

EN BANC


G.R. No. 241494 – SEN. ANTONIO “SONNY” F. TRILLANES IV, Petitioner, v. HON. SALVADOR C. MEDIALDEA, in his capacity as Executive Secretary, HON. DELFIN N. LORENZANA, in his capacity as Secretary of National Defense, HON. EDUARDO M. AÑO, in his capacity as Secretary of Interior and Local Government, HON. MENARDO I. GUEVARRA, in his capacity as Secretary of Justice, GEN. CARLITO G. GALVEZ, JR., in his capacity as Chief of Staff, Armed Forces of the Philippines, P/DIR. GEN. OSCAR D. ALBAYALDE, in his capacity as Chief of the Philippine National Police and all persons acting for and in their behalf and/or under their direction, Respondents.

G.R. No. 256078 – PEOPLE OF THE PHILIPPINES, Petitioner, v. SEN. ANTONIO F. TRILLANES IV, Respondent.

G.R. No. 256660 – PEOPLE OF THE PHILIPPINES, Petitioner, v. SEN. ANTONIO F. TRILLANES IV, Respondent.

Promulgated:

April 3, 2024

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CONCURRING OPINION

CAGUIOA, J.:

I concur with the *ponencia* in finding Proclamation No. 572, series of 2018¹ (Proclamation No. 572), which revoked the amnesty granted to Antonio “Sonny” F. Trillanes IV (Trillanes), to be void.

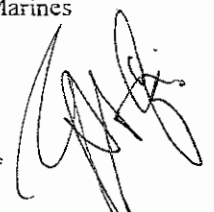
I submit this Concurring Opinion to emphasize that: (a) a President cannot revoke a grant of amnesty without the legislature’s concurrence; and (b) Proclamation No. 572 is an *ex post facto* law.

Brief review of the facts

Seven years after the grant of the amnesty of Trillanes through Proclamation No. 75, series of 2010² (Proclamation No. 75) the dismissal of

¹ Revocation of the Department of National Defense Ad Hoc Committee Resolution No. 2(#1) dated January 31, 2011 insofar as it Granted Amnesty to Former LTSG Antonio Trillanes IV, signed on August 31, 2018.

² Granting Amnesty to Active and Former Personnel of the Armed Forces of the Philippines, Philippine National Police and Their Supporters who may have Committed Crimes Punishable Under the Revised Penal Code, the Articles of War and Other Laws in Connection with the Oakwood Mutiny, the Marines Stand-Off and the Peninsula Manila Hotel Incident, signed on November 24, 2010.



the rebellion and *coup d'etat* cases in 2011, and the finality of the decision of the Department of National Defense (DND) granting amnesty, former President Rodrigo Roa Duterte issued Proclamation No. 572 which declared the amnesty void.

Under the Whereas Clause of Proclamation No. 572, the basis of revoking Trillanes' amnesty is that he did not file an Official Amnesty Application Form per the Certification dated August 30, 2018 issued by Lt. Col. Thea Joan N. Andrade, Chief, Discipline, Law and Order Division of the Office of the Deputy Chief of Staff for Personnel, stating that there is no available copy of his application for amnesty in the records.³ Consequently, the Department of Justice (DOJ) and Court Martial of the Armed Forces of the Philippines were ordered to pursue all criminal and administrative cases filed against Trillanes in relation to the Oakwood Mutiny and the Manila Peninsula Incident.⁴

Because of Proclamation No. 572, the DOJ filed two motions captioned "Very Urgent *Ex-Parte* Omnibus Motion for the Issuance of a Hold Departure Order and Warrant of Arrest" (Omnibus Motion) in the Regional Trial Courts⁵ where the rebellion and *coup d'etat* cases were previously pending.

Branch 148 of the Regional Trial Court (RTC) of Makati City (RTC-Branch 148), where the *coup d'etat* case was pending, denied the DOJ's Omnibus Motion and concluded that Trillanes filed his amnesty application in the prescribed form in which he also admitted guilt. It ultimately ruled that Proclamation No. 572 was valid but that Trillanes was entitled to amnesty because he complied with the requirements under Proclamation No. 75. The Office of the Solicitor General filed a petition for *certiorari* with the Court of Appeals (CA), but the same was denied by the latter. Even as the CA held Proclamation No. 572 to be valid, it also ruled that RTC-Branch 148 correctly denied the Omnibus Motion because the prosecution failed to prove that Trillanes did not submit an amnesty application form and did not admit guilt.⁶

