deducted from thirty (30) years.

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance: Provided, however, That if the accused is absent without justifiable cause at any stage of the trial, the court may motu proprio order the rearrest of the accused: Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.” (Emphasis supplied)

It is evident from the foregoing that the phrase "pursuant to Article 29 of this Code," which contains the exclusion of "recidivists, habitual delinquents, escapees, and persons charged with heinous crimes," qualifies only the first category. It does not qualify the second category of persons entitled to CGTA — any convicted prisoner in any penal institution, rehabilitation, or detention center or any other local jail. Notably, Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, which covers the period of preventive imprisonment deducted from the term of imprisonment, only pertains to preventive imprisonment; and not the imprisonment that constitutes as the service of sentence after a conviction.


It must be pointed out that Article 97 of the Revised Penal Code, prior to its amendment by Section 3 of Republic Act No. 10592, did not contain any qualification as to the applicability of GCTA. It merely stated that "any prisoner in any penal institution" is entitled to deductions in his or her sentence. The limitation of the application of GCTA to only those serving sentence is found in Article 94 of the Revised Penal Code, viz.:

ARTICLE 94. *Partial Extinction of Criminal Liability.* — Criminal liability is extinguished partially:

1. By conditional pardon;
2. By commutation of the sentence; and
3. For good conduct allowances which the culprit may earn while he is serving his sentence.

....

ARTICLE 97. *Allowance for Good Conduct.* — The good conduct of any prisoner in any penal institution shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of his imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
 2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of eight days for each month of good behavior;
 3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
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4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

Republic Act No. 10592, through Section 2 thereof, also amended Article 94 of the Revised Penal Code. It now reads as follows:

ARTICLE 94. *Partial Extinction of Criminal Liability.* – Criminal liability is extinguished partially:

1. By conditional pardon;
2. By commutation of the sentence; and
3. For good conduct allowances which the culprit may earn while he is *undergoing preventive imprisonment* or serving his sentence. (Emphasis supplied)

Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, is plain and unambiguous. Thus, the plain meaning rule or *verba legis* applies:

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. *As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.* This is what is known as the [plain meaning] rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or “speech is the index of intention.” Furthermore, there is the maxim *verba legis non est recedendum*, or “from the words of a statute there should be no departure.”⁸ (Emphasis supplied, citations omitted)

Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, must be given its literal meaning. Accordingly, Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 of the 2019 IRR, which excluded recidivists, habitual delinquents, escapees, and persons charged with heinous crimes from the benefits of GCTA, appear to have exceeded the scope of legislative power granted under Republic Act No. 10592.

Further, resort to the legislative deliberations will not lend support to a contrary position. The legislative deliberations demonstrate the intent behind the amendment of Article 97 of the Revised Penal Code – *to extend GCTA to*

⁸ *Bolos v. Bolos*, 648 Phil. 630, 637 (2010) [Per. J. Mendoza, Second Division].

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those under preventive imprisonment and to allow GCTA for all jails, not only those run by the BuCor. There is nothing in the legislative deliberations that would suggest that the prohibition applicable to those under preventive imprisonment for purposes of GCTA also applies to those already convicted.

The following discussion occurred during the December 14, 2010 Meeting of the Senate Committee on Justice and Human Rights, joint with the Committees on Constitutional Amendments, Revision of Codes and Laws; Youth, Women and Family Relations, and Finance on Senate Bill No. 3064, the precursor bill to Republic Act No. 10592:

THE CHAIRMAN (SEN. ESCUDERO). Our legal teams studied it if I can consolidate the bills on GCTA being made available to all convicts wherever they may be detained and with these two subject matters *na* in writing *'yong hindi n'ya pagsunod* at full credit with GCTA.

Can't you do this by regulation, *iyong* in writing? *Kasi* if you can do that by regulation, GCTA *na lang ang* subject matter *ko eh*. GCTA for purposes of a convict by final judgment—a person convicted by final judgment and GCTA for preventive imprisonment. *'Yon na lang ang* topic *ko*. In writing, *'yong* in writing.

