EN BANC

[G.R. No. 259094. January 28, 2025]

RODULFO FERRAREN AQUINO A.K.A. "YOYON", PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

DIMAAMPAO, J.:

For this Court's adjudication is the Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, bewailing the Decision[2] and the Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 13173. The challenged rulings annulled and set aside the Order[4] and the Joint Judgment[5] of Branch 30, Regional Trial Court, Negros Oriental, Dumaguete City (RTC) in Criminal Case Nos. 2019-26185 and 2019-26186, which allowed petitioner Rodulfo Ferraren Aquino a.k.a. "Yoyon" (Aquino) to plead guilty to the lesser offense of violation of Section 12 of Republic Act No. 9165; and convicted him of the same offense, respectively.

The Facts

The case has its origin in two separate Informations both dated May 22, 2019, indicting Aquino for illegal sale[6] and possession[7] of dangerous drugs, punishable under Republic Act No. 9165. The inculpatory averments of the Informations read as follows:

Criminal Case No. 2019-26185
(Illegal Sale of Dangerous Drugs)

> That on or about May 21, 2019, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, accused, not being then lawfully authorized by law, did, then and there willfully, unlawfully and feloniously sell and/or deliver to a poseur-buyer one (1) heat[-]sealed transparent plastic sachet containing 0.18 gram of [m]ethamphetamihe [h]ydtochloride, commonly known as shabu, a dangerous drug.
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> Contrary to law.[8]

Criminal Case No. 2019-26186
(Illegal Possession of Dangerous Drugs)

> That on or about May 21, 2019, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, not being then lawfully authorized by law, did, then and there willfully, unlawfully and criminally possess thirteen (13) heat[-]sealed transparent plastic sachets containing an aggregate net weight of 1.84 grams of [m]ethamphetamine [h]ydrochloride, commonly known as shabu, a dangerous drug.
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> Contrary to law.[9]

Arraigned on May 27, 2019, Aquino pled not guilty to the charges. However, he filed a Motion for Plea Bargaining,[10] imploring the RTC to allow him to plead guilty to the lesser offense of violation of illegal possession of drug paraphernalia under Section 12 of Republic Act No. 9165.[11] In so doing, Aquino invoked the provisions of A.M. No. 18-03-16-SC.[12]

Forthwith, the prosecution filed a Comment/Opposition,[13] asserting that while it consents to the plea bargain offer insofar as Criminal Case No. 2019- 26186 (illegal possession) was concerned, it cannot agree to the plea bargaining proposal in Criminal Case No. 2019-26185 (illegal sale), as this contravened Department of Justice (DOJ) Department Circular No. 027.[14]

Through its May 30, 2019 Order, the RTC overruled the objection and granted Aquino's motion. The RTC held—

> Today's incident is a hearing on the motion for plea bargaining filed by the accused through counsel. The government prosecutor has submitted a comment/opposition that the State cannot give its consent in [Criminal] Case No. 2019-26185 as it is provided for in their DOJ revised guidelines for plea bargaining wherein they are not allowed in cases for violation of Section 5 to plead guilty to a lesser offense of violation of Section 12, [Article] II of [Republic Act No.] 9165. The government prosecutor, however, has no objection for the accused to plead guilty to a lesser offense of violation of Section 12, [Article] II of [Republic Act No.] 9165 in [Criminal] Case No. 2019-26186. Notwithstanding the comment/opposition of the government prosecutor and considering that the plea bargaining is in accordance with the Supreme Court Resolution on Plea Bargaining Framework in Drug Cases wherein the quantity of the drugs involved is only 0.18 gram of [*shabu*] in [Criminal] Case No. 2019-26185 and only 1.84 grams of shabu in [Criminal] Case No. 2019-26186, the motion is hereby granted.[15]

Accordingly, Aquino was re-arraigned and pled guilty to two charges of violation of Section 12 of Republic Act No. 9165.[16]

On the same day, the RTC rendered its Joint Judgment finding Aquino guilty beyond

reasonable doubt of illegal possession of drug paraphernalia under Section 12 of Republic Act No. 9165.[17]