On the other hand, Branch 150 of the RTC of Makati City (RTC-Branch 150), where the rebellion case was pending, granted the DOJ's Omnibus Motion. Trillanes filed a petition for *certiorari* with the CA questioning the said grant. The CA granted Trillanes' petition and held that since the grant of the motion to dismiss had become final and executory, the RTC no longer had jurisdiction to entertain the Omnibus Motion filed by the DOJ. According to the CA, the DOJ should have used Rule 38 (relief from judgment), Rule 47 (annulment of judgment), or Rule 65 (petition for *certiorari*) to assail the

³ Proclamation No. 572, 10th Whereas Clause.

⁴ Proclamation No. 572, sec. 2.

⁵ Branch 150 and Branch 148, Regional Trial Court, Makati City.

⁶ See *ponencia*, pp. 12-13.

supposed invalid grant of amnesty to Trillanes instead of simply filing the Omnibus Motion in the court where the case had been previously filed.⁷

Hence, the present consolidated cases.

In G.R. No. 241494, Trillanes assails before the Court the validity of Proclamation No. 572. This petition was filed while the respective Omnibus Motions in the *coup d'etat* and rebellion cases were still pending.

G.R. No. 256660 (*coup d'etat* Petition) is filed by the DOJ where it submits that the CA erred in ruling that RTC-Branch 148 did not act with grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the Omnibus Motion in the *coup d'etat* case.

G.R. No. 256078 (rebellion Petition) is also filed by the DOJ, arguing that the CA erred when it concluded that the Dismissal Order in the rebellion case could not be set aside through a mere motion. For the DOJ, since the Dismissal Order is a void judgment, it did not become final and executory. Moreover, RTC-Branch 150 did not err when it conducted a summary and not a full-blown hearing to resolve the Omnibus Motion in the rebellion case.

As identified by the *ponencia*, the substantive issues in the present consolidated cases are the following: (a) whether Proclamation No. 75 is invalid because former President Benigno S. Aquino III (former President Aquino III) unduly delegated his constitutional power to grant amnesty to the DND and the *ad hoc* committee of the DND; and (b) whether Proclamation No. 572 is unconstitutional.⁸

I fully concur with the *ponencia*'s disposition of both issues above. However, by this Concurring Opinion, I delve deeper into the second issue.

As stated at the outset, I agree that Proclamation No. 572, which revoked the grant of amnesty to Trillanes, is void and unconstitutional for violating Trillanes' constitutionally guaranteed rights to due process and equal protection of laws. I fully agree with the *ponencia*'s ruling that the decision of the DND granting amnesty to Trillanes became final, executory, and immutable after the period to appeal had prescribed. Considering that it had been seven years since Trillanes was granted amnesty, that the amnesty had been fully enforced and the pending criminal cases against him had been dismissed, that the ground for revoking his amnesty was factual and thus could have been explained had Trillanes been given the opportunity to do so, and that the amnesty was about to be revoked way beyond the allowable period for reversing the decision of the DND under the applicable rules, justice and

⁷ See *id.* at 14-17.

⁸ *Id.* at 34-35.



fair play required that Trillanes should have been given notice and the opportunity to be heard.⁹

Trillanes was not afforded any opportunity to present his side on the alleged factual findings that formed the basis for Proclamation No. 572. Indeed, Proclamation No. 572 was issued in clear disregard of the procedural rules and principles of justice and fairness. The revocation of Trillanes' amnesty, especially after such an extended period, is deeply concerning. Trillanes' rights to due process and a fair hearing should have been respected.

Furthermore, Proclamation No. 572 contains an unconstitutional and arbitrary classification insofar as it targets Trillanes alone, to the exclusion of all other amnesty grantees, by declaring the grant of amnesty to him void *ab initio*.¹⁰

I also agree with the *ponencia* that the validity of Proclamation No. 572 is not a political question that is dependent upon the wisdom, not legality, of a particular measure.¹¹

Political questions are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislature or executive branch of the government.¹² Such is not the nature of the question for determination in the present consolidated cases, as they transcend the boundaries of a mere political question. As correctly pointed out by the *ponencia*, Trillanes raises questions pertaining to the limits imposed on the power of the President to grant an amnesty and revoke it. In essence, the Court is called upon to determine whether Proclamation No. 572, in its issuance and effect, complies with the Constitution and whether it infringes upon the Bill of Rights. These are matters that necessitate a careful legal analysis and interpretation of our fundamental law, and they are well within the purview of the Court's jurisdiction, as provided in Article VIII, Section 5(c) of the Constitution.¹³ The issue, therefore, is justiciable rather than political, since it involves the legality and not the wisdom of the act complained of.

