

EN BANC

G.R. No. 249027 – NARCISO B. GUINTO (RELEASED AND REARRESTED PRISONER N216-3611), INMATES OF NEW BILIBID PRISONS INCLUDING ROMMEL BALTAR, ESMUNDO MALILLIN, ALDRIN GALICIA, HENRY ALICNAS, DENMARK JUDERIAL, JUANITO MINO JR., FROMENCIO ENACMAL, BENJAMIN IBANEZ, RICKY BAUTISTA, EDDIE KARIM, ALFREDO ROMANO JR., MARIO SARMIENTO, DANILO MORALES, ALEX RIVERA, Petitioners, v. DEPARTMENT OF JUSTICE, BUREAU OF CORRECTIONS, BUREAU OF JAIL MANAGEMENT AND PENOLOGY, 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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DISSENTING OPINION

LEONEN, J.:

The *ponencia* has exhaustively discussed why Section 2, Rule IV<sup>1</sup>, Section 2, Rule VII<sup>2</sup>, and the last paragraph of Section 1, Rule XIII of the

<sup>1</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule IV GOOD CONDUCT TIME ALLOWANCE (GCTA), sec. 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.

<sup>2</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule VII SPECIAL TIME ALLOWANCE FOR LOYALTY (STAL), sec. 2. Who are disqualified. - The following shall not be entitled to STAL:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and

2019 Revised Implementing Rules and Regulations of Republic Act No. 10592<sup>3</sup> should be nullified for being *ultra vires*.

Nonetheless, it is my position that, to comprehensively and precisely determine who is entitled to and who is excluded from Republic Act No. 10952, all of its sections must be read together, particularly Section 1, amending Article 29 of the Revised Penal Code, and Section 2, amending Article 97 of the same Code.

Deductions for preventive imprisonment from the service of sentence was a statutory privilege in Act No. 2557. This Act gave persons deprived of liberty (PDL) already serving their sentences credit for half of the period they had undergone preventive imprisonment. However, Section 2 of Act No. 2557 excluded certain categories of offenders from availing of this privilege:

SECTION 2. The benefits of this Act shall not apply to:

- (a) Criminals convicted more than once of the same crime or more than twice of any crime.
- (b) Absent offenders who, upon being summoned in legal form, have failed to surrender themselves voluntarily.
- (c) Persons convicted of robo, hurto, and estafa.

When various Philippine penal laws were codified in Act No. 3185, the provisions of Act No. 2557 were incorporated, with modifications, in Article 29:

ARTICLE 29. One-half of the Period of the Preventive Imprisonment Deducted from Term of Imprisonment. — Offenders who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with one-half of the time during which they have undergone preventive imprisonment, except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times of any crime;
2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily;
3. When they have been convicted of robbery, theft, estafa, malversation of public funds, falsification, vagrancy, or prostitution.

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d. PDL charged or convicted of Heinous Crimes.

<sup>3</sup> An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code.

The third category, which pertained specifically to the offense committed by the PDL, was expanded in Act No. 3185 to include malversation of public funds, falsification, vagrancy, or prostitution.

This category was later completely removed from Article 29 by virtue of Section 1 of Republic Act No. 6127, which also added new conditions for its availment:

SECTION 1. Article 29 of the Revised Penal Code is hereby amended to read as follows:

Art. 29. Period of preventive imprisonment deducted from term of imprisonment. — Offenders 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 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 be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Article 29 was again amended by Batas Pambansa Blg. 85, which appended a new last paragraph thereto, with a special exception against the immediate release of those detained under arrest, search and seizure orders (ASSO):

Whenever an accused has undergone preventive imprisonment for a period equal to or more than 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 *unless he is detained by virtue of an arrest, search and seizure order (ASSO)*. 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)

During the Martial Law era, the issuances of ASSOs were generally governed by General Order No. 60, series of 1977, and Letter of Instruction No. 772. Thus, Executive Order No. 214, series of 1987, removed the ASSO

exception from Article 29 while retaining the new paragraph introduced by Batas Pambansa Blg. 85, to wit:

ART. 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 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 be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Whenever an accused has undergone preventive imprisonment for a period equal to or more than 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. 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.

