



Republic of the Philippines  
Supreme Court  
Manila

A.M. No. 20-06-05-SB

**RE: REQUEST FOR APPROVAL OF THE GUIDELINES FOR  
SANDIGANBAYAN REMOTE HEARINGS**

**RESOLUTION**

**WHEREAS**, as a result of the present health pandemic brought about by COVID-19, several areas in the country remain under different levels of community quarantine status, and mass land, sea and air transportation are not yet in full operation;

**WHEREAS**, the national government, to safeguard public health and safety, continues to regulate the movement, within and around the country, of individuals that are prone to immunodeficiency health risks;

**WHEREAS**, Administrative Circular No. 39-2020 has authorized the Sandiganbayan to conduct regular hearings through videoconference;

**WHEREAS**, Administrative Circular No. 41-2020 directed the courts to implement a system of hearings to enable them to implement continuous trial in criminal cases and comply with existing guidelines and rules;

**WHEREAS**, A.M. No. 19-05-05-SC recognized that the use of videoconference technology has been widely accepted for the remote appearance or testimony of the parties in court proceedings, including persons deprived of liberty (*PDLs*);

**WHEREAS**, the Supreme Court has been employing modern technology, *e.g.* using live-link television testimony in criminal cases where the witness or the victim is a child and the presentation of testimonial evidence through electronic means in both civil and criminal cases;<sup>1</sup>

**WHEREAS**, allowing the remote appearance or testimony of *PDLs* through videoconferencing will eliminate the risks posed by in-court appearance of those considered to be high-risk or afflicted with highly contagious diseases, guarantee their rights to be present and to confront witnesses against them, and ensure the continuity of proceedings in criminal cases;<sup>2</sup>

**WHEREAS**, recognizing the limitations and difficulties in the litigants' presentation of their respective evidence during in-court hearings, brought about by the current health emergency, and to avert any unnecessary delay in the proceedings, there is a need to allow the conduct of remote hearings *via* videoconference before the Sandiganbayan and to provide interim guidelines therefor;

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<sup>1</sup> A.M. No. 19-05-05-SC citing the November 21, 2000 Resolution in A.M. No. 004-07-SC (Rule on Examination of a Child Witness) and the July 17, 2001 and September 24, 2002 Resolutions in A.M. No. 01-7-01-SC (Rules on Electronic Evidence).

<sup>2</sup> AM No. 19-05-05-SC.

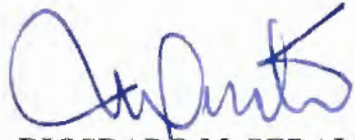
remote hearings *via* videoconference before the Sandiganbayan and to provide interim guidelines therefor;

**WHEREAS**, the Court *En Banc* after deliberating on the Proposed Guidelines for Sandiganbayan Remote Hearings introduced its revisions;


**NOW, THEREFORE**, after reviewing the Proposed Guidelines for Sandiganbayan Remote Hearings, the Court resolves to **APPROVE** with revisions the “**INTERIM GUIDELINES FOR SANDIGANBAYAN REMOTE HEARINGS**.”

The **Interim Guidelines for Sandiganbayan Remote Hearings** shall take effect ten (10) days after the publication of its approved version in the Sandiganbayan and Supreme Court websites.

July 14, 2020, Manila, Philippines.




**DIOSDADO M. PERALTA**  
Chief Justice



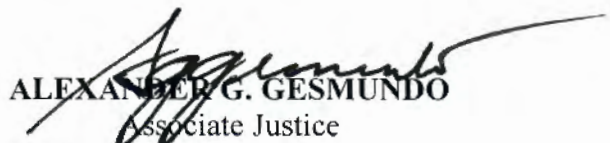
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



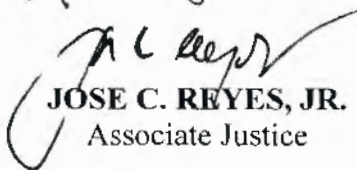
**MARVIC M. V. F. LEONEN**  
Associate Justice



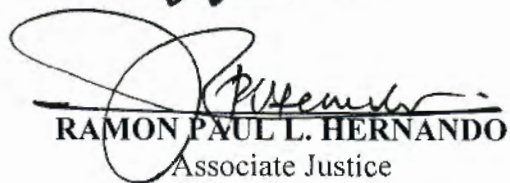
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ALEXANDER G. GESMUNDO**  
Associate Justice



**JOSE C. REYES, JR.**  
Associate Justice



**RAMON PAUL L. HERNANDO**  
Associate Justice



**ROSMARID. CARANDANG**  
Associate Justice



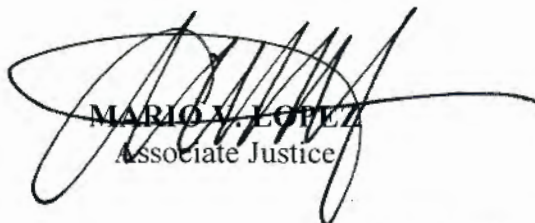
**AMY C. LAZARO-JAVIER**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice



