



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. No. 20192

**FOR: Violation of Section 3(e)
of Republic Act No. 3019**

– versus –

Present:
LAGOS, J., Chairperson
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.

GEN. CESAR P. NAZARENO, et. al.
Accused,

Promulgated:
November 19, 2018 *fel*

X-----X

RESOLUTION

LAGOS, J.:

For resolution is an “*Ex-parte Urgent Petition for Hospital/House Confinement as Compassionate Release on Medical Health Ground (Old and Infirm) and, Mitigation of Penalty Based on Voluntary Surrender with Advanced Old Age*”¹, filed on October 26, 2018 by PNP Sr. Supt. Salvador

¹ Records, Criminal Case No. 20192, pp.485-515

M/H

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C. Duran, Sr. (Ret.)², one of the four(4) accused³ charged, tried and convicted by this Court in its January 19, 2009 *Decision* of the crime of violation of Section 3(e) of R. A. 3019. On separate petitions for certiorari by the accused, the judgment of conviction rendered by this Court was affirmed by the Supreme Court in its *Decision*⁴ on February 14, 2011 and their motions for reconsideration having been denied with **Finality** on October 22, 2014, the same had become final and executory on June 29, 2015. **Entry of Judgment** was accordingly recorded in the book of entries of judgment of the Supreme Court.

Alleging that he is a veteran having served the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP; a patient of Veteran Memorial Medical Center (VMMC) since 2017 for various complicated illnesses coupled with advanced old age at 71 years and eight(8) months old, and; presently, an inmate at the NBI Detention, Taft Ave., Manila, after his voluntary surrender to the arresting agents at his residence on October 15, 2018 upon his arrival from the VMMC for his usual medical evaluation for his illnesses, treatments and medications, Sr. Superintendent Salvador C. Duran, Sr. (Ret.) prays in his *ex-parte* urgent petition that: (a) he be granted hospital/house confinement as compassionate release for humanitarian consideration on the ground of deteriorating medical health aggravated by advanced old age; (b) he be granted diminution of penalty from ten (10) years to *prision correccional* in its entirety [6 months and one (1) day to six(6) years] on the basis of voluntary surrender with his sickly and advanced old age, or as the Honorable Court may grant; and (c) he be allowed to proceed to VMMC upon the latter's previous advice for admission.

In support of his plea for hospital/house confinement, citing the concept of compassionate release⁵, and that he be allowed to proceed to VMMC upon the latter's previous advice for admission, Sr. Supt. Salvador C. Duran Sr.(Ret.) who was arrested by the NBI on October 15, 2018 at his residence, claims that:

² The name Salvador C. Duran, Sr. appeared as accused in the *Information* dated January 26, 1994 using the suffix "Sr." after the family name "Duran" as well as in the *Decision* of the Sandiganbayan, *Minute Resolutions* and *Decision* of the Supreme Court, *Warrant of Arrest*, and all records of the case. However, in the instant *Ex-parte* Urgent Petition, Salvador C. Duran, Jr. appeared as petitioner using the suffix "Jr." after the family name "Duran". Advertently or inadvertently, for all intents and purposes, Salvador C. Duran, Sr. and Salvador C. Duran, Jr. are one and the same person named as accused in Criminal Case No. 20192.

³ PNP Superintendent Van D. Luspo, Superintendent Arturo B. Montano, C/Insp. Salvador C. Duran, Sr. and supplier Margarita Tugaoen

⁴ J. Nachura, *ponente*, Records, Criminal Case No. 201192, pp.154-196

⁵ Petitioner Duran, Sr. invokes the concept of "*compassion release*", citing as source, Amicus International, without detailed citations, which he describes as a process by which inmates in criminal justice system may be eligible for immediate early release of "particularly extraordinary or compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing"; that it is not based on prisoner's behavior or sentencing, but on medical or humanitarian changes in the prisoner's situation.

