



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

**Criminal Case No. SB-07-
CRM-0043**

For: *Violation of Republic Act
No. 7877 (The Anti-Sexual
Harassment Act)*


- versus -

Present:

**JOSE ROMEO C.
ESCANDOR,**

Accused.

CABOTAJE-TANG, P.J.,
Chairperson,
**FERNANDEZ, B.R., J. and
MORENO, R.B., J.**
Promulgated:

JANUARY 12, 2024 

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RESOLUTION


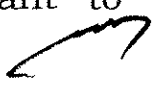

CABOTAJE-TANG, P.J.

This resolves the (1) *Revised Motion to Render Community Service (Pursuant to Republic Act No. 11362)*, filed by accused Jose Romeo C. Escandor, which the Court received on October 5, 2023,¹ and (2) *Comment Re: Revised Motion to Render Community Service*, filed by the prosecution on October 17, 2023.²

In his *Revised Motion*, the accused-movant reiterates his prayer for the Court to grant his application to render community service in lieu of imprisonment pursuant to

¹ pp. 697-710, Volume III, *Record*

² pp. 745-748, Volume III, *Record*

Resolution

Criminal Case No. SB-07-CRM-0043
People vs. Escandor

-2-

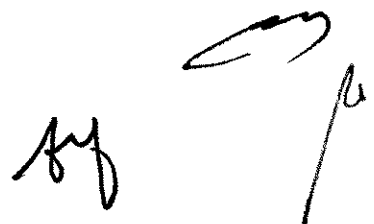
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Republic Act No. 11362, or the Community Service Act, and A.M. No. 20-06-14-SC or the *Guidelines in the Imposition of Community Service as Penalty in lieu of Imprisonment*. The filing of the *Revised Motion* was prompted by the *Resolution* promulgated by the Court on September 13, 2023,³ which denied his initial his application to render community service in lieu of imprisonment for non-compliance with the prescribed requirements for the proper availment of rendering community service, among others.

To support his bid, the accused-movant:

1. Attached to the *Revised Motion*, as Annex "A", a filled out **Form 2 – Application for Community Service** which is prescribed under the *Guidelines in the Imposition of Community Service as Penalty in lieu of Imprisonment*. In this application, the accused-movant stated the standard allegations prescribed by the *Guidelines* such as (a) his personal details, the crime which he was found guilty of, and the penalty imposed on him, (b) an attestation that he has not previously availed of the benefits of the Community Service Act, (c) attestation that he is physically and mentally capable of complying with the conditions of the community service program and the rehabilitative counseling which the Court may impose, and (d) that the application will not depreciate the gravity of the offense for which he was found guilty nor will it cause undue risk that during the period of the community service, the accused-movant will commit another crime.
2. Attached two (2) **Form B – or the Barangay Checklist** prescribed under the *Guidelines*, one containing the details and name of the barangay chairperson of Barangay Lahug, Cebu City (Annex "B"), and another with the details for Barangay Tisa and signed by its barangay chairperson, Renato I. Pacaña (Annex "C").

³ pp. 685-691, Volume III, Record



Resolution

Criminal Case No. SB-07-CRM-0043
People vs. Escandor

-3-

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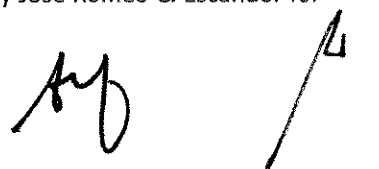
3. He likewise attached two (2) **letters** (Annexes "D" and "E") which he claims to have sent to the chairperson of Barangay Lahug explaining his application for community service as well as his proposal to render such community service within the Office of the Barangay Chairperson, in view of his old age and medical condition. The accused-movant avers that the barangay chairperson of Lahug told him that it was their first time encountering a Sandiganbayan case and that they would not know how to process the request absent an order or endorsement from a court.

As in his initial motion, the accused-movant claims that he is already of advanced age and is suffering from diabetes and asthma which constrain his daily activities due to his need to take maintenance medications three (3) times a day; hence, he is requesting that he be allowed to render community service in Barangay Tisa, his barangay of residence, instead of Barangay Lahug, the barangay where the crime he was convicted of was committed. He likewise requests that he be allowed to serve or work in the Office of the Barangay Captain, instead of performing manual labor as part of his community service due to his old age and medical condition.