**RODIL V. ZALAMEDA**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice



**EDGARDO L. DELOS SANTOS**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice



REPUBLIC OF THE PHILIPPINES  
*SANDIGANBAYAN*  
Quezon City

**INTERIM GUIDELINES FOR SANDIGANBAYAN  
REMOTE HEARINGS**

1. These guidelines shall govern Remote Hearings and shall apply to all cases in all stages of the proceedings.
2. The conduct of Remote Hearings shall be governed by the *Rules of Court*, the *2018 Revised Internal Rules of the Sandiganbayan* and, as far as practicable, by the *Sandiganbayan Guidelines on New Normal In-Court Proceedings*.
3. Proper court decorum shall continue to be observed by all participants during the Remote Hearing.
4. As a rule, hearings in all its stages shall be in-court, except in the following instances when a remote hearing may be had:
  - a. In cases involving Persons Deprived of Liberty (PDLs);
  - b. In cases where extraordinary circumstances warrant a hearing *via* videoconference, as may be determined by the members of the Division;<sup>1</sup>
  - c. When allowed by the Supreme Court.<sup>2</sup>

The Supreme Court, *en banc*, upon recommendation of the Chief Justice, can at any time suspend or disallow the conduct of videoconference proceedings in the Sandiganbayan.

**I. Definition**

A *Remote Hearing* refers to hearings and/or trials conducted through videoconference using the local area network (LAN), the internet (global WAN) or any other means of transmitting data electronically. It could be a full remote hearing where none of

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<sup>1</sup> Supreme Court Administrative Circular No. 41-2020.

<sup>2</sup> Such as Supreme Court Public Information Office Announcement dated May 31, 2020

the participants is in-court, or a partial remote hearing where at least one (1) of the justices and some participants are in-court.

A partial remote hearing includes a situation where at least one of the participants, *i.e.*, a justice or a witness, is in a separate room within the Sandiganbayan Building, or in any place other than the courtroom where the in-court proceedings are being held.

Videoconference refers to the use of video, audio, and data transmission devices to allow parties in different physical locations to simultaneously communicate by seeing and hearing each other.<sup>3</sup>

## **II. Remote Hearing Platform**

As a general rule and until the Supreme Court provides the Sandiganbayan with a different platform,<sup>4</sup> the Remote Hearing shall be done through the officially provided Philippine Judiciary 365 platform.<sup>5</sup> If there are unresolvable difficulties in the use of the Philippine Judiciary 365 during the hearing, the Court may use another platform that is easily accessible to the parties, after the justices of the Division unanimously agree thereon. The Division Clerk of Court shall immediately report the difficulties encountered in the use of the Philippine Judiciary 365 platform to the Office of the Chief Justice through the SC-MISO.

The alternative platform shall have the following minimum features:

1. The screen can simultaneously show the video:
  - a. For *Full Remote Hearings* -- from at least eight (8) cameras,<sup>6</sup> or such number of allowed or required cameras of persons expected to actively participate in the remote hearings, *i.e.*, the justices (3), one of the

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<sup>3</sup> SC Administrative Circular No. 19-05-05 citing *Bridging the Distance: Implementing Videoconferencing in Wisconsin, Wisconsin Supreme Court Planning and Policy Advisory Committee, Videoconferencing Subcommittee (August 2017)*, available at <https://www.wicourts.gov/courts/committee/docs/ppacvidconf.pdf> (last accessed February 5, 2019); Best Practices for Using Video Teleconferencing for Hearings and Related Proceedings, Center for Legal and Court Technology (2014), available at : [https://www.acus.gov/sites/default/files/documents/Draft\\_Best%2520Practices%2520Video%2520Hearings\\_10-09-14\\_1.pdf](https://www.acus.gov/sites/default/files/documents/Draft_Best%2520Practices%2520Video%2520Hearings_10-09-14_1.pdf) (last accessed February 5, 2019).

<sup>4</sup> All reference to *Philippine Judiciary 365* in these *Guidelines* shall be considered automatically amended to refer to any future Supreme Court provided videoconference platform, ten (10) days after the Sandiganbayan announces, through its website, its adoption of the new platform.

<sup>5</sup> On May 2020, the Supreme Court provided the Sandiganbayan justices and division clerks of court with accounts under the Philippine Judiciary 365 platform. Soon after, through AM No. 39-2020-SC, the Supreme Court authorized the Sandiganbayan to conduct regular hearings *via* videoconference.

<sup>6</sup> When these guidelines speak of "camera/s," it refers to any device for recording or capturing visual images, in the form of photographs, film or video signals. The "camera" may refer to a device exclusively used for the said purpose, or to any such device that is an accessory of a computer, cellular phone, or any other gadget.

prosecutors (1), one lawyer for each accused (at least 1) and the witness (at least 3), when one is to be presented;

b. For *Partial Remote Hearing* -- from at least six (6) cameras, or such number of allowed or required cameras of persons expected to actively participate in the remote hearings, *i.e.*, Justices (at least 1), prosecution panel (1), defense panel (at least 1), witness (at least 3), when one is to be presented;

2. Audiovisual recording of the entire proceedings;
3. Uploading and display of documents;
4. Control by the host on the acceptance of those who intend to participate;
5. Control by the host over the audio and video input of the participants, including the participants' ability to record the entire or a portion of the proceeding;
6. Control by the participant over his/her own audio and video inputs;
7. At least, a display of a list of all participants whether visible or otherwise;
8. Control by the host over who may be seen on screen; and,
9. Available on-screen closed caption.<sup>7</sup>

### **III. Participants**

1. Justices of the division conducting the remote hearing
2. Office of the Division Clerk of Court
  - a. Division Clerk of Court (DCC or ECC III) and/or Deputy Division Clerk of Court (DDCC or ECC II)
  - b. Interpreter
3. Stenographer
4. Bailiff (for partial remote hearing)
5. Prosecutor/s
6. Defense Counsel/s
7. Accused
8. Witness/es
9. Such other court personnel, as necessary.