The next major amendment to Article 29 was embodied in Republic Act No. 10592. Section 1 of this Act amended the last paragraph of Article 29 to state that GCTA is included in the computation of preventive imprisonment:

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 ... (Emphasis supplied)*

Finally, Section 1 inserted in the last paragraph of Article 29 the proviso that "recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act." The inclusion of persons charged with heinous crimes in Article 29 marks the first time since Act No. 3185, and to a lesser extent, Batas Pambansa Blg. 85, that the type of offense committed by the PDL was relevant to their entitlement of Article 29's privileges.

In contrast to Article 29, Article 97 of the Revised Penal Code has an abbreviated statutory history. An early version of reducing sentences of convicted PDLs for good conduct in Philippine law was embodied in Act No. 1533. Based on this Act, diminution of time to be served for good conduct and diligent prison labor was available to all PDLs actually serving their sentences, so long as their sentence was more than 30 days and less than life.<sup>4</sup> A later law, Act No. 2489, gave a special dispensation for good conduct for those serving sentences of life imprisonment under certain conditions:

SECTION 5. Prisoners serving sentences of life imprisonment receiving and retaining the classification of penal colonists or trusties will automatically have the sentence of life imprisonment modified to a sentence of thirty years when receiving the executive approval for this classification upon which the regular credit now authorized by law and special credit authorized in the preceding paragraph, for good conduct, may be made.

Sections 1, 2 and 6 of Act No. 1533 were expressly repealed by Act No. 3185.<sup>5</sup> These provisions were superseded by Article 97 of Act No. 3185, which stated:

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
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.

By repealing Section 1 of Act No. 1533 and using the phrase "any prisoner in any penal institution", Article 97 of Act No. 3185 entitled all convicted PDLs to good conduct deductions from their sentences regardless of their sentences' length, or any other qualification.

<sup>4</sup> Act No. 1533, sec. 1 *in rel.* sec. 6.

<sup>5</sup> Act No. 3185, art. 367.

Republic Act No. 10592 marked the most extensive changes to Article 97 since the effectivity of the Revised Penal Code. Article 97, as amended, revised the number of deductible days that may be earned by a PDL for good behavior; permitted PDLs to earn additional days' deductions for study, teaching or mentoring service time rendered; expressly made the PDL's availment of appeal not a disqualifying condition; expanded the whereabouts of convicted PDLs; and inserted the phrase "any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code" to the first paragraph.

To the extent that Section 2 of Republic Act No. 10592 extends GCTA to both convicted PDLs and PDLs who are preventively imprisoned, I agree with the *ponencia* that the first paragraph of Article 92, as amended by Republic Act No. 10592, must be construed in the conjunctive:

Section 3 of R.A. No. 10592 which amended Article 97 of the RPC used the coordinating conjunction "or" which is used to join two (2) independent clauses "[t]he good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code" and or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail[.]" Further, "or is a coordinating conjunction that is used to express alternative ideas. As elucidated by Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) during deliberations, the use of comma "," and the conjunction "or" separates the two (2) categories entitled to GCTA, which are: (1) any offender qualified for credit for preventive imprisonment, pursuant to Article 29 of the RPC, as amended by Section 1 of R.A. No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail.<sup>6</sup>

This interpretation is borne out by the counterpart amendment in Article 29, where, for the purpose of immediate release of a PDL who has already undergone preventive imprisonment equal to the maximum penalty for the offense charged, the computation of preventive imprisonment credit shall be actual time served with any GCTA earned by the PDL. The intent to extend GCTA, which previously was only available to convicted PDLs, to PDLs preventively imprisoned but not yet convicted, is evident.

Yet, the wording of the exclusionary proviso included by Republic Act No. 10592 in the last paragraph of the amended Article 29 must be closely examined:

Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. (Emphasis supplied)

Republic Act No. 10592 used many markers to denote the limited applicability of certain portions.

<sup>6</sup> *Ponencia*, pp. 15-16.

In Section 1, it used "this paragraph" for the computation of preventive imprisonment in the amendments to Article 97:

SECTION 1. Article 29 of Act No. 3815, as amended, otherwise known as the Revised Penal Code, is hereby further amended to read as follows:

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: ... (Emphasis supplied)

Section 4 used "this Article" for the scope of the amended Article 98:

SECTION 4. Article 98 of the same Act is hereby further amended to read as follows:

ART. 98. Special time allowance for loyalty. — A deduction of one fifth of the period of his sentence shall be granted to any prisoner who, having evaded his preventive imprisonment or the service of his sentence under the circumstances mentioned in Article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. A deduction of two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code.