N/A

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1. He is suffering from several illnesses causing him physical deterioration, losing his full power of locomotion, limited motor balance and frequent mental lapses. Because of the gravity of his ailments, his continued prison confinement might permanently impair his health or put his life in danger;
2. His medical records (*i.e.*, Medical Abstract, Medical Certificate, Medical Evaluation and Medication, all dated 16 October 2018, attached to his ex-parte urgent petition),⁶ issued by the VMMC where he is a patient since December 2017 on regular follow-up consult at its Medical Out-Patient Department, Cardiac Clinic and Medical Ambulatory Care Center, show that he is currently managed as a case of Heart Failure Secondary to Hypertensive, Atherosclerotic Cardiovascular Disease ACC/AHA stage B, Diabetes Mellitus type 2, Hypertension, to consider Benign Prostatic Hyperplasia and Osteoarthritis;⁷
3. Being of advanced old age at 71 years and 8 months, having been born on 19 April 1947, adds up to his frail medical condition, and by all indications, he has very short time to live. Incarceration would be dangerous to him as it would cause his life so as to offend the principle of fundamental justice, thus lessens his life expectancy. Prison could not provide the appropriate care for sickly and elderly which the VMMC is actually giving him, thus, he seeks compassion to have the VMMC as his life support;
4. His incarceration at the NBI will clearly hasten his demise, hence, he seeks the Honorable Court for leniency and commiseration to alleviate his distress by possibly granting him hospital/house confinement to be able to have the benefit of free care from the VMMC, which care was denied of him by his incarceration.

⁶ Annexes "3" to "5", *Ex-parte* Urgent Petition, Records, Criminal Case 20192, pp. 485-515

⁷ Petitioner Duran, Sr.'s current medications, as per his Medical Abstract, include metoprolol 100mg/tab (1tab one a day), amlodipine 5mg/tab (1tab once a day), metformin 500mg/tab, (2tabs twice a day), gliclazide 80mg/tab (1tab once a day), clopidogrel 75 mg/tab (1tab once a day), atorvastatin 40mg/tab (1tab once a day)

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5. It is assured that he is not a flight risk as his various illnesses and advanced old age finds him in extreme pain and discomfort by any means of transport.

Accused Duran Sr. further claims that with his voluntary surrender on October 15, 2018 and advanced old age of over 70 years, he clamors and prays for the mitigation of his penalty requesting diminution of the ten (10) year period to *prision correccional* in its entirety of six(6) months and one (1) day to six(6) years, or as the Honorable Court may grant; that under the Revised Penal Code, one of the circumstances that may mitigate criminal liability is when the offender is under eighteen (18) years of age or over seventy (70) years; that any convict who is not a habitual criminal shall be pardoned at age seventy (70).

The prosecution filed its "*Opposition to the Ex-Parte Urgent Petition for Hospital/House Confinement, etc.*"⁸ on November 12, 2018, arguing, on the main, that this kind of motion should contain a notice of hearing, and not *ex-parte*, thus, absent such notice, it should be considered a mere scrap of paper; that there was no voluntary surrender of accused Duran Sr. as he surrendered only after the warrant of arrest was served upon him when he arrived from the Veterans Memorial Medical Center on October 15, 2018; that voluntary surrender as a mitigating circumstance, accused Duran Sr. should have surrendered voluntarily even before trial had commenced.

A brief background of the case is in order to put the *ex-parte* urgent petition in its proper perspective.

It appears from the records that Sr. Supt. Salvador C. Duran, Sr. together with three(3) other accused⁹ in Criminal Case No. 20192, were charged, tried and convicted by this Court in its *Decision*, dated January 19, 2009, of the crime of violation of Section 3(e) of R. A. 3019 for causing the preparation, issuance, release and payment, without supporting documents, of Php 10 Million (in 100 checks at Php 100,000.00 each) to four (4) trading enterprises¹⁰ owned by accused Margarita B. Tugaoen, purportedly for the purchase of combat, clothing and individual equipment (CCIE) for the use of North Capital Command (CAPCOM) personnel, to which no actual delivery of said CCIE were effected by the accused supplier Tugaoen thereby giving unwarranted benefits to the latter accused, to the damage and prejudice of the Philippine government in the total amount of Php 10 Million.