Dissatisfied, the prosecution moved for reconsideration,[18] insisting that consent of the prosecution is necessary in plea bargaining. However, the RTC brushed the motion aside in its June 21, 2019 Order.[19]

The People of the Philippines, acting through the Office of the Solicitor General, instituted an original action for petition for *certiorari*[20] under Rule 65 of the Rules of Court before the CA, imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC when it issued the May 30, 2019 and June 21, 2019 Orders, as well as when it rendered the Joint Judgment.[21]

In the now-assailed Decision, the CA granted the petition and annulled the foregoing rulings.[22] The CA held that while A.M. No. 18-03-16-SC allows an accused to plead to the lesser offense of violation of Section 12 of Republic Act No. 9165 from the original charge of violation of Section 5 of the same law, the consent of both the offended party and the prosecutor are still required, pursuant to Rule 116, Section 2 of the Rules of Court.

Aquino beseeched the CA to take a second look at its disposition,[23] but this was given short shrift by the CA.

Via the present recourse, Aquino entreats the Court for a reversal of the impugned Decision and the oppugned Resolution of the CA.

The Court's Ruling

The Petition is impressed with merit.

To recapitulate, in Criminal Case No.2019-26185, Aquino was charged in the Information for the offense of illegal sale of dangerous drugs, but moved to plead guilty to a lesser offense, i.e., illegal possession of drug paraphernalia. The prosecution vehemently objected to Aquino's motion on the ground that DOJ Department Circular No. 027 does not allow plea bargaining for violation of Section 5 of Republic Act No. 9165, viz.:

> 3. That under Memorandum Circular No. 027 issued by the [DOJ] on June 26, 2018, Re: Amended Guidelines on Plea Bargaining for Republic Act No. 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2000", [does] not allow plea bargaining for violation of Section 5, Article II, Republic Act No. 9165 to plead guilty to violation of Section 12, Article II of Republic Act No. 9165;
>
> 5. That the undersigned cannot give his consent in [sic] behalf of the State and interposed its vigorous objection to the proposal of the

> accused in Criminal Case No. [2019-]26185 as it is not in accordance with Department Circular No. 027 dated June 26, 2018[.][24]

However, the RTC granted Aquino's motion. It held that the requirement of consent on the part of the prosecutor and the offended party is not a mechanism to countermand the discretionary power of the court to grant or approve the plea bargaining.[25]

Notably, the prosecution's argument was supported by the doctrine in *Sayre v. Judge Xenos*,[26] where the Court held that the prosecution's objection, despite having been anchored solely on the proposal's inconsistency with the DOJ's internal guidelines, prevented the parties from arriving at a mutually satisfactory disposition of the case. In the absence of mutual agreement, the Court found that the RTC in *Sayre* correctly ordered the continuation of the proceedings.[27]

Still, it bears stressing that during the pendency of the present controversy, the Court promulgated the landmark case of *People v. Montierro*,[28] which modified the ruling in Sayre.

In *Montierro*, the Court emphatically declared that courts *may* overrule the objection of the prosecution to offers for plea bargaining in drugs cases if the objection is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, although in accordance with the plea bargaining framework issued by the Court.[29] The Court, speaking through Associate Justice Caguioa, ratiocinated in this wise:

> In this regard, courts are not bound by any resolution or administrative issuance that the Secretary of Justice may promulgate. It is within the sole ambit of the Court's discretion to impose rules governing the proceedings — including the *Plea Bargaining Framework in Drugs Cases*. Thus, courts may overrule the objection of the prosecution when the objection has no valid basis, or is not supported by evidence, or if the objection solely tends to undermine the Court's plea bargaining framework, or that the objection is solely to the effect that it will weaken the drugs campaign of the government. To narrowly construe the trial court's discretion under Section 2, Rule 116 of the Rules of Court is to undermine the value of plea bargaining itself and render it an ineffective tool of rehabilitation and restorative justice.
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> . . . .
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> It must be clarified that courts are not given the unbridled discretion to overrule any objection of the prosecution to a plea bargaining proposal. To be sure, the authority of the court over plea bargaining in drugs cases is circumscribed foremost by the Court-issued framework on the acceptable plea bargains and by the evidence and circumstances of each case. Thus, a court has no jurisdiction to overrule an objection of the prosecution if the

same is grounded on evidence showing that the accused is not qualified therefor, or when the plea does not conform to the Court-issued rule or framework.

