



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff,

Criminal Case No. SB-16-
CRM-0187

For: *Violation of Article 177 of
the Revised Penal Code, as
amended.*

- versus -

Present:

NESTOR MALASIG UY
Accused.

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B. J. and
MORENO, J.

Promulgated:

APRIL 5, 2023

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution are [1] accused Nestor Malasig Uy's "*Manifestation and Motion*" dated February 17, 2023,¹ and [2] the prosecution's "*Motion to Admit Attached Comment*" dated March 7, 2023.²

Accused Uy narrates that on November 15, 2022, the Court issued a *Warrant of Arrest* against him pursuant to the

¹ p. 285-286, Vol. II, Record

² *Id.*, at p. 292-294

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Entry of Judgment dated April 18, 2022, issued by the Supreme Court, Second Division. He then voluntarily surrendered to the Gamu Municipal Police Station, Gamu, Isabela, upon learning that he has a standing warrant of arrest in this case; and, that the Municipal Health Office of Gamu issued a medical certificate stating that he was unfit to travel due to illnesses; hence, he remains detained at the Gamu Municipal Jail.³

He prays that he be allowed to serve the sentence imposed on him by the Supreme Court in G.R. No. 248566 entitled "*People of the Philippines v. Nestor Malasig Uy*" at the Isabela Provincial Jail, Alibagu, Ilagan City, Isabela.⁴

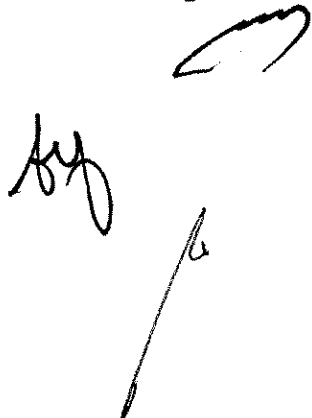
He submits that prisoners sentenced to not more than one (1) year are classified as municipal prisoners; those sentenced to one (1) year and one (1) day to not more than three (3) years are classified as city/provincial prisoners; and, those sentenced to three (3) years and one (1) day and above are classified as national prisoners.

Thus, considering that accused Uy was sentenced by the Supreme Court to suffer the penalty of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year, eight (8) months, and twenty-one (21) days of *prision correccional*, as maximum, he is considered as a provincial prisoner who may serve his sentence at the Provincial Jail.

On March 7, 2023, the prosecution filed a "*Motion to Admit Attached Comment*" of even date wherein it explained that the Court's *Minute Resolution* promulgated on February 20, 2023, was only brought to their attention on the morning of March 7, 2023. Thus, it failed to comply with the period

³ *Id.*, at p. 285

⁴ *Id.*, at p. 286



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given by the Court within which to file its comment/opposition to the accused's subject *motion*.⁵

In its "*Comment (To the Accused's 'Manifestation with Motion' dated February 17, 2023)*" dated March 7, 2023,⁶ the prosecution contends that accused Uy is a "*city prisoner*."⁷ Thus, he should be confined to a city jail managed by the Bureau of Jail Management and Penology (BJMP).⁸

THE RULING OF THE COURT

Before resolving the subject *motion*, the Court **GRANTS** the "*Motion to Admit Attached Comment*" dated March 7, 2023,⁹ filed by the prosecution, and, accordingly, **ADMITS** the said attached *comment*.

After an assessment of the arguments raised by the parties, the Court finds the subject *motion* unmeritorious.

Section 17, Rule II of the 2015 BJMP Comprehensive Operations Manual provides the four (4) main classes of prisoners, to wit:

Section 17. CLASSIFICATION OF PRISONERS – The four (4) main classes of prisoners are:

⁵ *Id.*, at p. 292

⁶ *Id.*, at pp. 295-297

⁷ An individual who is sentenced to a prison term of one (1) day to three (3) years. (Section 17, Rule II, 2015 BJMP Comprehensive Operations Manual)

⁸ *Id.*, at p. 295

⁹ *Id.*, at p. 292-294

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- a. Insular Prisoner – one who is sentenced to a prison term of three (3) years and one (1) day to reclusion perpetua or life imprisonment;
- b. Provincial Prisoner – one who is sentenced to a prison term of six (6) months and one (1) day to three (3) years;
- c. City Prisoner – one who is sentenced to a prison term of one (1) day to three (3) years; and,
- d. Municipal Prisoner – one who is sentenced to a prison term of one (1) day to six (6) months.