⁸ Records, Criminal Case No. 20192, pp.516-519

⁹ PNP Superintendent Van D. Luspo, Superintendent Arturo B. Montano, all of the PNP, and supplier Margarita Tugaoen

¹⁰ Di-Ben Trading, MT Enterprises, J-Mos Enterprises, and Triple 888 Enterprises

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A total of six (6) were named by the prosecution as accused in the *Information*, dated January 26, 1994, for violation of Section 3(e) of R. A. 3019, namely: PNP Director General Cesar P. Nazareno, Director Guillermo T. Domondon, Superintendent Van D. Luspo, Superintendent Arturo B. Montano, C/Insp. Salvador C. Duran, Sr., all of the PNP, and supplier Margarita Tugaoen. After trial, out of the six(6) named-accused, four(4) were convicted by this Court (Montano, Luspo, Duran, Sr. and Tugaoen) while the criminal case against Nazareno was earlier dismissed on March 20, 2007 *Resolution* of this Court due to his death and Domondon, on the other hand, was acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt. The dispositive portion of the January 19, 2009 *Decision* of this Court reads, as follows:

“WHEREFORE, in light of all the foregoing, the Court finds accused VAN D. LUSPO, ARTURO H. MONTANO, SALVADOR C. DURAN, SR. and MARGARITA D. TUGAOEN, GUILTY beyond reasonable doubt of the offense of Violation of Section 3(e) of Republic Act No. 3019, and, after applying the Indeterminate Sentence Law, there being no aggravating or mitigating circumstance, hereby sentences each of them to suffer the penalty of imprisonment ranging from six(6) years and one (1) month as minimum to ten (10) years as maximum, and to indemnify the Philippine National Police or the government jointly or severally in the amount of Ten Million Pesos (Php 10 Million).

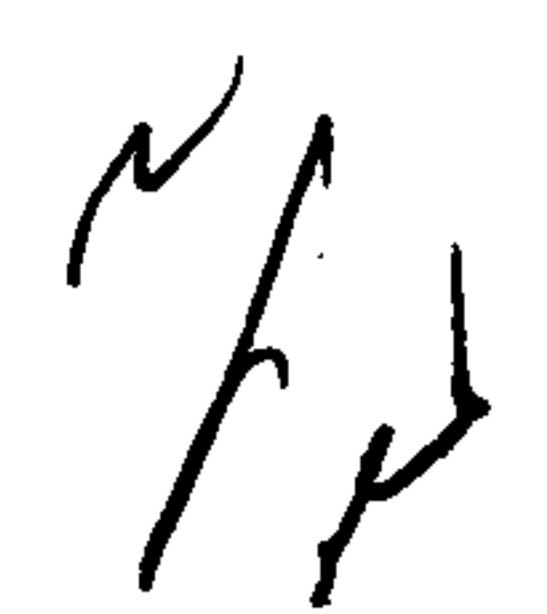
“Accused Luspo, Montano and Duran, Sr., being public officers, are henceforth perpetually disqualified from holding public office.

“The guilt of accused, GUILLERMO T. DOMONDON, not having been proven beyond reasonable doubt, he is hereby ACQUITTED of the same charge. (The case against accused, Cesar P. Nazareno, has earlier been dismissed in a Resolution dated March 20, 2007 due to his death). Accordingly, let the bond of accused Domondon posted for his provisional liberty be released to him, subject to the usual accounting and auditing procedures of this Court.

“The Hold Departure Order dated October 28, 2004, issued against accused Domondon is hereby lifted and set aside.

“SO ORDERED.”

Accused Duran, Sr., for his part, elevated the judgment of conviction against him to the Supreme Court via a petition for certiorari, docketed as G.R. No. 188556. Earlier, or on July 14, 2009, accused Luspo filed his petition for certiorari, docketed as G.R. No. 118487, while accused Montano and Tugaoen filed a joint petition for certiorari on July 21, 2009, docketed as G.R. No. 188541. Assailing the same January 19, 2007 *Decision* of the Sandiganbayan, all three(3) petitions were consolidated by the Supreme Court in its *Resolution* dated August 19, 2009.