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<sup>7</sup> The minimum features are all available in Philippine Judiciary 365

#### **IV. Physical Location, Facilities, Equipment and Devices of Participants during Remote Hearings**

##### **1. Location**

- a. All the participants must be within Philippine territory. All locations shall be considered as an extension of the courtroom during the proceedings.
- b. As a general rule, the Justices shall attend the Remote Hearings from the court room or their respective chambers. In exceptional circumstances, such as when government regulations prohibit the movement of persons, the Justices may preside or attend from their respective residences or such other place as they may deem convenient to allow them to effectively participate in the proceedings. All remote court appearances shall be indicated in the court record.

##### **2. Arrangement.**

- a. For the in-court proceedings portion of the remote hearing, at least three (3) cameras and three (3) video monitors must be placed in the courtroom.
  - a.1. The first camera shall face the bench or podium, including the justices of the division who are in-court in the shot. The second camera shall face the prosecution panel, including its members seated at the lawyers' table, in the shot; and, the third camera shall face the defense panel, including the members seated at the lawyers' table and those lead counsels who are seated at the gallery, in the shot.
  - a.2. The video monitors or screens must be high definition internet ready televisions, and large enough for everyone to clearly see the video image, which should be as close to life size as possible.<sup>8</sup>

The first monitor or screen shall be for viewing by the justices, the second monitor or screen shall be for the viewing by the prosecution and the third monitor or screen shall be for the viewing by the defense counsel/s.

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<sup>8</sup> Please see AM No. 19-05-05-SC

When the monitor or screen cannot accommodate the number of authorized participants, the court may direct which videos or visual shots are to be included in the screen, depending on the stage of the proceedings, or on who is speaking. However, the visual shots of the witness and his/her surroundings shall always be included in the monitor during the entire duration of the proceedings, regardless of who is speaking.

- a.3. If possible, the courtroom's audio system's input and output must be connected to the videoconference equipment, or the DCC's computer or one of Court's computers, gadgets or devices. The Court's audio shall be connected to the microphone input of the videoconference equipment, or the DCC's computer or to one of the Court's computer, gadget or device to allow the recording thereof. The audio output of the videoconference equipment or the DCC's computer, or such other computer, gadget or device used to receive the audio shall be directly connected to the Court's audio system to reduce latency and to improve sound quality. There shall be sufficient audio speaker coverage to enable all in-court participants to clearly hear the PDL and all remote participants.<sup>9</sup>
- a.4. Justices and court personnel, who are authorized to participate from remote locations may use their own computers, gadgets or devices and internet connections to join the Remote Hearing.
- a.5. To allow the media and the public to observe the proceedings, a monitor or screen (with its volume turned on) that mirrors the monitor/s or screen/s inside the court room, shall be placed outside the court room. If the workplace protocol prohibits the entry of the public into the different floors of the Sandiganbayan building, the monitor or screen shall be placed at the building's ground floor lobby, or in such other location within the compound of the Sandiganbayan as would allow those interested to observe the proceedings. As far as practicable, a monitor or screen shall also be set up inside the court room for media and public viewing during full remote hearings.

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<sup>9</sup> Partially lifted from AM No. 19-05-05-SC

- b. The accused who is a PDL shall appear remotely from the detention facility. He/she shall be in an enclosed room and shall be accompanied at all times by a jail guard.
  - b.1. The DCC shall coordinate with the facility detaining the PDL for the provision of the necessary equipment, computers, gadgets, or devices, internet connection and a cellular phone. One camera placed in front of the accused PDL is sufficient if the accused PDL is not accompanied by any other person in the room, other than the jail guard. If the accused PDL is accompanied by his lawyer, there shall be 3 cameras in the room, the first one placed in front of the accused PDL; the second one placed in front of the defense counsel; and, the third one placed in a location that can show the entire room from one of its corners. There shall be one (1) monitor which shall show the images of the other participants as may be allowed by the court in these Guidelines.
  
- c. The other participants, except the witness who cannot for valid reasons physically appear before the court including a PDL, shall be physically present in the court room. In exceptional circumstances, such as when government regulations prohibit or limit the movement of persons, the DCC, interpreter, stenographer, prosecutors and counsels may attend the remote hearing from their place of office or residence, or any place from where they can effectively attend the remote hearing.
  - c.1 The lawyers and prosecutors who are in-court during the partial remote hearing may utilize their own computers and internet connections to access the videoconference to enable them to closely observe the demeanor of the witness and his/her physical surroundings.
  
- For remote participants, except a PDL, the prosecution and the defense shall be responsible for the videoconference equipment, computer, gadgets or devices and internet connection of the parties who they represent or will present as witnesses.
  
