



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **08 February 2021** which reads as follows:*

“G.R. No. 253145 (*People of the Philippines v. Eric Guzman y Navarro*). — This is a Petition for Review on *Certiorari*¹ assailing the Court of Appeals’ (CA) Decision² dated January 8, 2020 and Resolution dated July 6, 2020 in CA-G.R. SP No. 160971 which allowed the accused to apply for probation.

At the outset, the Court resolves to **GRANT** petitioner’s motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari.

ANTECEDENTS

On October 29, 2018, Eric Guzman y Navarro (Guzman) was charged with illegal sale of dangerous drugs before the Regional Trial Court (RTC). Guzman, through counsel, expressed to plead guilty for the lesser offense of illegal possession of drug paraphernalia. The prosecution opposed Guzman’s motion and refused to give its consent to the plea bargaining. The prosecution invoked the provisions of the June 26, 2018 Department of Justice (DOJ) Department Circular No. 027, that for illegal sale of drugs, the lesser offense is illegal possession of drugs (provided the weight of the *shabu* is less than 5 grams) and not illegal possession of drug paraphernalia.³ On November 23, 2018, the RTC⁴ allowed Guzman to plead guilty for illegal possession of drug paraphernalia but declared him ineligible for probation, thus:

¹ *Rollo*, pp. 11-45.

² *Id.* at 48-63; penned by Associate Justice Mariflor P. Punzalan Castillo, with the concurrence of Associate Justices Eduardo B. Peralta, Jr. and Ruben Reynaldo G. Roxas.

³ *Id.* at 110.

⁴ *Id.* at 110-112.

WHEREFORE, finding accused Eric Guzman guilty beyond reasonable doubt to the lesser offense penalized under Sec. 12, Art. 2 of RA 9165, he is hereby sentenced to an indeterminate penalty of imprisonment ranging from six months and one day, as minimum to THREE (3) YEARS, as maximum and to pay a fine of Php10,000.00 with subsidiary imprisonment in case of insolvency.

x x x x

Make it of record that the accused is ineligible to apply for probation.

x x x x

SO ORDERED.⁵

Guzman moved for reconsideration in so far as the RTC disqualified him to apply for probation. On January 22, 2019, the RTC denied the motion⁶ on the ground that A.M. No. 18-03-16-SC⁷ and Section 24, Article II of Republic Act No. 9165 (RA 9165) are clear that the probation law shall not apply in offenses involving illegal drug trafficking or pushing.⁸ The RTC explained that Guzman was convicted for illegal sale of dangerous drugs although his sentence corresponds to the penalty for illegal possession of drug paraphernalia.⁹ Dissatisfied, Guzman elevated the case to the CA through a petition for *certiorari* docketed as CA-G.R. No. 160971. On January 8, 2020, the CA granted the petition and allowed Guzman to avail of the benefits of probation,¹⁰ thus:

WHEREFORE, premises considered, the instant petition for *certiorari* is **GRANTED**. The Orders dated November 23, 2018 and January 22, 2019, both rendered by the Regional Trial Court of Balanga City, Branch 1, in Criminal Case No. 19104 are **REVERSED and SET ASIDE** in so far as the said Orders disqualify petitioner ERIC GUZMAN y NAVARRO from availing of the benefits of probation. Consequently, petitioner is **ALLOWED** to apply for probation under the Supreme Court's A. M. No. 18-03-16-SC.

SO ORDERED.¹¹

Petitioner People of the Philippines (People) sought reconsideration but was denied.¹² Hence, this recourse. The People claim that a petition for *certiorari* under Rule 65 of the Rules of Court is not the proper remedy because a petition for review on *certiorari* under Rule 45 of the Rules of Court is still available.¹³ As regards the substantive aspect, the People maintain that

⁵ *Id.* at 111-112.

⁶ *Id.* at 113-116.

⁷ "Adoption of the Plea-Bargaining Framework in Drugs Cases," En Banc Notice dated April 10, 2018.