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The Supreme Court, acting on the three(3) consolidated petitions after appropriate pleadings were filed by the parties, promulgated a *Decision* on February 14, 2011 affirming the conviction of Salvador C. Duran Sr., Arturo H. Montano, and Margarita D. Tugaoen in Sandiganbayan Criminal Case No. 20192. The conviction of Van Luspo was reversed and set aside and, accordingly, he was acquitted and his bailbond posted for his provisional liberty cancelled. Salvador C. Duran Sr., Arturo H. Montano, and Margarita D. Tugaoen were further ordered to jointly and severally indemnify the Philippine National Police of Ten Million Pesos (Php10 Million).

Accused Duran. Sr. filed his separate motion for reconsideration while Montano and Tugaoen filed their joint motion for reconsideration, but the said motions were denied with FINALITY in the *Resolution* dated October 22, 2014.

Entry of Judgment was thereafter recorded after the assailed January 19, 2009 *Decision* of the Sandiganbayan become final and executory on June 29, 2015.

A *warrant of arrest* was thereafter issued by this Court on November 11, 2015 against Salvador C. Duran, Sr., Arturo H. Montano, and Margarita B. Tugaoen.

Accused Salvador C. Duran, Sr. was arrested by the NBI at his residence on October 15, 2018.

Hence, the instant *ex-parte* urgent petition.

Petitioner Duran, Sr., in essence, claims that on account of his advanced old age of over 70 years old and deteriorating medical health condition arising from his several ailments, he prays for hospital/house confinement, as a compassionate release for humanitarian consideration, and diminution of the penalty from 10 years to *prision correccional* in its entirety of six(6) months and one (1) day to six(6) years, considering that his present and continued prison confinement at the NBI might permanently impair his health or put his life in danger.

DISCUSSION AND RULING

We resolved to **DENY** the petition on procedural and substantive grounds.

First, the petition is denied for being procedurally infirm and defective.

Contextually, the *ex-parte urgent* petition filed by accused Duran, Sr. is an application for reliefs from this Court that he be granted hospital/house

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confinement, diminution of penalty from ten (10) years to *prision correccional* in its entirety (6 months and 1 day to 6 years) for reasons of his alleged deteriorating health and advanced old age, and consequently, that he be allowed to proceed to VMMC for admission upon the previous advice of his VMMC doctors. While in its form, it is captioned as an *ex-parte* urgent petition, however, it partakes of the nature of a litigated motion within the contemplation of Rule VII of the Revised Internal Rules of the Sandiganbayan,¹¹ both under the 2002 revised internal rules and the amendments introduced by the 2018 Revised Internal Rules of the Sandiganbayan, and Rule 15 of the 1997 Rules of Civil Procedure¹² which requires the parties to be heard before a ruling on the motion is made by the court as distinguished from an *ex-parte* motion which does not require that the parties be heard, and which the court may act upon without prejudicing the rights of the other party.

Section 1 of Rule VII of the Revised Internal Rules of the Sandiganbayan, both under the 2002 revised internal rules and in the amendments introduced under the 2018 Revised Internal Rules of the Sandiganbayan, sets the general rule that every written motion is deemed a litigated motion and shall be set for hearing by the movant before a ruling on the motion is made by the court, thus:

“SECTION 1. *Motion Day*.- Except for motions which may be acted upon *ex-parte*, all motions shall be scheduled for hearing on a Friday, or if that day is a non-working holiday, on the next working day.

“Motions requiring immediate action may be acted upon on a shorter notice.

“In appealed cases, the provisions of Sec. 3, Rule 49 of the 1997 Rules of Civil Procedure on motions shall apply.”

Section 1 of Rule VII, as amended by the 2018 Revised Internal Rules of the Sandiganbayan reads, as follows:

“SECTION 1. *Motion Day*.- Except for motions which may be acted upon *ex-parte*, all motions shall be scheduled for hearing on a Friday, or if that day is a non-working holiday, on the next working day. However, a

¹¹ The Revised Internal Rules of the Sandiganbayan which took effect on October 1, 2002 was later revised or amended and approved by the Supreme Court in A.M. No. 13-7-05-SB and, as revised or amended, it shall be known and cited as the 2018 Revised Internal Rules of the Sandiganbayan and shall take effect on November 16, 2018 following its publication in two(2) newspaper of general circulation. It was published on October 25, 2018.