- d. A witness, who is not a PDL and who is allowed by the court to testify off-court, may attend the remote hearing from his/her place of residence, or from such other neutral place where he/she may effectively attend the remote



hearing. He/she must be alone in an enclosed room to avoid disturbance and coaching, intended or otherwise, during his/her testimony. As far as practicable, a witness giving testimony shall look directly into the camera and refrain from referring to documents or other visible materials without permission from the court.

- d.1 All remote participants shall choose a quiet, secure and well-lighted location with stable internet connection. They shall see to it that they will not be interrupted or distracted for the duration of the Remote Hearing, even when they are not speaking. After the case has been called and until its adjournment, all participants are prohibited from using their cellphones to text, call or otherwise communicate with another person.
- d.2 Each remote participant shall ensure that their own internet connection is suitable for video conference, without disconnections, lags or other such interruptions.
- d.3 The Court or its duly authorized representative may, at any time but not earlier than one (1) working day prior to the scheduled Remote Hearing, physically proceed to the remote location of the PDL or witness to inspect and test the video conference facilities, equipment, computer, gadgets or devices and internet connection to be used for the remote hearing. The Court may, reconsider its previous order to allow a remote hearing, if it is convinced that the videoconference facilities and/or equipment, computer, gadget or device and internet connection fail to comply with the required features under these Guidelines. During the remote hearing proper, the authorized representative may be directed by the Court to stay and observe at the remote location to ensure compliance with these Guidelines.

## **V. Procedure**

### **1. Motion to Conduct Remote Hearings**

- a. Remote Hearings may be conducted upon motion of any of the parties for purposes of arraignment, pre-trial, bail application, trial, promulgation of decision, or during any other stage of the proceedings, or for the hearing of any motion in relation thereto requiring the presence of the

accused, or upon *motu proprio* order of the court. Any motion for remote hearing should be filed at least fifteen (15) days before the intended hearing date.

- b. If the accused PDL expresses his/her intention to attend the proceedings and declares that he/she is not willing to waive his/her right to be present, the court, as a matter of course, shall order that a Remote Hearing be conducted, with only the accused as the remote participant. The other participants will appear in-court. In A.M. No. 19-05-05-SC dated 25 June 2019, the Supreme Court declared that the rights of the accused to be present and defend in person at every stage of the proceedings, to testify as a witness in his/her own behalf, and to confront and cross-examine the witnesses against him/her at trial are deemed satisfied when such appearance and testimony are made remotely through videoconference.<sup>10</sup>
- c. The waiver by an accused of his/her right to be present at any time during the proceedings does not preclude him/her from filing a motion to allow him/her to be present at any subsequent stage thereof.

## **2. Contents of the Motion:**

- a. The Motion to conduct remote hearing must state:
  - i. The grounds therefor;
  - ii. The name and a summary of the testimony of the intended witness, if one is to be presented;
  - iii. Additional requirement/s for the Remote Hearing, such as specialized software for the presentation of videos, etc.; and,
  - iv. That the movant and the intended witness are technically and technologically ready to participate in a remote hearing via Philippine Judiciary 365.

## **3. Hearing on the Motion**

- a. The other party/ies shall be heard on the Motion by filing a comment or opposition thereto within three (3) days from receipt of a paper or electronic copy of the

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<sup>10</sup> The rights of the accused to be present and defend in person at every stage of the proceedings, to testify as a witness in his or her own behalf, and to confront and cross-examine the witnesses against him or her at trial, are deemed satisfied when such appearance and testimony are made remotely through videoconferencing under these Guidelines (I. General Provision, No. 1)

same. When the remote hearing is intended to allow the accused to testify or to attend the proceedings, the Motion may be granted *ex parte* by the court.

#### **4. Order Granting Motion**

- a. The order granting the motion shall include the following:
  - i. The date and time of the Remote Hearing;
  - ii. The name/s of the witness/es;
  - iii. The expected location of each participant;
  - iv. The platform to be used for the remote hearing;
  - v. A directive for all parties to provide the court with their respective email addresses for the purpose of the Remote Hearing. The email addresses can only be: a) the respective personal email addresses of the participants; or, b) for the OSP, the email addresses of the Office of the Ombudsman or Office of the Special Prosecutor for purposes of videoconference; or, c) for the defense counsel, the email address for the purpose of videoconference of his/her law firm. The participants cannot use the email address of another person for the Remote Hearing;
  - vi. A directive for the movant to furnish the Court, and not any other participant, with the email address of the intended witness/es at least 3 days before the scheduled Remote Hearing; and,
  - vii. A directive for the prosecution and the defense counsels to ensure that the participants who they are representing or presenting are technically, technologically and physically ready to join the Remote Hearing; and,
  - viii. Such other matters as may be necessary to define the parameters of the Remote Hearing.

The DCC shall attach to the Order and/or email a copy of a *Quick Guide to Sandiganbayan Remote Hearing using the Philippine Judiciary 365*.

#### **5. Pre-Hearing Preparation**

- a. Before the scheduled hearing date, participants shall familiarize themselves with the Philippine Judiciary 365 platform or any other platform designated by the Court. Familiarization includes learning the basic functions of the platform, such as, but not limited to, entering/exiting a remote meeting, how to

mute/unmute the microphone, turn the camera off/on and share screen, and the upload document functions.