Following the filing of his *Revised Motion*, the accused-movant likewise paid the fine imposed by this Court in its *Decision* promulgated on October 17, 2013, in the amount of Twenty Thousand Pesos (Php20,000.00) on September 29, 2023.⁴

In its *Comment*, the prosecution avers that the accused-movant, in his *Revised Motion*, appears to have formally complied with the requirements for an application to render community service with his annexes to the *Revised Motion*. It states that contrary to the accused-movant's allegations in his

⁴ Annex "A", of *Compliance* dated October 2, 2023, p. 717, or a Certified True Copy of Official Receipt No. 3443915 dated September 29, 2023, indicating payment of Php20,000.00 by Jose Romeo C. Escandor for the Court Fine imposed in SB07CRM 0043.



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Revised Motion, the Court could not have required the concerned barangay officer and city social welfare development officer to prepare a program for his community service since he has not submitted in his original motion an application form that was compliant with the *Guidelines* issued by the Supreme Court.

As regards the plea of the accused-movant to render his community service in Barangay Tisa instead of Lahug, which was the place where the crime was committed, the prosecution states that this concern is best determined by the Court since the discretion is given to it under Article 88a of the Community Service Act.

THE RULING OF THE COURT

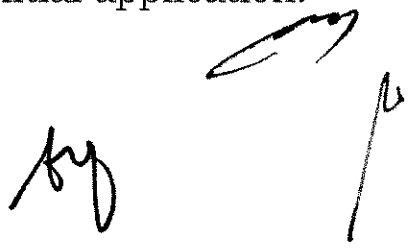
A. The accused-movant's Revised Motion complies with the requirements for an application to render community service.

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As held in this Court's *Resolution* promulgated on September 13, 2023,⁵ accused-movant Escandor **may avail of the privilege** of rendering community service in lieu of imprisonment pursuant to the provisions of the Community Service Act and the Revised Penal Code.⁶ However, the Court determined then that the accused-movant's **original motion or application** to render community service in lieu of imprisonment **did not comply with the requirements** prescribed by the Supreme Court in Administrative Matter No. 20-06-14-SC dated October 6, 2020, or the *Guidelines in the Imposition of Community Service as a Penalty in lieu of Imprisonment*; hence, it denied his initial application.

⁵ pp. 685-691, Volume III, Record

⁶ pp. 686-689, Volume III, Record



Resolution

Criminal Case No. SB-07-CRM-0043
People vs. Escandor

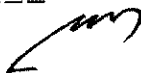
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In his present motion, as noted above, the accused-movant **appended a filled out Form 2 as prescribed under the Guidelines in Imposition of Community Service.**⁷ A perusal of the appended form shows that the accused-movant attested to all the allegations required for an application for community service in lieu of imprisonment, particularly: (a) his personal details, the crime which he was found guilty of, and the penalty imposed on him, (b) an attestation that he has not previously availed of the benefits of the Community Service Act, (c) attestation that he is physically and mentally capable of complying with the conditions of the community service program and the rehabilitative counseling which the Court may impose, and (d) that the application will not depreciate the gravity of the offense for which he was found guilty nor will it cause undue risk that during the period of the community service, the accused-movant will commit another crime.

Accordingly, the Court finds that accused-movant Escandor's *Respectful Motion to Render Community Service (Pursuant to Rep. Act 11362)* dated June 23, 2023, **formally complied with the requirements for an application to render community service in lieu of imprisonment, and may thus be acted upon by the Court** in accordance with the *Guidelines in Imposition of Community Service*.

B. The accused-movant may not serve his community service at another barangay other than the place where the crime was committed.

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⁷ Annex "A" to the *Revised Motion*, pp. 703-704, Volume III, Record

Resolution

Criminal Case No. SB-07-CRM-0043
People vs. Escandor

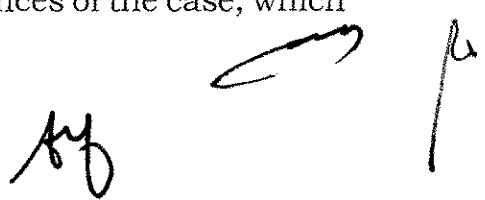
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As discussed in the Court's *Resolution* promulgated on September 13, 2023, it is clearly provided under the Community Service Act and the *Guidelines in the Imposition of Community Service* that the community service is to be rendered by the accused "**in the place where the crime was committed.**" The Supreme Court had interpreted this phrase to mean the **barangay where the crime was committed.** Thus, under the *Guidelines*, for every application for the rendition of community service by an accused, the court where the application has been filed is required to immediately notify, among others, the **barangay chairperson, or his/her authorized representative, of the barangay where the crime was committed.** The purpose of the notification is to direct the barangay chairperson or his/her authorized representative **to submit or propose a community service program for the accused.**