¹² Section 1, Rule I of the Revised Internal Rules of the Sandiganbayan, both under the 2002 and 2018 revised internal rules, provides: “ x x x The Rules of Court, resolutions, circulars, and other issuances promulgated by the Supreme Court, insofar as applicable, shall govern all actions and proceedings before the Sandiganbayan.”

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Division may designate for justifiable reason by any other motion day, provided that the parties shall be duly notified thereof.

“In all litigated motions, the movant shall file **proof of service** to the adverse party, pursuant to Section 13 of Rule 13 of the 1997 Rules of Civil Procedure, otherwise the Sandiganbayan may not give due course thereto.[emphasis supplied]

“Motions requiring immediate action may be acted upon on a shorter notice.

“In appealed cases, the provisions of Sec. 3, Rule 49 of the 1997 Rules of Civil Procedure on motions shall apply.”

Rule 15 of the 1997 Rules of Civil Procedure, as amended, which applies in all actions and proceedings before the Sandiganbayan pursuant to Section 2 of Rule I of the Revised Internal Rules of the Sandiganbayan, both under the 2002 and 2018 revised internal rules, expressly provide in Sections 4 and 5 thereof, as follows:

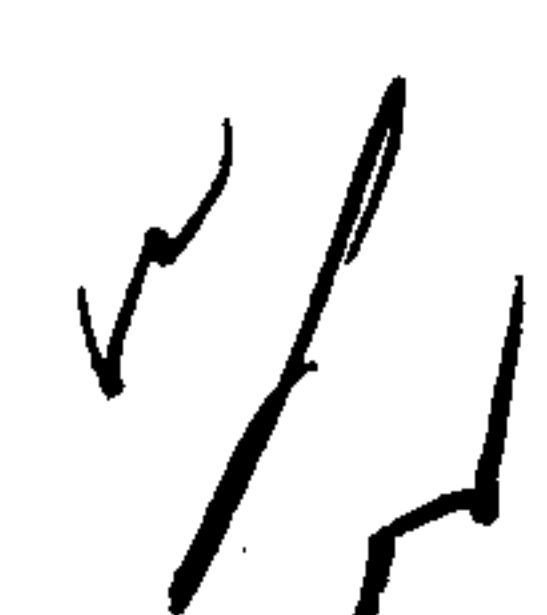
“SEC. 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and **the notice of the hearing** thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SEC. 5. *Notice of hearing.* – The **notice of hearing** shall be addressed to all parties concerned, and **shall specify the time and date of the hearing** which must not be later than ten (10) days after the filing of the motion. [emphasis supplied]

Undoubtedly, the motion, although captioned as *ex-parte* urgent petition, filed by accused Duran, Sr. requires the parties to be heard before a ruling on the motion is made by the court or before his application for reliefs can be acted upon by the court. Accused Duran, Sr. should have set the motion for a hearing as clearly required under Section 1 of Rule VII of Revised Internal Rules of the Sandiganbayan quoted above. Its non-compliance renders it infirm and defective.

Significantly, Section 4 and 5 of Rule 15 of the 1997 Rules of Civil Procedure expressly provide for the requirement of service of *notice of hearing* to the other party at least three (3) days before date of hearing which must not be later than ten (10) days after the filing of the motion. Under the amendments introduced by Section 1 of Rule VII of the 2018 Revised Rules of the Sandiganbayan, the movant is now required to file *proof of service* to the adverse party.



Well settled is the rule that a motion in violation of the requirement of *notice of hearing* is *pro forma* and a mere scrap of paper. It presents no question which the court could decide upon. The court has no reason to consider it; neither the clerk of court has the right to receive the same. Palpably, the motion is nothing but an empty formality deserving no judicial cognizance.¹³

Hence, the motion filed by Duran, Sr. deserves a short shrift and peremptory denial for being procedurally infirm and defective.

Secondly, notwithstanding that the motion, captioned as *ex-parte* urgent petition by accused Duran, Sr., deserves no judicial cognizance by this Court, it must be noted that the substantive grounds raised by accused Duran Sr. in support of his plea for hospital/home confinement on account of his advanced old age at 71 years and 8 months and deteriorating medical health condition are unmeritorious.