Participants who fail to properly familiarize themselves with the platform, thereby causing delay in the proceedings, may be held liable for contempt of court.

- b. The DCC shall send the invitations to all participants at least two (2) hours before the scheduled hearing. If hearings for a case are set in the morning and in the afternoon of the same day, the DCC shall send separate invitations. Upon receipt of the invitation, the participant shall immediately send an acknowledgment email to the official email address of the DCC. Any participant who has not received any invitation within the above period, or who could not access the Remote Hearing shall immediately communicate with the DCC through his/her official email, text (Short Message Service [SMS] or Multimedia Messaging Service [MMS]), and a phone call through the division's official landline or cellular phone. The proof of receipt of the notification e-mails shall be properly recorded.
- c. The invitation shall contain a link that will allow the participants to join the Remote Hearing. The invitation, link, meeting ID and passcode shall not be shared with any other person and must be treated with strict confidentiality. Any unauthorized sharing of said details and information may be considered as contempt of court.<sup>11</sup>
- d. The off-court participant/s are expected to be in the *Virtual Lobby* or *Waiting Area* at least 1 hour before the scheduled remote hearing.
- e. During this one (1) hour period, the DCC, the prosecutors and counsels shall inspect the room of the remote witness who is not a PDL. The remote witness, who is not a PDL, shall pan his/her camera across the room to demonstrate that he/she is alone in the room,

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<sup>11</sup> Patterned after OCA Circular 93-2020, par. 3

the windows and doors of the room are closed and there are no other means of communication available to him/her in the room.

- f. Thereafter, the lawyers shall agree on the placement of the cameras for the witness. At least one camera is to be positioned in front of the witness for the court to observe the demeanor of the witness, and to sufficiently allow the Court to continuously see that the witness is not assisted by another person during his/her testimony. There shall be as many additional cameras as there are doors and windows in the room of the witness. Each camera shall, from a wide angle, show such door/s or window/s to ensure that the DCC can monitor the goings in and out of the room during the remote hearing. The shots captured by the cameras, taken together, must enable the Court to see the entire room. At all times, each camera must be visible from at least one of the other cameras.

To conserve on physical and virtual resources, the remote witness is encouraged to utilize a room with a minimum number of access points.

- g. When the witness is a non-accused PDL or is testifying from a room within the Sandiganbayan, one camera placed in front of the witness is sufficient.
- h. Once the cameras are set, a screen shot must be taken of the monitor showing the witness' room to preserve the viewpoints of the camera. Thereafter, the camera/s shall not be moved unless directed by the court.
- i. Nothing herein shall preclude the court, at any time, from directing the witness to move the camera/s farther from or nearer to him/her, or to pan the camera across the entire room to allow the Court to better observe the demeanor of the witness, to apprise the Court of the surroundings and confirm that the witness is alone, or for any other reason as may be deemed necessary by the court.
- j. The use of a virtual background or other background effects is not allowed.

- k. The thumbnails of the remote participants shall reflect the following naming convention:

	<b>Participant</b>	<b>Name Convention</b>
a.	Justices	J. [Surname]
b.	Division Clerk of Court	Division Clerk of Court
c.	Stenographer	Stenographer
d.	Interpreter	Interpreter
e.	Prosecutor	Pros. [Surname, First Name]
f.	Counsels	Atty. [Surname, First Name]
g.	Accused	Surname, First Name
h.	Witness	Witness [Surname, First Name]

- l. Other than the justices, prosecutors, defense counsels, witness, and DCC, participants of the remote hearing, unless authorized by the court, are not allowed to speak and shall keep their microphones muted.

## **6. Hearing Proper**

- a. Remote participants are required to wear earphones or headsets during the Remote Hearing for better audio quality. In-court participants, except the lawyer conducting the examination, shall turn off their audio and listen from the speakers, and speak through the microphones available in the court room.
- b. All parties must be able to see, hear, and otherwise observe any physical or documentary evidence or exhibits presented during the proceedings, either by video, email, visualizer or other method.<sup>12</sup>
- c. The judicial affidavit/s of the witness/es to be presented, together with the pertinent exhibits, shall be electronically sent to the DCC's official email address and to the other parties, at least 5 days before the pre-trial, or preliminary conference, or the scheduled hearing with respect to motions and incidents, or the scheduled presentation of said witnesses, as the case may be. For partial remote hearings, the paper copies of the judicial affidavits and its attachments shall also be personally filed on the day of the hearing, through the Court's receiving section. If the witness during a full or partial remote hearing, on valid grounds, does not have access to a notary public, the presenting

<sup>12</sup> AM No. 19-05-05-SC citing Rule 15.2, Georgia Uniform Rules of the Municipal Court

counsel may propound preliminary questions to establish that the witness executed his/her judicial affidavit voluntarily and that he/she confirms the truthfulness and veracity of his/her statements.

- d. During a partial Remote Hearing, any party who intends to confront the witness/es with documentary exhibits are enjoined to prepare colored electronic copies for in-court and remote viewing, and sufficient paper copies of scanned or photocopies of the pre-marked documentary exhibits for the perusal of the justices and the other parties.