In fact, the present consolidated cases present a troubling instance of political oppression. The Court is called upon to confront a situation where the very foundations of our democracy and the rule of law appear to be under threat. Trillanes has raised concerns that extend far beyond mere political questions. He has alleged political oppression in the form of revocation of amnesty that appears politically motivated and designed to silence a vocal critic.

⁹ *Id.* at 54.

¹⁰ *Id.* at 57-58.

¹¹ *See id.* at 30-34.

¹² *Tañada and Macapagal v. Cuenco*, 103 Phil. 1051, 1067 (1957) [Per J. Concepcion, *En Banc*].

¹³ *Ponencia*, p. 32.

Moreover, I fully concur with the *ponencia*'s ruling that the President cannot unilaterally revoke an amnesty grant without the concurrence of Congress. As aptly highlighted in the *ponencia*, although the Constitution does not explicitly address revocation, granting the President sole authority in this matter would render futile the participation of the legislature in its grant.¹⁴

Indeed, the question of whether the President alone can revoke the grant of amnesty without the legislature's concurrence is a vital legal issue that is pertinent to the present consolidated cases. It is intertwined with the interpretation of Proclamation No. 572 and its implications. Addressing the question of whether the President, acting unilaterally, can revoke a grant of amnesty without the legislature's concurrence is necessary to ensure a comprehensive understanding of the legal landscape surrounding amnesty revocation. Moreover, it is noteworthy that the CA Decision¹⁵ dated May 31, 2021 already weighed in on this, asserting that Proclamation No. 572 represents a valid exercise of the President's constitutional power of control over all executive departments, bureaus, and offices.¹⁶

Our present governmental system is built on the separation of powers among the three branches of government. The legislature is generally limited to the enactment of laws, the executive to the enforcement of laws, and the judiciary to the interpretation of laws. This separation is intended to prevent a concentration of authority in one person or group that might lead to an irreversible error or abuse in their exercise to the detriment of our republican institutions. The doctrine of separation of powers is intended to secure action, forestall overaction, prevent despotism, and obtain efficiency.¹⁷

However, it is also often necessary for certain powers to be reposed in more than one department so that they may better collaborate with and, in the process, check each other for the public good.¹⁸ This blending of powers has become necessary to properly address the complexities brought about by a rapidly developing society and which the traditional branches of government have difficulty coping with.¹⁹ An example is the grant of amnesty by the President which requires the concurrence of a majority of all the members of Congress under Article VII, Section 19 of the Constitution, *viz.*:

SECTION 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves,

¹⁴ *Id.* at 37, 39–40.

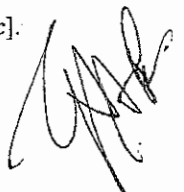
¹⁵ *Rollo* (G.R. No. 241494), Vol. 2, pp. 566–632. Penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Perpetua Susana T. Atal-Paño and Raymond Reynold R. Lauigan, Special Eleventh (11th) Division, CA, Manila.

¹⁶ *Id.* at 601.

¹⁷ J. Ynares-Santiago, Separate Opinion in *Lambino v. Commission on Elections*, 536 Phil. 1, 147-148 (2006) [Per J. Carpio, *En Banc*], citing JUSTICE ISAGANI A. CRUZ, PHILIPPINE POLITICAL LAW 71 (1995 ed.), citing further *Pangasinan Transportation Co. v. PSC*, 40 O.G., 8th Supp. 57.

¹⁸ I CARLO L. CRUZ, NOTES ON THE CONSTITUTION 91 (2016).

¹⁹ J. Kapunan, Dissenting Opinion in *Ople v. Torres*, 354 Phil. 948, 997 (1998) [Per J. Puno, *En Banc*].



commutations and pardons, and remit fines and forfeitures, after conviction by final judgment.