While courts are given discretion under the Community Service Act and the *Guidelines in Imposition of Community Service*, the Court finds that this **discretion pertains to whether or not an accused should be allowed to render community service in lieu of imprisonment**, and not whether the same may be served in places other than the barangay where the crime was committed. This is supported by the wording of Item 7 of the *Guidelines* which states that "[i]n exercising the discretion to allow service of penalty through community service, the following factors may be taken into consideration by the court: a. gravity of the offense; b. the circumstances of the case; c. the welfare of the society; and d. the reasonable probability that the accused shall not violate the law while rendering the service." This is likewise the import of Section 3 of the Community Service Act, which amended Article 88 of the Revised Penal Code, as follows:

Art. 88a. Community Service. **The Court in its discretion may, in lieu of service in jail, require that the penalties of *arresto menor* and *arresto mayor* be served by the defendant by rendering community service in the place where the crime was committed**, under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case, which



Resolution

Criminal Case No. SB-07-CRM-0043
People vs. Escandor

-7-

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shall be under the supervision of a probation officer...

In view of this, the Court **DENIES** accused-movant's prayer to render his community service in Barangay Tisa since this is not the barangay where the crime he was convicted of was committed.

WHEREFORE, the Court **FINDS** that accused-movant Escandor's "*Revised Motion to Render Community Service (Pursuant to Republic Act 11362)*" is **deemed a compliant application to render community service in lieu of imprisonment.**

Let the application be set for hearing on **March 1, 2024, at 8:30 in the morning.** Since the crime for which the applicant has been convicted was committed at the NEDA Regional Office No. 7, which is based in **Sudlon, Barangay Lahug, Cebu City**, let notice be issued to the following:

- i. Barangay Chairperson of Barangay Lahug:
Barangay Chairperson Hon. Hazel Ann Muaña Empleo
Office of the Barangay Captain
Lahug Barangay Hall, Cebu City
- ii. Representative from Cebu City's Probation Office:
Cebu City Parole and Probation Office No. 1
G/F DOJ Bldg., M. Velez St., Brgy. Guadalupe,
Cebu City
E-mail Address: cebucity1.ppa7doj@gmail.com⁸
- iii. Cebu City's Social Welfare Development Officer:
Social Welfare Development Officer
Cebu City Department of Social Welfare Services
DSWS Bldg., Katipunan, Labangon, Cebu City.⁹

⁸ Per listing in the website of the Parole and Probation Administration of the Department of Justice
<https://probation.gov.ph/how-to-reach-us/> (last accessed November 13, 2023)

⁹ Per website of the City of Cebu

<https://www.cebucity.gov.ph/department-of-social-welfare-and-services> (last accessed November 13, 2023)



Resolution

Criminal Case No. SB-07-CRM-0043
People vs. Escandor

-8-

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In accordance with A.M. No. 20-06-14-SC, the barangay chairperson or his/her authorized representative of Barangay Lahug and the Social Welfare Development Officer of Cebu City are hereby **ORDERED** to submit a proposed community service program and rehabilitative counseling schedule on or before the hearing on the application, failing which shall be cause for sanction. The Cebu City Parole and Probation Office is likewise **ORDERED** to submit a proposed community service considering the following programs of the Parole and Probation Office in relation to community service: (i) Mentoring and Intergenerational Service; (ii) Economic Development; (iii) Citizenship and Civic participation-experiential activities which involve solving community problems; and (iv) Involvement in Crime Prevention Projects.

The proposed community service program shall take into consideration the age and medical condition of the accused-applicant.

The Division Clerk of Court of this Court is hereby **DIRECTED** to furnish the said officers with a copy of the Decision promulgated by this Court.

Pending final action by this Court on the subject application, accused-applicant Jose Romeo C. Escandor shall continue to be on provisional liberty under the same cash bail.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG

Presiding Justice
Chairperson



Resolution

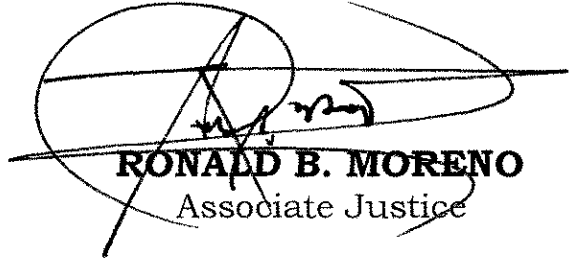
Criminal Case No. SB-07-CRM-0043
People vs. Escandor

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WE CONCUR:



BERNEMITO R. FERNANDEZ
Associate Justice



RONALD B. MORENO
Associate Justice