In such instances, the counsel is expected to attach electronic copies of the relevant exhibits, singly, in as many email drafts as there are exhibits to be presented, already addressed to the court and all other counsels for ready transmission. The lawyers who are in-court may use their laptops, gadgets or other devices to send out and/or receive the emails containing the electronic copies of the exhibits.

- e. In either full or partial remote hearing, the Court may also direct the counsel to share the exhibit on screen, through the feature in the platform or, if unable to do so, by displaying the document through the camera being used by the counsel.
- f. If the witness will be asked to authenticate a private document, the presenting counsel must ensure that the original thereof is placed in the possession of the witness at the time of his/her testimony, unless the parties have agreed to stipulate on its authenticity. The Sandiganbayan will be further guided by the issuances of the Supreme Court on authentication of private documents during remote hearings.
- g. If the marked exhibits form part of the record of the case, the presenting lawyer shall inform, at least 5 days in advance, the DCC of his/her intention to present the same during the full or partial remote hearing. The DCC shall prepare electronic copies of the said exhibits and bring the record to the court room.
- h. At the start of each remote hearing, the Court shall ascertain that the accused understands that the hearing is done remotely and through videoconference.

The Court shall ensure that the rights of the accused to be present and defend in person at every stage of the proceedings, to testify as a witness in his or her own behalf, and to confront and cross-examine the witnesses against him or her during trial are upheld and protected.

- i. Upon motion, the Court shall allow the accused, including a PDL, and his/her counsel to confer with each other at any time during the Remote Hearing,<sup>13</sup> except when the accused has taken the witness stand for that day's proceedings. For the purpose, the accused and his/her counsel must place their microphones on mute and confer with each other through other modes of communication at their disposal (such as by phone call or other messaging applications). After their conference, the counsel may unmute his/her microphone and manifest his/her readiness to proceed.

The warden or officer-in-charge of the facility detaining the accused PDL shall ensure that said accused PDL has ready access to means to communicate with his/her counsel.

- j. The DCC shall closely monitor the quality of the audio and video of the proceedings, and ensure that all participants continue to be connected to the platform. As soon as the DCC notices that any of the participants is disconnected or dropped from the platform, he/she shall immediately inform the court. The chairperson shall forthwith declare the proceedings temporarily suspended. The DCC shall email, call or text the participant and advise him/her to reconnect to the platform. The court shall order the resumption of the proceedings upon determination by the DCC that all participants are connected or have reconnected to the platform.

If the Court, at any time, determines that technological or technical issues may adversely affect the fairness of the Remote Hearing, or may cause or tend to cause the violation of the rights of the accused, or if matters should arise warranting the PDL's or the witness'

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<sup>13</sup> Patterned after OCA Circular 93-2020,6(a)



physical appearance in the court room, the Court shall suspend or discontinue the proceedings for the day, as necessary. In such an event, the reason/s for such suspension or discontinuance shall be included in the order of the court.

- k. The DCC shall terminate the videoconference as soon as the Remote Hearing for the case is adjourned. Thereafter, the DCC shall save an electronic copy and print the attendance sheet generated from the platform and include the same in the case record.
- l. The court stenographer shall take stenographic notes and may record the audio, through external audio digital recorders, of the proceedings. The stenographer shall indicate in the transcript of stenographic notes that the trial/hearing was conducted through videoconference and indicate the location of each participant.
- m. The videoconference proceedings during the remote hearing shall be recorded by the DCC.<sup>14</sup> The digital recording shall be made part of the records of the case. To ensure proper review when the matter is raised before the Supreme Court, copies of the digital recordings shall likewise be submitted to the Supreme Court and the MISO, thirty (30) days after the Sandiganbayan has rendered its decision. The digital files shall be saved in the servers of the Supreme Court and in the Data Recovery Centers.

No one else is allowed to record the proceedings. Any unauthorized recording of the proceedings by anyone, including the participants, may be considered as direct contempt of court.<sup>15</sup>

- n. If, during the Remote Hearing, the Court issues or promulgates an order or decision, a copy thereof shall immediately be furnished to the parties. The service of such order or decision to the parties may be done electronically through e-mail, with a directive for the parties to reply through an acknowledgment email.

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<sup>14</sup> *A.M. No. 01-7-01-SC dated July 17, 2001 (Rules on Electronic Evidence), Rule 10, Sec. 3. Storage of electronic evidence.* – The electronic evidence and recording thereof as well as the stenographic notes shall form part of the record of the case. Such transcript and recording shall be deemed *prima facie* evidence of such proceedings.

<sup>15</sup> Patterned after OCA Circular 93-2020, par. 4

Proof of its receipt should be included in the records of the case.

The order, resolution, or decision may be in the form of:

- i. Digitized copies of the paper copy of the order, resolution or decision personally signed by the justices; or,
- ii. Digitized copies of the minutes of the hearing or meeting issued by the DCC quoting a portion of the verbal order or resolution given by the court during the proceedings.

The paper copy of said order or decision shall be kept on file as part of the records of the case. Paper copies shall likewise be served upon the parties, as soon as the circumstances allow.

If a decision or judgment is promulgated *via* remote hearing with the accused as a participant, said accused shall enjoy all the remedies available to him and within the period provided under the Rules on Criminal Procedure, as if he were present in court during the promulgation.