*This Article* shall apply to any prisoner whether undergoing preventive imprisonment or serving sentence. (Emphasis supplied)

Further, Republic Act No. 10592 used "this Code" in reference to the Revised Penal Code in both the amended Articles 97 and 98:

SECTION 3. Article 97 of the same Act is hereby further amended to read as follows:

ART. 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)

SECTION 4. Article 98 of the same Act is hereby further amended to read as follows:

ART. 98. Special time allowance for loyalty. — A deduction of one fifth of the period of his sentence shall be granted to any prisoner who, having evaded his preventive imprisonment or the service of his sentence under the circumstances mentioned in Article 158 of *this Code*, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. A deduction of two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of *this Code*.  
... (Emphases supplied)

Outside the proviso in Article 29, "this Act" in Republic Act No. 10592 is used to refer to Republic Act No. 10592:

SECTION 6. Penal Clause. — Faithful compliance with the provisions of *this Act* is hereby mandated. As such, the penalty of one (1) year imprisonment, a fine of One hundred thousand pesos (P100,000.00) and perpetual disqualification to hold office shall be imposed against any public officer or employee who violates the provisions of *this Act*.

SECTION 7. Implementing Rules and Regulations. — The Secretary of the Department of Justice (DOJ) and the Secretary of the Department of the Interior and Local Government (DILG) shall, within sixty (60) days from the approval of *this Act*, promulgate rules and regulations on the classification system for good conduct and time allowances, as may be necessary, to implement the provisions of *this Act*.

SECTION 9. Repealing Clause. — Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of *this Act* is hereby repealed, modified or amended accordingly.

SECTION 10. Effectivity Clause. — This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) newspapers of general circulation. (Emphases supplied)

Taken together, the conclusion is inescapable that "this Act" as used in the exclusionary proviso of the last paragraph of Article 29 refers to Republic Act No. 10592. This exclusion could not have only been limited to deductions for preventive imprisonment; otherwise, Congress would have used "this



paragraph” or “this Article” as it did elsewhere in the text of Republic Act No. 10592.

Regardless of the intent to include PDLs preventively imprisoned in the availment of GCTA in the amended Article 97, the amendments to Article 29 are clear that recidivists, habitual delinquents, escapees, and persons charged with heinous crimes cannot reduce their time in detention either by crediting their period in preventive imprisonment or good conduct while in detention. These categories of offenders are similarly disqualified from availing of special time allowance for loyalty under Section 4 of Republic Act No. 10592 and cannot have their criminal liability partially extinguished pursuant to Section 2 of Republic Act No. 10592. It is of no moment that Republic Act No. 10592 now excluded these offenders from the application of provisions other than Article 29. As the statutory history of Article 29 itself shows, the legislature may at any time withdraw or extend, or modify the conditions for availment of, these privileges.

As such, the 2019 IRR was issued in excess of rule-making power only insofar that persons *convicted* of heinous crimes were not entitled to GCTA in Rule IV, Section 2; and that Rule VII, Section 2 disqualified PDLs *convicted* of heinous crimes from special time allowance for loyalty. Republic Act No. 10592 expressly excluded persons *charged* with heinous crimes from its coverage, regardless of whether or not they were later *convicted* thereof. Conversely, the 2019 IRR correctly disqualified recidivists, habitual delinquents, and escapees in Rule IV, Section 2; Rule VII, Section 2; and Rule X, Section 1.

Moreover, it bears pointing out that there is an inherent flaw to the GCTA beyond the expansion or diminution of its entitlements. The GCTA is not based on any metric which can gauge if a PDL has indeed been rehabilitated and is no longer a danger to society at large.

Penalty, in relation to criminal law, is understood to be “the suffering that is inflicted by the state for the transgression of the law.”<sup>7</sup> The primary objectives for the imposition of a penalty are prevention, self-defense, exemplarity, and reformation. *Flores-Concepcion v. Castañeda*<sup>8</sup> expounds:

Several theories justify the imposition of a penalty. One theory is that of *prevention*, where the State punishes an offender to prevent or suppress danger to society arising from that person’s criminal act. Similarly, under another theory, that of *self-defense*, the State punishes the offender to protect society from the threat inflicted by the criminal. These two theories underlie the imposition of penalties for attempted or frustrated crimes, as a measure of protection to society against the potential harm that could have been inflicted by the offender.