By his own allegations in his *ex-parte* urgent petition, contrary to his claim that he is too weak to move, he claims that he is the one accompanying and fetching his young grandchildren to and from school.¹⁴ In fact, accused Duran, Sr. regularly visits the Veterans Memorial Medical Center as a veteran patient for regular consultations, thus belying his claim that he is forgetful, suffering chronic illnesses, pain and extremely ill.¹⁵

Significantly, there exists no law or rule which authorizes the service of sentence of imprisonment of a convict by final judgment by hospital/house confinement, more popularly referred to as “hospital arrest” or “house arrest”. Notably, accused Duran, Sr. was arrested and being detained at the NBI Taft Avenue, Manila as an accused convicted by final judgment. He is not a detention prisoner pending trial of a criminal case. He is supposed to commence the service of his sentence in accordance with the provisions of the Revised Penal Code and other related laws.

The compelling reasons and circumstances which the Sandiganbayan considered in granting hospital arrest in the case of Gloria Macapagal-Arroyo and house arrest in the case of Joseph Ejercito Estrada in the exercise of its discretion are not present in the instant case. Aside from the fact that the grant of the relief by the Sandiganbayan was after due hearing of the parties, both Arroyo and Estrada were detention prisoners pending trial of their respective cases before the Sandiganbayan. They were not detention prisoners by final

¹³ George Pidlip P. Palileo and Jose de la Cruz vs. Planters Development Bank, G.R. No. 193650, October 8, 2014; Vette Industrial Sales vs. Cheng, G.R. No. 1700232-170301, December 5, 2006

¹⁴ See *Ex-parte* Urgent Petition, p. 7, Records, Criminal Case No. 20192, pp. 485-515

¹⁵ *Id.*, p.5

judgment of conviction at the time the reliefs were granted, unlike accused Duran, Sr.

Accused Duran, Sr. has been adjudged as criminally liable by final judgment, and such liability can only be extinguished by the modes listed under Article 89 of the Revised Penal Code¹⁶ which includes, among others, the service of sentence. In the absence of a pardon, he must serve his sentence. The grant of pardon, being a private act of the President of the Philippines, must be pleaded and proved by the person pardoned.¹⁷

On the matter of service of sentence, the penalty for the crime for which accused Duran, Sr. was convicted (*six(6) years and one (1) month as minimum to ten (10) years as maximum*) shall be served pursuant to Article 78 in relation to Article 86 of the Revised Penal Code in the places and penal establishments provided by the Administrative Code in force or which may be provided by law in the future. Articles 78 and 86 of the Revised Penal Code provide, thus:

“Article 78. *When and how a penalty is to be executed.* - No penalty shall be executed except by virtue of a final judgment.

“A penalty shall not be executed in any other form than that prescribed by law, nor with any other circumstances or incidents than those expressly authorized thereby.

“In addition to the provisions of the law, the special regulations prescribed for the government of the institutions in which the penalties are to be suffered shall be observed with regard to the character of the work to be performed, the time of its performance, and other incidents connected therewith, the relations of the convicts among themselves and other persons, the relief which they may receive, and their diet.

“The regulations shall make provision for the separation of the sexes in different institutions, or at least into different departments and also for the correction and reform of the convicts.”

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“Article 86. *Reclusion perpetua, reclusion temporal, prision mayor, prision correccional and arresto mayor.* - The penalties of *reclusion*

¹⁶ Article 89. *How criminal liability is totally extinguished.* - Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.
2. By service of the sentence;
3. By amnesty, which completely extinguishes the penalty and all its effects;
4. By absolute pardon;
5. By prescription of the crime;
6. By prescription of the penalty;
7. By the marriage of the offended woman, as provided in Article 344 of this Code.

¹⁷ Barrioquinto, et. al. vs. Fernandez, G.R. No. L-1278, January 21, 1949, 82 Phil 642

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perpetua, reclusion temporal, prision mayor, prision correccional and arresto mayor, shall be executed and served in the places and penal establishments provided by the Administrative Code in force or which may be provided by law in the future.”