- o. Each division, through the DCC, shall include in their monthly report a list of the remote hearings conducted by the division.

## **VI. Technical Training**

The justices and concerned court personnel shall familiarize themselves with the basic principles of videoconferencing, and simple operation of the videoconferencing equipment, application, gadget, and device to ensure familiarity with the technology.

## **VII. Transitory Provisions**

The Sandiganbayan shall utilize any available facility, equipment, computer, gadget or device to perform its mandate under the law, the rules and the present Guidelines, until such time that it has procured the equipment, computers, gadgets and devices prescribed in the present guidelines.

The Sandiganbayan MIS shall ensure that the Sandiganbayan internet connection is suitable for video conference, without disconnections, lags or other such interruptions. For the said purpose and with prior approval of the Presiding Justice, the MIS is authorized to limit internet access for the entire wing or floor where the court room is located, or for the entire building if necessary, so that the court room/s where the remote proceedings are being held can have full access thereto.

### **VIII. Posting of the Guidelines**

These Guidelines shall be posted on public bulletin boards and the website of the Sandiganbayan, offices of the concerned penal facilities and the Integrated Bar of the Philippines and other bar associations.

### **IX. Effectivity of the Guidelines**

These Guidelines shall be submitted to the Supreme Court for its approval. They shall take effect ten (10) days after the publication of its approved version in the Sandiganbayan and Supreme Court websites.

\_\_\_\_\_, 2020.

## **QUICK GUIDE FOR SANDIGANBAYAN REMOTE HEARING USING THE PHILIPPINE JUDICIARY 365 PLATFORM**

### **Preliminary Matters.**

1. All communications intended for the court in relation to the Remote Hearing shall be coursed through the Division Clerk of Court (DCC) through his/her official email address published in the Sandiganbayan Website.
2. When these guidelines speak of "camera/s", it refers to any device for recording or capturing visual images, in the form of photographs, film or video signals. The "camera" may refer to a device exclusively used for the said purpose, or to any such device that is an accessory of a computer, cellular phone, or any other gadget.

### **120 hours (5 days) before the Scheduled Hearing**

1. Email to the DCC your preferred Remote Hearing email address (Microsoft 365, Yahoo, Gmail, etc.) and the email addresses of the parties represented or to be presented for the Remote Hearing.
2. If applicable, electronically file and serve the Judicial Affidavit/s with annexes.
3. Email to the DCC colored electronic copies of marked exhibits to be presented, which are in your possession.
4. Inform the DCC that copies of exhibits to be presented are in the court's possession, i.e., formally offered or part of the records, under *custodia legis*, if such is the case. Provide the DCC with a list of the marked exhibits anticipated to be presented so that the DCC can prepare electronic copies thereof for viewing during the Remote Hearing.
5. Familiarize yourself with the basic functions of videoconference application indicated in the court's order, including the share screen function and upload document function, and practice using it.

### **72 hours (3 days) before the Scheduled Hearing**

1. Prepare colored electronic copies of exhibits to be used for confronting the witness (for counsels conducting cross-examination). The exhibits must be ready to be uploaded to the videoconference application when allowed by the court.
2. Email to the DCC your witness' email address for the Remote Hearing. The email containing the email address/es of the intended witness/es shall be emailed to the DCC alone.
3. Counsels should prepare their witnesses and/or client/s by conducting videoconference rehearsals and explaining the hearing protocol or guidelines.

### **48 hours (2 days) before the Scheduled Hearing**

1. Make sure the power sources and internet signal in the room from where you will attend the Remote Hearing are working.
2. Try having a videoconference with family or friends using the prescribed videoconference application or other platforms to familiarize yourself with how online meetings work.
3. Check if you have received the email from DCC confirming receipt of your preferred email address and those of the persons you represent or intend to present for the Remote Hearing. If you have not received the confirmatory email, resend the pertinent emails to the DCC. Call the DCC through telephone if necessary.

### **24 hours (1 day) before the Scheduled Hearing**

1. Choose a well lighted spot in the room. Check your image on the video of the computer or device to confirm that the lighting is adequate to allow the other participants to clearly see you and the microphone/s are sufficiently clear to allow the other participants to clearly hear you. If the light is not sufficient, a lamp may be placed beside or on the table.
2. For the remote witness, minimize blind/hidden spots in the room to avoid delay in the pre-hearing preparation.
3. For the remote witness, place small tables in the room to position the additional computers or devices.
4. Check that you have extra paper copies (for the in-court portion) and electronic copies of all relevant exhibits.
5. Prepare draft emails with attached colored electronic copies of the pertinent exhibits, as necessary, for ready transmission to the DCC and/or other active participants, when allowed or directed by the Court.
6. Fully charge your equipment, computers and/or devices.
7. The Court or its duly authorized representative may, at anytime but not earlier than one (1) working day prior to the scheduled Remote Hearing, physically proceed to the remote location of the PDL or witness to inspect and test the video conference facilities, equipment, computer, gadgets or devices and internet connection for the remote hearing.

### **2 hours before the Scheduled Hearing**

1. Put on a proper court room attire.
2. Make sure the headsets or earphones, chargers, extension wires, judicial affidavits, flash drives, paper and electronic copies of pre-marked and other exhibits are on hand.
3. Check your email if you have received an invitation from the DCC for the Remote Hearing. If set for morning and afternoon, the invitation for the

afternoon hearing will be separately sent out 2 hours before the scheduled afternoon hearing.