He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.
(Emphasis supplied)

Hence, pursuant to Article VII, Section 19 of the Constitution, former President Aquino III issued on November 24, 2010, Proclamation No. 75, which reads in part:

GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT

WHEREAS, it is recognized that certain active and former personnel of the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and their supporters have or may have committed crimes punishable under the Revised Penal Code, the Articles of War and other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marine[s] Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident;

WHEREAS, there is a clamor from certain sectors of society urging the President to extend amnesty to said AFP and PNP personnel and their supporters;

WHEREAS, Section 19, Article VII of the Constitution expressly vests the President the power to grant amnesty;

WHEREAS, the grant of amnesty in favor of the said active and former personnel of the AFP and PNP and their supporters will promote an atmosphere conducive to the attainment of a just, comprehensive and enduring peace and is in line with the Government's peace and reconciliation initiatives;

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Philippines, by virtue of the powers vested in me by Section 19, Article VII of the Philippine Constitution, do hereby **DECLARE** and **PROCLAIM**:

SECTION 1. Grant of Amnesty. – Amnesty is hereby granted to all active and former personnel of the AFP and PNP as well as their supporters who have or may have committed crimes punishable under the Revised Penal Code, the Articles of War or other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident who shall apply therefor; Provided that



amnesty shall not cover rape, acts of torture, crimes against chastity and other crimes committed for personal ends.

.....

SECTION 4. *Effects.* –

(a) **Amnesty pursuant to this proclamation shall extinguish any criminal liability for acts committed in connection, incident or related to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident** without prejudice to the grantee's civil liability for injuries or damages caused to private persons, if any.

(b) Except as provided below, **the grant of amnesty shall effect the restoration of civil and political rights or entitlement of the grantees that may have been suspended, lost or adversely affected by virtue of any executive, administrative or criminal action or proceedings against the grantee in connection with the subject incidents, including criminal conviction or [sic] any form, if any.**

(c) All enlisted personnel of the Armed Forces of the Philippines with the rank of up to Technical Sergeant and personnel of the PNP with the rank of up to Senior Police Officer 3, whose applications for amnesty will be approved shall be entitled to reintegration or reinstatement, subject to existing laws and regulations. However, they shall not be entitled to back pay during the time they have been discharged or suspended from the service or unable to perform their military or police duties.

(d) Commissioned and Non-commissioned officers of the AFP with the rank of Master Sergeant and personnel of the PNP with the rank of at least Senior Police Officer 4 whose application for amnesty will be approved shall not be entitled to remain in the service, reintegration or reinstatement into the service nor back pay.

(e) All AFP and PNP personnel granted amnesty who are not reintegrated or reinstated shall be entitled to retirement and separation benefits, if qualified under existing laws and regulation, as of the time of their separation, unless they have forfeited such retirement benefits for reasons other than the acts covered by this Proclamation. Those reintegrated or reinstated shall be entitled to their retirement and separation benefit upon their actual retirement. (Emphasis supplied)



Thereafter, the House of Representatives and the Senate adopted Concurrent Resolution No. 4 on December 13, 2010 and December 14, 2010, respectively. Relevant portions of the Resolution partly read:

CONCURRENT RESOLUTION CONCURRING WITH
PROCLAMATION NO. 75 OF THE PRESIDENT OF THE
REPUBLIC OF THE PHILIPPINES DATED 24 NOVEMBER
2010 ENTITLED "GRANTING AMNESTY TO ACTIVE AND
FORMER PERSONNEL OF THE ARMED FORCES OF THE
PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR
SUPPORTERS WHO MAY HAVE COMMITTED CRIMES
PUNISHABLE UNDER THE REVISED PENAL CODE, THE
ARTICLES OF WAR AND OTHER LAWS IN CONNECTION
WITH THE OAKWOOD MUTINY, THE MARINES STAND-
OFF AND THE PENINSULA MANILA HOTEL INCIDENT"

WHEREAS, Section 19, Article VII of the Constitution provides that the President shall have the power to grant amnesty with the concurrence of a majority of all the Members of Congress;

....

WHEREAS, both Houses of Congress share the view of the President that in order to promote an atmosphere conducive to the attainment of a just, comprehensive and enduring peace and in line with the Government's peace and reconciliation initiatives, there is a need to declare amnesty in favor of the said active and former personnel of the AFP and PNP and their supporters;

WHEREAS, it is the sense of both Houses of Congress that it is imperative that an amnesty partaking the nature proclaimed by His Excellency, the President of the Philippines, is necessary for the general interest of the Philippines[.]