However, when a court overrules a prosecution's objection, which is solely grounded on an executive issuance or policy that contradicts a Court-issued rule on plea bargaining, it is not an intrusion into the Executive's authority and discretion to prosecute crimes, but is simply a recognition of the Court's exclusive rule-making power as enshrined in the Constitution.[30] (Emphasis supplied)

To guide the trial courts in the disposition of motions to plea bargain in cases involving violations of Republic Act No. 9165, the Court set forth the following guidelines:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.

2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.

3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.

4. As a rule, plea bargaining requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties. the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter addressed entirely to the sound discretion of the court.

    a. Though the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in granting or denying plea bargaining, taking into account the relevant circumstances, including the character of the accused.

5. The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:

a. the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or

b. when the evidence of guilt is strong.

6. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea Bargaining Framework in Drugs Cases.

7. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, though in accordance with the plea bargaining framework issued by the Court, if any.

8. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in item no. 5, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial court finds the objection meritorious, it shall order the continuation of the criminal proceedings.

9. If an accused applies for probation in offenses punishable under [Republic Act] No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply.[31]

The Court likewise observed in *Montierro* that DOJ Department Circular No. 027 was already revoked following the issuance on May 10, 2022 of DOJ Department Circular No. 18.[32] The succeeding Circular provided for revised amended guidelines to be observed by trial prosecutors in plea bargaining for violations of Republic Act No. 9165. Under DOJ Department Circular No. 18, an accused is now allowed to plead guilty to the lesser offense of illegal possession of drug paraphernalia under Section 12 of Republic Act No. 9165 from an original charge of illegal sale of dangerous drugs under Section 5 of the same law.

Given the foregoing disquisition, and in fealty to the guidelines enunciated in *Montierro*, the RTC in this case was correct in approving Aquino's plea bargaining proposal in Criminal Case No. 2019-26185. Thus, the CA erred in annulling the same in its challenged rulings. *Accordingly, the May 30, 2019 Order of the RTC and the Joint Judgment of even date—adjudging Aquino guilty beyond reasonable doubt of the lesser offense of illegal possession of drug paraphernalia under Section 12 of Republic Act No. 9165—shall be reinstated.*

The Court notes that Aquino submitted his proposal for plea bargaining immediately after his arraignment and before the prosecution could present its evidence, leaving the

RTC with no opportunity to make a determination as to the strength of the evidence, which is critical in determining whether or not to grant the proposal for plea bargaining. Moreover, the RTC made no determination as to whether Aquino is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times. In the past, the Court addressed these issues by *remanding* the case to the court of origin in accordance with the fifth guideline in *Montierro*.

This is illustrated in *Alvero v. People*[33]—

> However, the Court notes that *Montierro* laid down the guidelines to be observed in plea bargaining in drugs cases. In particular, the *Montierro* guidelines require a court to determine first if (a) the accused is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times, or (b) the evidence of guilt is strong. *Here, the RTC Decision and Order do not show that the RTC made any findings as to these matters.*
>
> Thus, consistent with the ruling of the Court in *Montierro, this case is remanded to the RTC to determine if Alvero may indeed be allowed to plea bargain in this case, and specifically if (a) he is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times, or (b) the evidence of guilt is strong*.
>
> The Court also notes that, as stated in the *Montierro* guidelines, if the prosecution objects to the plea bargain because of the circumstances mentioned above, *the RTC is mandated to hear the prosecution's objection and rule on the merits*. If the RTC finds the prosecution's objection meritorious, it shall order the continuation of the criminal proceedings.[34] (Emphasis supplied)

Similarly, the Court disposed in this wise in a plethora of recent cases, i.e., *Besana, Jr. v. People*,[35] *Brusola v. People*,[36] *Alaro v. People*,[37] *Aguilar v. People*,[38] and *Borda v. People*,[39] and *Aguilar v. People*.[40]