4. If you have received the invitation, send out acknowledgment email to the DCC. If you have not, email the DCC to inform him/her that you have not received the invitation. If you still did not receive the invitation after 15 minutes, call the DCC to inform him/her that you have not received the invitation. The invitation, link, meeting ID and passcode shall not be shared with any other person and must be treated with strict confidentiality.
5. When you receive the invitation, you may test-join the Remote Hearing. Click on the link found in the notification e-mail sent by the DCC.



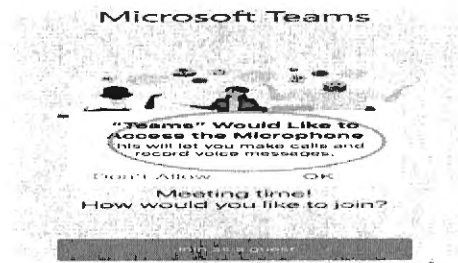
6. For participants who have the videoconference application installed on their device, the link above should automatically redirect to the application.

The participant may also be redirected to this screen in a web browser.



If so, the participant may choose to “Download the Windows App” – which is free of charge. Alternatively, by selecting “Join on the web instead”, the participant will be redirected to another webpage.

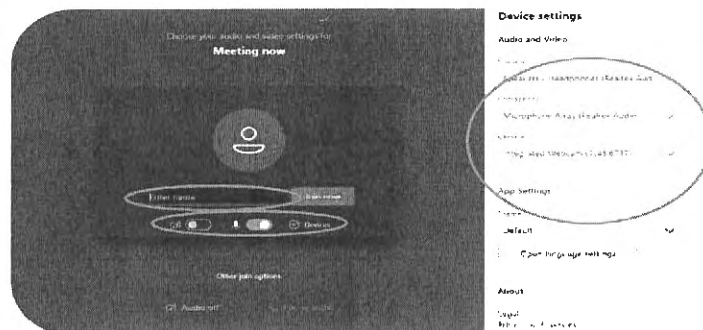
When you are prompted to give permission for the application to access your device's microphone and camera, select "Allow" or "OK".



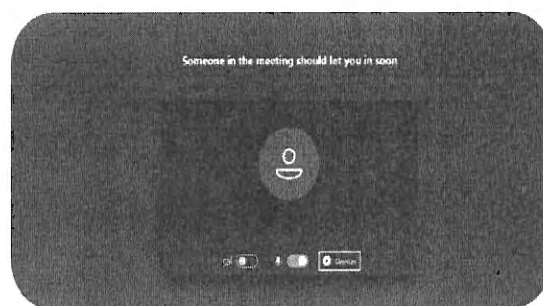
7. Inform your housemates that you are attending a virtual court hearing and request them not to enter your room. Post a notice on the door.

### 1 hour before the Scheduled Hearing

1. Remind yourself that the same formal etiquette and protocol of a physical Court is expected during the Remote Hearing. The dignity and solemnity of, and decorum expected during, court proceedings shall be observed at all times.
2. Sit properly on a chair with a table in front of you to position the camera. Participants cannot sit on couches, sofas or beds. Participants are expected to stay seated and should not walk around while the Remote Hearing is ongoing.
3. Click or tap the Link in the notification or invitation letter, or the calendar to join the meeting, as shown above. Enter your name as prescribed in the Guidelines.



4. Turn on video and unmute the microphone and Click Join Now. Wait at the virtual lobby for someone to let you in.



5. Wear your headsets. Make sure there is no virtual background in your video.

6. The Prosecutor, defense lawyers and the DCC will agree on the placement of the cameras in the witness' room, at least 3 for non-PDLs and at least 1, for PDLs. The DCC will request the witness to pan the main camera across the room. The parties will agree whether the views from the camera sufficiently capture the spaces of the room.
7. The DCC will take a screen shot of the room of the witness, together with the witness. Thereafter, the cameras in the witness' room cannot be moved, except upon the directive of the court.

### During the Proceedings

1. Other than the justices, DCC, prosecutors, lawyers of the accused, and the witness, if any (Active Participants), other persons (non-active participants) allowed to join the Remote Hearing are to keep their microphones muted, unless specifically directed otherwise by the Court. If necessary to maximize the internet resources, the court may direct the other court personnel participants, i.e., stenographer and interpreter, to turn off their cameras.
2. Non-active participants must "raise hand" using the function and wait to be recognized by the Court before speaking at any time.

During a meeting, you can raise a virtual hand to let people know you want to contribute without interrupting the conversation.

Just select **Raise your hand**  in the meeting controls.



3. The Court may direct active participants to mute their microphone to minimize external noises, if their location is noisy or emits sounds that are distracting to the participants.

To mute or unmute your own microphone, tap or click the microphone icon on the menu ribbon.

To turn on or off your own camera, tap or click the camera icon on the menu ribbon.

To share a document on screen upon instructions of the Court, select the share button on the menu ribbon and choose your file.

The menu ribbon is usually found at the lower portion of the screen. If not visible on your screen, tap or click on the screen portion for the menu ribbon to appear.



An active participant cannot turn off his/her video without the permission of the court.