<sup>7</sup> *Flores-Concepcion v. Castañeda*, A.M. No. RTJ-15-2438, September 15, 2020 [Per J. Leonen, *En Banc*] citing Lorenzo Relova, *Imposition of Penalties: Indeterminate Sentence Law*, 22 ATENEO L.J. 1 (1978).

<sup>8</sup> 884 Phil. 66, 104 (2020) [Per J. Leonen, *En Banc*].

Another set of theories is punitive in nature. The first of these is *exemplarity*, where the imposition of the penalty acts as a deterrent to discourage others from committing the crime. Another theory is *retribution* or retributive justice, where the State punishes the offender as an act of vindication or revenge for the harm done. Finally, there is the theory of *reformation*, or what is now referred to as restorative justice. The State's objective in restorative justice "is not to penalize," but to "engage in a sincere dialogue toward the formulation of a reparation plan. A reparation plan typically includes both monetary reparation and a rehabilitative program" and even community work.<sup>9</sup> (Emphasis in the original, citations omitted)

Under our jurisdiction, the imposition of a criminal penalty is recognized to be largely aimed towards rehabilitation, rather than punitive, as evidenced by the state policy of restorative and compassionate justice.<sup>10</sup> As early as 1933, the Court in *People v. Ducosin*<sup>11</sup> viewed PDLs as individuals and members of society, with the State concerned with "redeeming the individual for economic usefulness and other social ends"<sup>12</sup> while also "protecting the social organization against the criminal acts of destructive individuals."<sup>13</sup>

Restorative justice, as applied in criminal punishments, is defined as "a principle which requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, the offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by activating the offender, the victim and the community in prevention strategies."<sup>14</sup> Thus, restorative justice recognizes the importance of restoring relations within the community by allowing victims to confront their offenders and giving remorseful offenders, who accept responsibility for the acts which led to their incarceration, a chance at rehabilitation and reintegration into society.<sup>15</sup>

This state policy of rehabilitating PDLs is reflected in the objectives stated in the 2019 Revised Implementing Rules and Regulations which read:

<sup>9</sup> *Id.*, citing Lorenzo Relova, *Imposition of Penalties: Indeterminate Sentence Law*, 22 ATENEO L.J. 1 (1978) and Hadar Dancig-Rosenberg & Tali Gal, *Restorative Criminal Justice* 34 CARDOZO LAW REVIEW 2321 (2013).

<sup>10</sup> *Sayre v. Xenos*, 871 Phil. 86, 109–111 (2020) [Per J. Carandang, *En Banc*].

<sup>11</sup> 59 Phil. 109 (1933) [Per J. Butte, *En Banc*].

<sup>12</sup> *Id.* at 118.

<sup>13</sup> *Id.*

<sup>14</sup> Republic Act No. 9344 (2006), sec. 4(q).

<sup>15</sup> *Estacio v. Estacio*, 885 Phil. 157, 180 (2020) [Per J. Leonen, Third Division], citing the United Nations Office on Drugs and Crime, *Handbook on Restorative Justice Programmes*, CRIMINAL JUSTICE HANDBOOK SERIES (2006) 9-11 available at <[https://www.unodc.org/pdf/criminal\\_justice/handbook\\_on\\_Restorative\\_Justice\\_Programmes.pdf](https://www.unodc.org/pdf/criminal_justice/handbook_on_Restorative_Justice_Programmes.pdf)> (last accessed on September 15, 2020).

Section 3. Objectives. - The credit for preventive imprisonment and the grant of increased time allowances for good conduct, including for studying, teaching, and mentoring, and for loyalty, to qualified PDL, seek to:

- a. Redeem and uplift valuable human material towards economic and social usefulness;
- b. Level the field of opportunity to motivate PDL to pursue a productive and law-abiding life;
- c. Implement the state policy of restorative and compassionate justice by promoting reformation and rehabilitation of PDL, strengthening their moral fiber and facilitating their successful reintegration into the mainstream of society; and
- d. Maintain a firm punitive or retributive policy towards certain classes of PDL.