However, the Court has observed that the remand of these cases has had the unfortunate effect of further delaying their disposition. Indeed, cases which have already been decided and sentences which have already been determined are now required to be reopened for the purpose of determining questions relating to the *strength of the prosecution's evidence* and the *character of the accused*, despite the fact that the prosecution never submitted such grounds to object to the motion to plea bargain. This problem also arises due to the present formulation of the Rule 116, Section 2 of the Rules of Criminal Procedure where the accused is mandated to proffer his proposal for plea bargaining upon arraignment *and before trial*, i.e., before the prosecution has the opportunity to present its evidence in chief:

> Section 2. *Plea of guilty to a lesser offense*. — At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

Thus, any time and effort "saved" by the plea bargaining system is effectively rendered nugatory as the trial court must again reopen the case and receive the prosecution's evidence. This is undoubtedly anathema to the chief virtues advanced by plea bargaining, that is, *speed, economy* and *finality* for the accused, the offended party, the prosecution, and the court.[41]

Forcing a trial court to make a determination as to the existence and propriety of grounds for objecting to a plea bargaining proposal where the prosecution itself did not even bother to propound such grounds in the first place is akin to arrogating upon such court the power to determine whether to interpose an objection, what ground to use for such objection, both of which are highly critical determinations reserved solely for the Executive.[42] After all, the power to prosecute is purely an Executive function, and the prosecutor has a wide discretion of whether, what, and whom to charge due to the range of variables present when pursuing a criminal case.[43]

In the Court's considered view, a solution to this conundrum is to apply the principle behind the *Omnibus Motion Rule*, espoused in Rule 15, Section 8 of the Rules of Court. The provision states:

> Section 8. *Omnibus motion*. — Subject to the provisions of Section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

In effect, where the prosecution's objection is anchored only on one or a few—*but not all*—grounds for opposing such proposal, all other possible grounds not thus raised shall be deemed waived.

Hence, in view of its rule-making power, the Court deems it proper to promulgate the following guidelines supplementary to those set forth in the *Montierro* ruling, for the guidance of the Bench, the Bar, and the public.

First. Where the prosecution's objection to an accused's motion for plea bargaining is grounded on only a few but not all possible grounds for opposing the motion, it is understood that the prosecution is waiving the grounds not thus raised.

Second. Where the prosecution has raised multiple grounds in its opposition, but the trial court only ruled in one but was silent with regard to the rest, the trial court shall be directed to rule on such pending issues in accordance with the principles in *Montierro*

and this case.

Third. Where the records before the Court are incomplete to determine if it falls in any of the preceding scenarios, the trial court shall be directed to rule again on the matter following the principles laid down in *Montierro* and this case.

Upon this point, the following comprehensive guidelines shall be observed in plea bargaining in cases involving dangerous drugs:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.

2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.

3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then they shall undergo treatment and rehabilitation for a period of not less than six months. Said period shall be credited to their penalty and the period of their after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then they will be released on time served, otherwise, they will serve his/her sentence in jail minus the counselling period at rehabilitation center.

4. As a rule, plea bargaining requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties, the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right, but is a matter addressed entirely to the sound discretion of the court. Although the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in granting or denying plea bargaining, taking into account *the objections raised by the prosecution and* other relevant circumstances, including the character of the accused.

5. *In cases where the prosecution, in its comment or opposition to the accused's motion to plea bargain, raised only a few but not all possible grounds for opposing the motion, it must be understood that the prosecution has waived such grounds not raised, similar to the principle behind the Omnibus Motion Rule.*

6. The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:

a. the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or

b. when the evidence of guilt is strong.

7. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea Bargaining Framework in Drugs Cases.

8. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, although in accordance with the Plea Bargaining Framework issued by the Court, if any.

9. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in *item no. 6*, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial court finds the objection meritorious, it shall order the continuation of the criminal proceedings. *The trial court shall hear and receive evidence on any and all grounds raised by the prosecution for opposing the motion to plea bargain and must rule on each ground accordingly.*

10. If an accused applies for probation in offenses punishable under Republic Act No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply.