The act of granting amnesty under Proclamation No. 75 was approved by former President Aquino III and concurred in by the majority of all the members of Congress. It is not within the purview of any individual, regardless of the office, to unilaterally revoke such a grant of amnesty. The President's authority to unilaterally revoke such an amnesty proclamation, previously issued with the concurrence of the former President and the majority of the members of both houses of Congress, must be subject to a similar requirement of concurrence from the legislative branch. It follows logically that the revocation of an amnesty should require a similar level of consensus. To do otherwise would be to allow the executive to effectively override and render nugatory the concurrence previously granted by Congress. It would undermine the separation of powers of government and the very principles that underpin our constitutional democracy. Allowing an amnesty proclamation to be revoked by the President alone would open the door to politically-driven decisions, weakening our commitment to the rule of law.



The shared power of the President and Congress to grant amnesty reflects a profound understanding of the delicate nature of such power, as it entails the absolution of even the most serious crimes committed by individuals or groups. As an early Philippine case²⁰ noted, “[a]mnesty commonly denotes the ‘general pardon to rebels for their treason and other high political offenses, or the forgiveness which one sovereign grants to the subjects of another, who have offended by some breach of the law of nations.’”²¹

It is also worth noting that the Whereas Clause of Proclamation No. 75 explicitly states that the grant of amnesty is aimed at promoting an atmosphere conducive to the attainment of a just, comprehensive, and enduring peace and is in line with the government’s peace and reconciliation initiatives.²² This recognition reflects the government’s acknowledgment that amnesty is essential to conflict resolution and peace-building efforts. **If a President can unilaterally revoke an amnesty previously granted by his or her predecessor and majority of all the Members of Congress, it sends a message to those who may consider participating in future peace negotiations that the terms of their amnesty are subject to the whims of future Presidents.** The unpredictability and arbitrariness of whether a future President alone will honor commitments made by his or her predecessor threatens the credibility of the government’s efforts to maintain peace and reconciliation.

In *People v. Patriarca, Jr.*,²³ the Court discussed the effect of an amnesty, thus:

Amnesty commonly denotes a general pardon to rebels for their treason or other high political offenses, or the forgiveness which one sovereign grants to the subjects of another, who have offended, by some breach, the law of nations. **Amnesty looks backward, and abolishes and puts into oblivion, the offense itself; it so overlooks and obliterates the offense with which he is charged, that the person released by amnesty stands before the law precisely as though he had committed no offense.**

Paragraph 3 of Article 89 of the Revised Penal Code provides that criminal liability is totally extinguished by amnesty, which completely extinguishes the penalty and all its effects.²⁴ (Emphasis supplied; citations omitted)

In the present consolidated cases, Trillanes applied for and was unquestionably granted amnesty under Proclamation No. 75. This is evident not only from the issuance of the Certificate of Amnesty to Trillanes by then

²⁰ *Villa v. Allen*, 2 Phil. 436 (1903) [Per J. Cooper, *En Banc*].

²¹ *Id.* at 439.

²² Proclamation No. 75, 4th Whereas Clause.

²³ 395 Phil. 690 (2000) [Per J. Buena, Second Division].

²⁴ *Id.* at 699.

DND Secretary Voltaire Gazmin, but also from the dismissal of all cases pending against him by RTC-Branch 148 and RTC-Branch 150.

The grant of amnesty resulted in the complete erasure of the crimes for which Trillanes had been charged. Consequently, any subsequent attempt to revoke this amnesty is, in essence, an exercise in futility. Considering that amnesty had been granted to Trillanes, there is effectively no more criminal liability left to revive. Any criminal liability on the part of Trillanes had already been completely extinguished by the amnesty granted to him. His liability had been expunged, and he is now exonerated in the eyes of the law.

In this connection, I submit the view that the grant of amnesty upon Trillanes resulted in a vested right.