⁸ *Rollo*, p. 113.

⁹ *Id.* at 113-114.

¹⁰ *Supra* note 1.

¹¹ *Supra* at 62-63.

¹² *Rollo*, pp. 65-66.

¹³ *Id.* at 26.

Guzman was indicted for sale of illegal drugs and is disqualified to apply for probation.¹⁴

RULING

The petition is unmeritorious.

The CA did not err in ruling that a petition for *certiorari* is the proper remedy. Section 2,¹⁵ Rule 50 of the Rules of Court directs the CA to dismiss outright an appeal under Rule 41¹⁶ raising only questions of law. Further, Section 4 of the Probation Law prohibits the filing of an appeal from an order granting or denying probation. Here, Guzman does not question his judgment of conviction. Guzman only contested the RTC's Order declaring him ineligible for probation. Considering that an order denying probation is not appealable and that Guzman does not have any plain, speedy, and adequate remedy in the course of law, his resort to a petition for *certiorari* before the CA is proper.

As regards the substantive issue, the circumstances of this case is similar to *Pascua v. People*¹⁷ where the Court ruled that the RTC gravely abused its discretion in declaring the accused ineligible for probation after pleading guilty to the lesser offense. In that case, the Court held that in applying for probation, what is essential is not the offense charged but the offense to which the accused is ultimately found guilty of, thus:

It bears stressing that it is only after the trial court arrives at a judgment of conviction can the provisions of the Probation Law apply. "Probation" is defined under Section 3 (a) thereof as "a disposition under which a defendant, **after conviction and sentence**, is released subject to conditions imposed by the court and to the supervision of a probation officer." x x x:

x x x x

It is clear from both Section 24, Article II of RA 9165 and the provisions of the Probation Law that in applying for probation, **what is essential is not the offense charged but the offense to which the accused is ultimately found guilty of.**

In this regard, it is worth emphasizing that upon acceptance of a plea bargain, the accused is actually found guilty of the lesser offense subject of the plea. According to jurisprudence, "[p]lea bargaining in criminal cases is

¹⁴ *Id.* at 30.

¹⁵ **SEC. 2. Dismissal of improper appeal to the Court of Appeals.** — An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

¹⁶ Appeal from the Regional Trial Courts.

¹⁷ G.R. No. 250578, September 7, 2020.

a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant's pleading guilty to a lesser offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that for the graver charge.”

Thus, regardless of what the original charge was in the Information, the judgment would be for the lesser offense to which the accused pled guilty. This means that the penalty to be meted out, as well as all the attendant accessory penalties, and other consequences under the law, including eligibility for probation and parole, would be based on such lesser offense.¹⁸ (Emphases supplied and citations omitted.)

Necessarily, even if Guzman was originally charged with illegal sale of dangerous drugs, he was ultimately convicted of the lower offense of illegal possession of drug paraphernalia. This effectively removed Guzman's case from the coverage of Section 24, Article II of RA 9165 and he should, at the very least, be allowed to apply for probation.

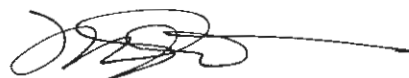
FOR THESE REASONS, the petition is **DENIED**. The Court Appeals' Decision dated January 8, 2020 and Resolution dated July 6, 2020 in CA-G.R. SP No. 160971 are **AFFIRMED**. The respondent Eric Guzman y Navarro is given a period of fifteen (15) days from notice of this Resolution within which to file his application for probation before the court *a quo*.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

10 JUN 2021

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¹⁸ *Id.*

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ERIC GUZMAN y NAVARRO (reg)
Respondent
c/o The Jail Warden
Bureau of Jail Management & Penology
Balanga City, Bataan

THE JAIL WARDEN (reg)
Bureau of Jail Management & Penology
Balanga City, Bataan

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 1
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(Crim. Case No. 19104)

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Please notify the Court of any change in your address.
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