11. *Where the prosecution has raised multiple grounds in its opposition; but the trial court only ruled in one but was silent with regard to the rest, either the appellate court or this Court shall direct the trial court to rule on such pending issues in accordance with the principles in Montierro and this case.*

12. *Where the records before either the appellate court or this Court are incomplete to determine if it falls in any of the preceding scenarios, the trial court shall be directed to rule again on the matter following the principles laid down in Montierro and this case.*

13. *As a result of the foregoing rule, if the trial court or the appellate court has ruled correctly on the issue, the correct judgment shall be reinstated or affirmed, as the case may be.*

14. *In cases where both the trial court and the appellate court ruled incorrectly on the issue (i.e., not in accordance with Montierro), a new judgment shall be entered by the Court directing the trial court to allow*

plea bargaining in the accused s case, and to render a guilty verdict accordingly.

ACCORDINGLY, the Petition for Review on *Certiorari* under Rule 45 is **GRANTED**.

The April 29, 2021 Decision and the October 19, 2021 Resolution of the Court of Appeals in CA-G.R. SP No. 13173 are **REVERSED** and **SET ASIDE**.

The May 30, 2019 Joint Judgment of Branch 30, Regional Trial Court, Dumaguete City, finding petitioner Rodulfo Ferraren Aquino a.k.a. "Yoyon" **GUILTY** of the offense of violation of Section 12 of Republic Act No. 9165 in both Criminal Case Nos. 2019-26185 and 2019-26186 is **REINSTATED**.

SO ORDERED.

Gesmundo, C.J., Caguioa, Hernando, Lazaro-Javier, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Marquez, and *Kho, Jr., JJ.*, concur.

Leonen,[*] *SAJ.*, on official business but left a concurring vote.
Inting, J., see concurring opinion.

Singh,[**] *J.*, on leave.

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[*] On official business.

[**] On leave.

[1] *Rollo*, pp. 10-34.

[2] *Id.* at 90-100. The April 29, 2021 Decision was penned by Associate Justice Roberto P. Quiroz, with the concurrence of Associate Justices Marilyn B. Lagura-Yap and Bautista G. Corpin, Jr. of the Special Twentieth Division, Court of Appeals, Cebu City.

[3] *Id.* at 115-116. The October 19, 2021 Resolution was penned by Associate Justice Roberto P. Quiroz, with the concurrence of Associate Justices Marilyn B. Lagura-Yap and Bautista G. Corpin, Jr. of the Former Special Twentieth Division, Court of Appeals, Cebu City.

[4] *Id.* at 56-57. The May 30, 2019 Order was penned by Judge Rafael Crescencio C. Tan, Jr.

[5] *Id.* at 58-60. The May 30, 2019 Joint Judgment was penned by Judge Rafael Crescencio C. Tan, Jr..

[6] Republic Act No. 9165 (2002), sec. 5.

[7] Republic Act No. 9165 (2002), sec. 11.

[8] *Rollo*, p. 67.

[9] *Id.* at 68.

[10] *Id.* at 61-62.

[11] *Id.* at 92.

[12] Adoption of the Plea Bargaining Framework in Drug Cases, April 10, 2018.

[13] *Rollo*, pp. 69-70.

[14] Amended Guidelines on Plea Bargaining for Republic Act No. 9165, June 26, 2018. *See also rollo*, p. 69.

[15] *Id.* at 56.

[16] *Id.* at 58.

[17] *Id.* at 58-59.

[18] *Id.* at 64-66.

[19] *Id.* at 53-55. The June 21, 2019 Order in Criminal Case No. 2019-26185 was penned by Judge Rafael Crescencio C. Tan, Jr. of Branch 30, RTC, Dumaguete City.

[20] *Id.* at 40- 51.

[21] *Id.* at 45.

[22] *Id.* at 100.

[23] *Id.* at 101-112.

[24] *Id.* at 69.

[25] *Id.* at 53.

[26] 871 Phil. 86 (2020) [Per J. Carandang, *En Banc*].

[27] *Id.* at 113. *See also rollo*, p. 130, Comment.

[28] 926 Phil. 430 (2022) [Per J. Caguioa, *En Banc*].

[29] *Id.* at 465-466.

[30] *Id.* at 462-465.