The only instance that the penalty imposed by law may be served in the house of the defendant is when the penalty is *arresto menor* (one day to 30 days) under Article 88 of the Revised Penal Code for reasons of health of the offender, but it is required as a condition that it should be under the surveillance of an officer of the law and it must be so stated in the decision that the accused can serve the sentence in his house. Article 88 of the RPC provides, thus:

“Art. 88. *Arresto Menor*. –The penalty of *arresto menor* shall be served in the municipal jail, or in the **house of the defendant himself** under the surveillance of an officer of the law, when the court so provides in its decision, taking into consideration the health of the offender and other reasons which may seem satisfactory to it.”[emphasis supplied]

Moreover, the reliance of accused Duran, Sr. on the mitigating circumstance that the offender is over 70 years old under Article 13, par. (2) of the Revised Penal Code (RPC) on account of his advanced old age of over 70 years old (he being 71 years and 8 months old) and voluntary surrender under Article 13, par. (7) as grounds for his hospital/house confinement and diminution of his penalty from 10 years, as maximum, to *prision correccional* in its entirety or from six(6) months and one (1) day to six(6) years are misplaced.

The mitigating circumstance that the offender is over 70 years of age under Article 13, par.(2) of the RPC can be taken into account in imposing the penalty of the accused in the decision of the court after trial of the case, and applies only when the offender is 70 years old at the time of the commission of the crime.¹⁸ Here, when the crime was committed in or about August 1992, accused Duran Jr. was only 45 years old, being born on April 19, 1947.¹⁹ Voluntary surrender, on the other hand, as a mitigating circumstance applies only when the accused voluntarily surrenders before trial had commenced against him.

There is no law or rule that authorizes the reduction of the penalty of the accused meted in the decision of the court which had become final and executory and *Entry of Judgment* made thereon on the alleged grounds of voluntary surrender after final judgment of conviction or that the offender is

¹⁸ Jose Reyes y Vacio vs People of the Philippines, G.R. Nos. 177105-06, August 4, 2010, citing *People v. Nacional*, G.R. Nos. 111294-95, 7 September 1995, 248 SCRA 122, 131

¹⁹ See Senior Citizen Card, Annex “2”, *Ex-parte* Urgent Petition, Records, Criminal Case No. 20192, pp, 485-515

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over 70 years old at the time the judgment of conviction became final and executory.

On the execution of final judgment, Section 6 of Rule IX of the 2018 Revised Internal Rules of the Sandiganbayan clearly provides, thus:

“Sec. 6. *Execution of Judgment.*- Immediately after the judgment has become final and executory, if the accused is not detained, the Sandiganbayan shall issue a Warrant of Arrest and order the bondsperson to produce the accused within ten (10) calendar days. If the bondsperson fails to produce the accused as ordered, the Sandiganbayan shall forfeit the bond and order the bondsperson to show cause why judgment shall not be rendered against the bond.

“If the bondsperson fails to justify its failure to produce the accused, the judgment shall be rendered against the bond.

“Upon the arrest, production by the bondsperson or voluntary surrender of the accused, or if the accused is already detained, *mittimus* shall issue to commit the accused for service of sentence. Insofar as civil liability, if any, is concerned, the same shall be executed in accordance with Rule 39 of the 1997 Rules of civil Procedure.”

Considering that the accused Duran, Sr. was arrested by the NBI on October 15, 2018 and now detained at its detention center, a *mittimus* shall issue to commit the accused for service of sentence.

WHEREFORE, in view of the foregoing, accused Salvador C. Duran, Sr.’s *ex-parte* urgent petition for hospital/house confinement is **DENIED** for being procedurally infirm and defective and for lack of merit.

The judgment of conviction having become final and executory on June 29, 2015 and accused Salvador Duran, Sr. was arrested on October 15, 2018 and detained by the NBI, the issuance of *mittimus* is hereby ordered to commit accused Salvador Duran, Sr. for service of sentence.

The National Bureau of Investigation is hereby ordered to **EXPLAIN**, within ten (10) days from receipt, why this Court was not informed of the arrest of accused Salvador C. Duran, Sr. and brought before this Court as soon possible to be dealt with as the law and Rules of Court direct.

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice




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WE CONCUR:


**MARIA THERESA V.
MENDOZA-ARCEGA
Associate Justice**


**MARYANN E.
CORPUS-MAÑALAC,
Associate Justice**

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