The 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592 defines good conduct as:

[T]he conspicuous and satisfactory behavior of a detention or convicted PDL consisting of, among others, active involvement in development or rehabilitation programs, productive participation in authorized work activities or accomplishment of exemplary deeds coupled with faithful obedience to all prison/ jail rules and regulations, including the non-commission, or non-participation in the commission, of any crime or offense during the period of imprisonment[.]<sup>16</sup>

It is clear from the definition of good conduct that only superficial compliance is needed to qualify for Good Conduct Time Allowance. Complete or sufficient rehabilitation cannot be seen from mere “active involvement in development or rehabilitation programs” or “accomplishment of exemplary deeds coupled with faithful obedience to all prison/jail rules and regulations.”

A rehabilitated PDL who is ready to be reintegrated into mainstream society, should, at the very least, show genuine remorse and assume responsibility for the harm committed on the victims and the community. More importantly though, there must be “a cognitive and emotional transformation and improvement in [the PDL’s] relationship with the community.”<sup>17</sup>

The mechanism provided in the 2019 Revised Implementing Rules and Regulations shows a mere perfunctory compliance with the state policy of rehabilitation of PDLs, as evidenced by the composition and functions of the

<sup>16</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule II, sec. 1(k).

<sup>17</sup> United Nations Office on Drugs and Crime, Handbook on Restorative Justice Programmes (Second Edition). CRIMINAL JUSTICE HANDBOOK SERIES (2020) 7, available at <[https://www.unodc.org/documents/justice-and-prison-reform/20-01146\\_Handbook\\_on\\_Restorative\\_Justice\\_Programmes.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf)> (last accessed on February 9, 2024).

Management, Screening and Evaluation Committee provided for in Rule VIII Sections 1 and 2:

RULE VIII  
MANAGEMENT, SCREENING AND EVALUATION COMMITTEE  
(MSEC)

Section 1. *Creation and Composition.* – The Director General of the BUCOR, the Chief of the BJMP and Wardens of the Provincial Jails shall respectively create an MSEC for each correctional facility. Membership in the MSEC shall not be less than five (5) and may include a representative from the appropriate records office, reformation office or welfare and development office, discipline office, legal/paralegal, Overseer, Probation and Parole Officer, and if available, a psychologist and a social worker.

Section 2. *Functions.* – Each MSEC shall assess, evaluate, and recommend to the Director General of the BUCOR, the Chief of the BJMP and Wardens of the Provincial, District, City and Municipal Jails, as the case may be, the recognition of CPI and the grant of GCTA, TASTM, or STAL to a qualified PDL.

The Management, Screening and Evaluation Committee, which is tasked to “assess, evaluate and recommend” the PDLs who qualify for time credit is composed of representatives from “the appropriate records office, reformation office or welfare and development office, discipline office, legal/paralegal, Overseer, Probation and Parole Officer, *and if available, a psychologist and social worker.*”<sup>18</sup>

The very composition of the Management, Screening and Evaluation Committee shows its mere lip service to the state policy of restorative justice because the optional inclusion of a psychologist or social worker proves that the genuine rehabilitation of PDLs, as confirmed by professionals, is not the primary consideration for the entitlement to a time credit. As it is, who may avail of time credits or time allowances is mainly reliant on the perception of the relevant correctional officers, leading to arbitrariness and potential abuses of the system.


The lack of quantifiable standards backed by behavioral science lead to a very real danger that PDLs convicted of heinous crimes or crimes that are manifestly wicked and vicious, making them “repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society,”<sup>19</sup> are allowed to reintegrate into society even if they have not undergone meaningful rehabilitation, which would have given them a better chance at a productive and law-abiding life.

<sup>18</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule VIII, sec. 1.

<sup>19</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule II, sec. 1(n).

This gap should not be seen by our correctional officers as license to be lenient in their assessment of PDLs vis-à-vis recommendations for time credits. As a privilege, the allowance of time credits should be strictly implemented because while the 2019 Revised Implementing Rules and Regulations aims to “redeem and uplift valuable human material towards economic and social usefulness,”<sup>20</sup> it also recognizes that there is a need to “maintain a firm punitive or retributive policy towards certain classes of PDL.”<sup>21</sup>

**ACCORDINGLY**, I vote to **DENY** the petitions



**MARVIC M.V.F LEONEN**  
Senior Associate Justice

**CERTIFIED TRUE COPY**

**MARIA LUISA M. SANTILLA**  
Deputy Clerk of Court  
OCC-En Banc, Supreme Court

<sup>20</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule I, sec. 3(a).

<sup>21</sup> Department of Justice and Department of Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule I, sec. 3(d).