[31] *Id.* at 468-469.

[32] Revised Amended Guidelines on Plea Bargaining for Republic Act No. 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2022" dated June 7, 2002.

[33] **G.R. No. 260214**, April 17, 2023 [Per J. Singh, Third Division].

[34] *Id.* at 7-8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[35] **G.R. No. 258830**, January 30, 2023 [Notice of Resolution, Third Division].

[36] **G.R. No. 258840**, February 22, 2023 [Notice of Resolution, Second Division].

[37] **G.R. No. 257451**, February 22, 2023 [Notice of Resolution, Third Division].

[38] **G.R. No. 258717**, March 8, 2023 [Notice of Resolution, Third Division].

[39] **G.R. No. 260343**, April 12, 2023 [Notice of Resolution, Second Division].

[40] **G.R. No. 257410**, August 9, 2023 [Per J. Gaerlan, Third Division].

[41] *See* **Estipona v. Judge Lobrigo**, 816 Phil. 789, 813 (2017) [Per J. Peralta, *En Banc*]. (Citations omitted)

[42] *See* **Webb v. De Leon**, 317 Phil. 758, 799-800 (1995) [Per J. Puno, Second Division]. (Citations omitted)

[43] *Id.* at 800. (Citation omitted)

CONCURRING OPINION

INTING, *J.*:

I concur with the *ponencia*.

Refining the plea bargaining guidelines laid down in *People v. Montierro*[1] as to the requirement of remanding cases to the lower courts is consistent with the goals of a plea bargaining system aimed at achieving an efficient, speedy, and inexpensive disposition of cases.

However, while I am in agreement with the decision reached in the *ponencia*, I take this opportunity to provide additional clarification on the matter of the requirement for a drug dependency assessment in the approval of plea bargaining proposals.

The Montierro Guidelines

Montierro issued the following guidelines to be observed in plea bargaining in drugs cases:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.

2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.

3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.

4. As a rule, plea bargaining, requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties, the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter addressed entirely to the sound discretion of the court.

    a. Though the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in

granting or denying plea bargaining, taking into account the relevant circumstances, including the character of the accused.

5. The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:

    a. the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or

    b. when the evidence of guilt is strong.

6. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea Bargaining Framework in Drugs Cases.

7. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, though in accordance with the plea bargaining framework issued by the Court, if any.

8. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in item no. 5, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial court finds the objection meritorious, it shall order the continuation of the criminal proceedings.

9. If an accused applies for probation in offenses punishable under RA No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply. [2]

The guidelines in *Montierro* establish that a trial court exercises a dutybound discretion in approving or denying plea bargaining proposals. This discretion to act on a plea bargaining proposal is independent from the requirement of mutual agreement of the parties.

The Bason Guidelines

As pointed out in *Bason v. People*,[3] an essential issue was raised before the Court in *Montierro* on the matter of whether a drug dependency test is a pre-requisite for the approval of a plea bargaining proposal. The subject of the clarification was the following guideline in the *Montierro* guidelines:

3. *Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs*

> *Cases, the judge shall order that a drug dependency assessment be administered.* If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.[4] (Emphasis supplied)

To address the issue, the Court categorically ruled that a drug dependency test is not a requirement for the approval of a plea bargaining proposal. A drug dependency test is required for the trial courts to ensure that, after the approval of the plea bargaining proposal, an assessment is made to determine if treatment and rehabilitation or counselling, as the case may be, is required as provided in A.M. No. 18-03-16-SC.[5]

This categorical ruling of the Court in *Bason* is also consistent with the recognition that a plea bargaining mechanism in criminal procedure is geared towards achieving an efficient, speedy, and inexpensive disposition of a case. A prompt disposal of drugs cases thereby guarantees that the mechanism's benefits as to the accused, insofar as early rehabilitation, redemption, and reintegration to society is concerned, and to the State, insofar as to the minimal use of resources, are achieved.[6]

Accordingly, *Bason* issued further clarificatory guidelines to guide the trial courts in the implementation of the Court's plea bargaining framework, to wit:

1. A drug dependency test is not a precondition for the approval of a plea bargaining proposal. The test is to be conducted only after the trial court approves the plea bargaining proposal of the accused to determine whether he/she needs to be subjected to treatment and rehabilitation or undergo a counselling program at a rehabilitation center.