MR. BENITEZ. There is no regulation in the Bureau of Corrections granting GCTA for those under preventive imprisonment.

THE CHAIRMAN (SEN. ESCUDERO). That's why so the bill will just be on GCTA, its recomputation and reconfiguration and *making it available, number one, for preventive imprisonment; and, number two, for all jails*.

Ang tanong ko, 'yong in writing. Article 29 of the Revised Penal Code, “. . . agrees voluntarily in writing to abide by . . .” *Binabaliktad natin eh*. He has to, in writing, say, he is not willing to abide by.

I don't even know why this is a big thing when perhaps by regulation it can be automatically—meaning, ministerially, *i-present sa kanya* in writing *'yon*. *O, pirma ka rito na* you will abide by.

*Sa totoo lang . . . Sa totoo lang, meron bang bilanggo under preventive detention na hindi pipirma r'on?*⁹

⁹ Transcript of Committee Minutes, Discussion and Deliberation of House Bill Nos. 600 and 417 and Senate Bill Nos. 117, 1292, 2317, 1295, and 2374 (Subsidiary Imprisonment and Preventive Imprisonment), Committee on Justice and Human Rights Joint with Committees on Constitutional Amendments, Revision of Codes and Laws; Youth, Women and Family Relations; and Finance, December 14, 2010, pp. 44–46.

It is plain to see from this excerpt that the amendment to the Revised Penal Code was intended only (1) to extend GCTA to those under preventive imprisonment and (2) to allow GCTA for all jails, not only those run by the BuCor.

At this juncture, it is observed that the Court, in the 2016 case of *Cruz III v. Go*,¹⁰ promulgated after the effectivity of Republic Act No. 10592, but before the issuance of the 2019 IRR, ordered the immediate release of Rolito T. Go, therein respondent, who was convicted of murder (a heinous crime under Republic Act No. 7659¹¹), due to the application of Articles 70 and 97 of the Revised Penal Code.

Finally, it is worthy to note that two lawmakers filed House Bill No. 4649 or "An Act Defining Good Conduct and Providing Conditions in the Grant of Good Conduct Time Allowance, Further Amending for the Purpose Article 97 of Act No. 3815, otherwise known as the 'Revised Penal Code,' as Amended by Republic Act No. 10592." House Bill No. 4649, through Section 2, specifically provides that "persons convicted of heinous crimes as defined in Republic Act No. 7659, as amended, known as the Death Penalty Law, are not entitled to the benefits of this Act." House Bill No. 4649 remains pending with the Committee on Justice as of writing. To my mind, this proposed House Bill demonstrates that even members of the Legislature acknowledge that Republic Act No. 10592, as currently worded, does not exclude persons convicted of heinous crimes from the benefits of the current GCTA law.

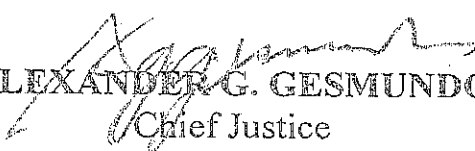
While I do not take lightly the varied concerns on the possible release of offenders convicted of heinous crimes due to this ruling, I am of the mind that this is a policy question which is best addressed to the Legislative Branch. The Court must merely apply the letter of the law, which is, in this case, plain and unambiguous. *Verba legis*.

Applying the foregoing to the instant case, I concur in the grant of the Petitions and the nullification of Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 (insofar as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592) of the 2019 IRR of Republic Act No. 10592.

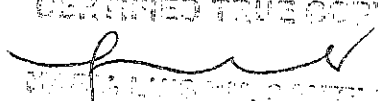
¹⁰ G.R. No. 223446, November 28, 2016 [Notice, Third Division].

¹¹ An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes, December 13, 1993.

ACCORDINGLY, I CONCUR in the *ponencia* and vote to GRANT the Petitions.


ALEXANDER G. GESMUNDO
Chief Justice

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SECRETARY OF THE SUPREME COURT
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