

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASES NOS. 26728 to
26733

For: Malversation of Public
Funds through Falsification of
Public Documents and Violation
of Section 3(e) of R.A. No. 3019

- versus -

Present:

QUIROZ, J., Chairperson,
CRUZ, J., and
JACINTO, J.

TEDDY M. PAJARO, ET AL.,
Accused.

Promulgated:

MAY 02 2019

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RESOLUTION

QUIROZ, J.:

For resolution are the *Urgent Motion to Reopen Case for the Recomputation of Penalties Pursuant to Sec. 2 of R.A. No. 10951 and for the Immediate Release of the Accused*¹ dated September 17, 2018 by accused Teddy M. Pajaro (Pajaro) and Crispina P. Aben (Aben), the *Comment*² dated March 7, 2019 of the prosecution, and the *Comment*³ dated April 10, 2019 of the Office of the Solicitor General (OSG).

Accused Pajaro and Aben seek to reopen their cases to recompute their penalties in accordance with Republic Act (R.A.) No. 10951, entitled *An Act Adjusting the Amount or the Value of Property and Damage on*

¹ Records Volume 3, pp. 270-284.

² Id. at 309-312.

³ Id. at 319-325.

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which a Penalty is Based, and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3185, Otherwise Known as "The Revised Penal Code", as Amended and *Hernan v. Sandiganbayan*.⁴ In support thereof, accused Pajaro and Aben allege that they were convicted by this Court in its Decision⁵ dated January 19, 2005 for four (4) counts of Malversation of Public Funds through Falsification of Public Documents and two (2) counts of Violation of Section 3(e) of R.A. No. 3019, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered finding the three accused, Teddy Pajaro, Cirspina Aben, and Flor Libertad guilty beyond reasonable doubt of the offense charged in the six (6) informations and sentencing each of them to suffer the following penalties:

1. In Criminal Case No. 26728 – imprisonment of thirteen (13) years, one (1) month, and eleven (11) days to eighteen (18) years, two (2) months, and twenty-one (21) days of *reclusion temporal*, as minimum and maximum, respectively – and to pay a fine P15,000;
2. In Criminal Case No. 26729 – *reclusion perpetua* – and to pay a fine of P25,000;
3. In Criminal Case No. 26730 – *reclusion perpetua* – and to pay a fine of P24,000;
4. In Criminal Case No. 26731 – imprisonment of eight (8) years, eight (8) months, and one (1) day of *prision mayor* to thirteen (13) years, one (1) month and eleven (11) days of *reclusion temporal* as minimum and maximum, respectively – and to pay a fine of P10,000;
5. In Criminal Case No. 26732 – imprisonment of six (6) years and one (1) month to ten (10) years; and
6. In Criminal Case No. 26733 – imprisonment of six (6) years and one (1) month to ten (10) years.

In the service of the sentence, the duration of their total imprisonment shall not exceed forty (40) years.

The three (3) accused are also sentenced to suffer perpetual special disqualification, and to pay and indemnify, jointly and severally, the government the amounts of P179,000 and P140,000, or a total of P319,000 plus costs.

⁴ G.R. No. 217874, December 5, 2017.

⁵ Records Volume 2, pp. 163-209.

SO ORDERED.⁶

Accused Pajaro and Aben claim that they initially served their sentence at the Bureau of Corrections, New Bilibid Prison (NBP) in Muntinlupa City and the Correctional Institution for Women in Mandaluyong City, respectively, until they were both transferred to the Davao Prison and Penal Farm, Davao Penal Colony, Panabo City, Davao del Norte, where they are currently serving their sentence. Accused Pajaro and Aben contend that, under Article 29 of the Revised Penal Code and the old computation of the NBP, they may be allowed to serve a minimum time of sixteen (16) years, two (2) months, and twenty (20) days with Good Conduct Time Allowance (GCTA).⁷ They aver that as of the filing of their motion, they have respectively served time for eighteen (18) years, six (6) months, and eighteen (18) days and eighteen (18) years, six (6) months, and twenty-eight (28) days with GCTA.⁸ Thus, accused Pajaro and Aben pray for the recomputation of their penalties and, thereafter, for their immediate release from confinement on the ground of their actual completion of their respective sentences.