2. After approval of the plea bargaining proposal, trial courts shall be guided by the following:

    a. In cases where the trial court approves a plea to the lesser offense of violation of paragraph 3 of Section 11 or Section 12 of RA 9165:

        i. If the accused admits drug use or denies it but is found positive after a drug dependency test, then he/she shall be ordered to undergo treatment and rehabilitation for a period of not less than six (6) months, and counselling, if necessary.

        ii. If the accused is found negative for drug use or drug dependency, then he/she shall undergo a counselling program at a rehabilitation center.

iii. In both cases, the time spent at the rehabilitation center shall be credited as time served and shall be deducted from the period of imprisonment.

iv. If the period of imprisonment has already been served, the accused shall still be ordered to undergo treatment and rehabilitation and/or counselling, as the case may be, as part of the rehabilitation and after-care/follow-up program.

b. In cases where the trial court approves a plea to a lesser offense of violation of Section 15 of RA 9165:

i. If the accused admits drug use or denies it but is found positive after a drug dependency test, then he/she shall be ordered to undergo treatment and rehabilitation for a period of not less than six (6) months, and counselling, if necessary.

ii. If the accused is found negative for drug use/dependency, then he/she shall be released immediately but shall be ordered to undergo a counselling program at a rehabilitation center.

c. The accused shall be subjected to the terms of rehabilitation provided under Article VIII of RA 9165, as applicable.[7]

In fine, after approval of a plea bargaining proposal, trial courts shall then require the conduct of a drug dependency assessment of the accused, not as a condition *sine qua non* for the plea bargaining but instead to ensure that the applicant undergoes treatment and rehabilitation or counselling, if needed.[8]

In cases where the *Aquino* guidelines have been applied and a remand to the trial courts is warranted, the trial courts are still required to conduct a drug dependency assessment pursuant to A.M. No. 18-03-16-SC and the guidelines set forth herein.

The Aquino Guidelines

With the recognition that the requirement of remanding cases involving dangerous drugs to the lower courts has been observed to result in the delay of the disposition of these cases, the Court refined the *Montierro* guidelines and issued additional guidelines and policies to be observed in plea bargaining in drugs cases.

As previously stated, the *Aquino* guidelines take into consideration the intended efficiency of a bargaining mechanism and allow reinstatement of the ruling of the trial courts as to the approval of plea bargaining proposals, if warranted.

However, *Aquino* refined the *Montierro* guidelines without incorporating the *Bason* guidelines. Without the Court's categorical ruling in Bason, guideline three of the

Montierro guidelines may still cause confusion as to the requirement of a drug dependency assessment in the approval of plea bargaining proposals.

The Montierro, Bason, and Aquino Guidelines taken as a whole

The issuance of the Court of the *Montierro* guidelines remains a landmark ruling in the development of the Court's plea bargaining legal framework. The *Bason* and *Aquino* guidelines emerged through different legal developments which required a clarification, as in the case of *Bason*, and refinement, as in the case of *Aquino*, of the *Montierro* guidelines.

The foregoing emphasizes the need to underscore the importance of the *Bason* and *Aquino* guidelines in ensuring that a complete and comprehensive appreciation is arrived at when discussing the Court's plea bargaining guidelines in drugs cases.

Thus, in the interest of guiding the Bench, the Bar, and the public, it must be settled therefore that the *Bason* guidelines remain an important part of the plea bargaining guidelines. *Bason* holds substantial relevance in the plea bargaining framework as it remains vital in the interpretation of guideline three of the *Montierro* guidelines, particularly in clearly stating that a drug dependency assessment is not a condition *sine qua non* in the approval of plea bargaining proposals.

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[1] 926 Phil. 430 (2022).

[2] *Id.* at 468-469.

[3] **G.R. No. 262664**, October 3, 2023.

[4] **People v. Montierro**, *supra* note 1, at 468.

[5] **Bason v. People,** *supra* note 3.

[6] *Id.*

[7] *Id.*

[8] *Id.*

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