A vested right is one which is absolute, complete, and unconditional, to the exercise of which no obstacle exists, and which is immediate and perfect in itself and not dependent upon any contingency. To be vested in its accurate legal sense, a right must be complete and consummated, and one which the person to whom it belongs cannot be divested of without his or her consent.²⁵ The term expresses the concept of a present, fixed interest which in right reason and natural justice should be protected against arbitrary State action, or an innately just and imperative right which an enlightened free society, sensitive to inherent and irrefragable individual rights, cannot deny.²⁶

Once amnesty is granted, it is binding and effective.²⁷ When an individual or group is granted amnesty, their criminal liability for past offenses is fully extinguished. It obliterates past offenses and offers the individual or group a clean slate. They stand before the law as if they had never committed those offenses. This creates an expectation of finality and a recognition of a vested right to be free from prosecution and punishment for the covered offenses. To my mind, once amnesty is granted, it becomes a vested right of the recipient. It is not a mere privilege that can be whimsically withdrawn by the President alone. As such, there is no doubt that the grant of amnesty upon Trillanes is a vested right, as it embodies the essence of an absolute, complete, and unconditional right that is protected against arbitrary State action. The decision granting amnesty to Trillanes had been in force for seven years, during which the amnesty was fully enforced, and all pending criminal charges against Trillanes were dismissed.

²⁵ *Development Bank of the Phils. v. Court of Appeals*, 185 Phil. 238, 254-255 (1980) [Per J. Antonio, Second Division].

²⁶ *Republic v. Miller*, 365 Phil. 634, 638 (1999) [Per J. Pardo, First Division].

²⁷ *People v. Crisola*, 213 Phil. 1, 2 (1984) [Per C.J. Fernando, Second Division].



I also agree with the *ponencia's* ruling that Proclamation No. 572 amounts to an *ex post facto* law, which is prohibited under Article III, Section 22 of the Constitution:

SECTION 22. No *ex post facto* law or bill of attainder shall be enacted.

In *Lacson v. The Executive Secretary*,²⁸ the Court enumerated the seven instances of *ex post facto* legislation as follows—

- (a) [Every law] which makes an act done criminal before the passing of the law and which was innocent when committed, and punishes such action; or
- (b) [Every law] which aggravates a crime or makes it greater than when it was committed; or
- (c) [Every law] which changes the punishment and inflicts a greater punishment than the law annexed to the crime when it was committed;
- (d) [Every law] which alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense in order to convict the defendant;
- (e) Every law which, in relation to the offense or its consequences, alters the situation of a person to his disadvantage[;]
-
- (f) [Every law] which assumes to regulate civil rights and remedies only but in effect imposes a penalty or deprivation of a right which when done was lawful; [and]
- (g) [Every law] which deprives a person accused of crime of some lawful protection to which he has become entitled, such as the protection of a former conviction or acquittal, or a proclamation of amnesty.²⁹ (Emphasis supplied; citations omitted)

Even though Proclamation No. 572 is not a statute but a mere presidential proclamation, the revocation of Trillanes' amnesty falls within the purview of the seventh instance of an *ex post facto* law.

A presidential proclamation is an act of the President that is promulgated to fix a date or declare a status or condition of public moment or interest, upon the existence of which the operation of a specific law or regulation is made to depend, and shall have the force of an executive order.³⁰

²⁸ 361 Phil. 251 (1999) [Per J. Martinez, *En Banc*].

²⁹ *Id.* at 274–275.

³⁰ ADM. CODE (1987), Book III, Title 1, Chapter 2, sec. 4.

On the other hand, an executive order is an act of the President that is promulgated to provide for rules of a general or permanent character in implementation or execution of constitutional or statutory powers.³¹

If a law cannot deprive an accused of some lawful protection to which he or she has become entitled such as the proclamation of amnesty, then a presidential proclamation, which is at a level subordinate to a statute, is similarly, if not more, restricted from doing so.

Amnesty, once granted, bestows upon an individual a lawful protection, as it operates in such a way that it overlooks and obliterates the offense an individual is charged of to the extent that the person released by amnesty stands before the law precisely as though he or she had never committed any offense. It is a legal safeguard that cannot be stripped away without due process. The revocation of Trillanes' amnesty through Proclamation No. 572 effectively punishes him for something he had previously been granted protection against. Thus, Proclamation No. 572 squarely fits within the purview of an *ex post facto* law, especially when measured against its specific definition that speaks to depriving a person of lawful protection such as amnesty.

In all, I **VOTE** to declare Proclamation No. 572 void and unconstitutional, and **GRANT** the Petition filed by Trillanes in G.R. No. 241494. Further, I **VOTE** to **DENY** the Petitions filed by the DOJ in G.R. No. 256660 and G.R. No. 256078.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

³¹ ADM. CODE (1987), Book III, Title 1, Chapter 2, sec. 2.