The prosecution agrees to the recomputation of the penalties imposed upon the accused as modified by the pertinent provisions of R.A. No. 10951 but observes that despite the reduction of the penalty for malversation involving an amount not exceeding Forty Thousand Pesos (PhP40,000.00) to *prision correccional* in its medium and maximum periods, the imposable penalty for falsification of public documents in Criminal Cases Nos. 26728 to 26731 is still *prision mayor* while the penalty for violation of Section 3(e) of R.A. 3019 in Criminal Cases Nos. 26732 to 26733 remains to be six (6) years and one (1) month to ten (10) years. Hence, the prosecution declares that notwithstanding the new penalties, the release of the accused will still entirely depend on whether they have fully served the terms of imprisonment for their crimes.

On the other hand, the Office of the Solicitor General (OSG) argues that the guidelines set by the Supreme Court in *In re: Rolando Elbanbuena y Marfil*⁹ explicitly state that the petition seeking modification of penalties based on the amendments introduced by R.A. 10951, in relation to *Hernan v. Sandiganbayan*, shall be filed with the Regional Trial Court (RTC) exercising territorial jurisdiction over the locality where the petitioner-convict is confined and the same must contain a certified true copy of the

⁶ Id. at 207-208.

⁷ Records Volume 3, pp. 277-278.

⁸ Id. at 280-284.

⁹ G.R. No. 237721, July 31, 2018.

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Decision sought to be modified. Since accused Pajaro and Aben aver that they are serving their sentence at the Davao Prison and Penal Farm, Davao Penal Colony (Dapecol), Panabo City, Davao del Norte and the motion does not contain a certified true copy of the Decision dated January 19, 2005, the OSG prays for the dismissal of the motion of accused Pajaro and Aben for violation of the said guidelines.¹⁰

The Court resolves to deny the motion filed by accused Pajaro and Aben for failure to comply with paragraphs III and IV of the guidelines in *In re: Rolando Elbanbuena y Marfil*.¹¹ As correctly observed by the OSG, the petition for the recomputation of their penalties based on R.A. No. 10951 must be filed with the RTC exercising territorial jurisdiction over the locality where they are confined and must be accompanied by a certified true copy of the Decision sought to be modified. Taking into consideration that accused Pajaro and Aben are presently detained at the Davao Prison and Penal Farm, Davao Penal Colony, Panabo City, Davao del Norte, their present motion, which should actually be a petition, must be filed not with this Court but with the RTC of Panabo City, Davao del Norte with a certified true copy of the Court's Decision attached thereto.

WHEREFORE, in light of the foregoing, the *Urgent Motion to Reopen Case for the Recomputation of Penalties Pursuant to Sec. 2 of R.A. No. 10951 and for the Immediate Release of the Accused* of accused Teddy M. Pajaro and Crispina P. Aben is **DENIED**.

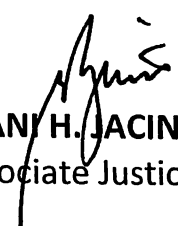
SO ORDERED.


ALEX L. QUIROZ

Chairperson


REYNALDO P. CRUZ

Associate Justice


BAYANI H. JACINTO

Associate Justice

¹⁰ Records Volume 3, pp. 319-325.

¹¹ III. Where to file.

The petition shall be filed with the Regional Trial Court exercising territorial jurisdiction over the locality where the petitioner-convict is confined. The case shall be raffled and referred to the branch to which it is assigned within three (3) days from the filing of the petition.

IV. Pleadings.

(A) Pleadings allowed. - The only pleadings allowed to be filed are the petition and the comment from the OSG. No motions for extension of time, or other dilatory motions for postponement, shall be allowed. The petition must contain a certified true copy of the Decision sought to be modified and, where applicable, the mittimus and/or a certification from the Bureau of Corrections as to the length of the sentence already served by petitioner-convict. (Emphasis supplied.)