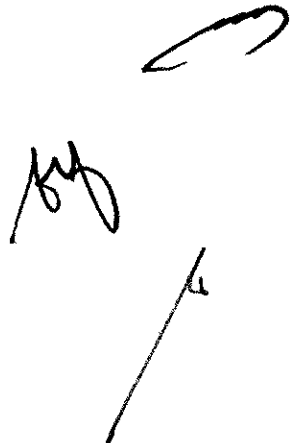
To recall, in ***People of the Philippines v. Nestor Malasig Uy***,¹⁰ Supreme Court affirmed the *Decision* and *Resolution* of this Court dated May 17, 2019, and July 11, 2019, respectively, which found accused Uy guilty beyond reasonable doubt of the crime of *usurpation of official functions* defined and penalized under Article 177 of the Revised Penal Code, as amended. Moreover, it sentenced the said accused to suffer the penalty of ***two (2) months and one (1) day of arresto mayor, as minimum, to one (1) year, eight (8) months, and twenty-one (21) days of prision correccional, as maximum.***¹¹

Plainly, the minimum penalty imposed by the Supreme Court¹² in the above-mentioned case falls short of the required threshold to classify accused Uy as a “*provincial prisoner*” considering that the above-mentioned provision clearly defines a “*provincial prisoner*” as an individual who is sentenced to

¹⁰ G.R. No. 248566, August 4, 2021

¹¹ p. 10, People v. Uy, G.R. No. 248566, August 4, 2021

¹² Two (2) months and one (1) day of *arresto mayor*.

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RESOLUTION

Criminal Case No. SB-16-CRM-0187

People v. Uy

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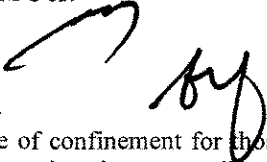
suffer a minimum prison term of six (6) months and one (1) day.

Thus, applying the said provision, the Court holds that accused Uy falls within the definition of a “city prisoner;” thereby, the said accused should serve his sentence in a city jail¹³ or a district jail¹⁴ managed by the BJMP.

WHEREFORE, the Court [1] **GRANTS** the prosecution’s “Motion to Admit Attached Comment” dated March 7, 2023,¹⁵ and **ADMITS** the said attached comment; and, [2] **DENIES** accused Nestor Malasig Uy’s “Manifestation and Motion” dated February 17, 2023,¹⁶ for lack of merit.

Accordingly, the Chief of Police of the Gamu Municipal Police Station in Gamu, Isabela is **DIRECTED** to **DELIVER** the person of accused Nestor Malasig Uy to the Ilagan District Jail in Ilagan City, Isabela within ten (10) days from notice. Likewise, the Police Chief of the Ilagan District Jail is **DIRECTED** to **RECEIVE** the person of accused Nestor Malasig Uy for the service of his sentence. Both the Chiefs of Police of the Gamu Police Station and Ilagan District Jail are **ORDERED** to submit their individual reports on their compliance with these directives within fifteen (15) days from notice.

Let a commitment order be forthwith issued in this case against the said accused.


¹³ City Jail – is a facility or a place of confinement for those inmates who are sentenced with a penalty from one (1) day to three (3) years imprisonment. (Section 12, Rule I, 2015 BJMP Comprehensive Operations Manual)

¹⁴ District Jail – is a facility or a place of confinement for inmates coming from a city or clustered municipalities who are waiting or undergoing trial or serving sentence of one (1) day to three (3) years. (Section 12, Rule I, 2015 BJMP Comprehensive Operations Manual)

¹⁵ *Id.*, at pp. 292-293,

¹⁶ p. 285-286, Vol. II, Record

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SO ORDERED.

Quezon City, Metro Manila.



AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:



BERNELITO R. FERNANDEZ
Associate Justice



RONALD B. MORENO
Associate Justice