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Criminal Procedure pc1 Normal pc1 2 12 2002-01-11T09:44:00Z 2002-01-11T09:44:00Z 3 749 4272 sc 35 8 5246 9.2720 110

Checklist I**Steps From Filing Of Application To Referral Thereof To Probation Officer**

1. Determine whether or not the probation application may be given due course, keeping in mind that the governing law, Pres. Decree No. 968, as amended,²⁴⁸ requires the following:

1.1 that an application for probation be filed with the trial court;²⁴⁹

1.2 that the application be filed within the period for perfecting an appeal, that is, within fifteen (15) days from the promulgation or notice of the judgment appealed from; otherwise, the application shall not be entertained or granted;²⁵⁰

1.3 that the applicant is not a disqualified offender. A disqualified offender is: (1) sentenced to serve a maximum term of imprisonment of not more than six (6) years; (2) convicted of any crime against the national security or the public order; (3) previously convicted by final judgment of an offense punished by imprisonment of not less than one (1) month and one (1) day and/or fine of not less than Php200; (4) once on probation under the provisions of this Decree; and (5) already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof.²⁵¹

2. If the application does not appear to be meritorious, issue Order denying due course to the application. Refer to the copy of Probation Court form for use as a guide in drafting the Order.

3. If the application appears meritorious, issue Order giving due course to the application. Refer to the copy of Probation Court form for use as a guide in drafting the Order.

4. In the absence of any showing that the applicant may not be placed on probation under existing laws, issue Order for post-sentence investigation to be conducted by the probation officer of the territory where the court sits. Refer to the copy of Probation Court form, for use as a guide in drafting the Order.

Sample 1**REPUBLIC OF THE PHILIPPINES****REGIONAL TRIAL COURT OF _____**

Branch _____

_____ Judicial District

Criminal Case No. _____

For: _____

(Crime)

X-----X

ORDER

It appearing from the records that the accused, (name) , is disqualified for probation for the reason that (state reason, e.g. sentenced to suffer imprisonment of more than six (6) years, his/her 'Application for Probation' filed with this Court on _____ is hereby denied due course.

The Branch Clerk of Court is hereby instructed to issue corresponding notices to bondsman/custodian to produce the accused or to the accused himself for the execution of sentence.

(If the accused is detained, direct Branch Clerk of Court to issue corresponding commitment order).

SO ORDERED

Judge _____

Or other appropriate court

Sample 2

REPUBLIC OF THE PHILIPPINES

REGIONAL TRIAL COURT OF _____

Branch _____

_____ Judicial District

Criminal Case No. _____

For: _____

(Crime)

X-----X

ORDER

It appearing from the 'Application for Probation' dated _____ filed with this Court on _____ that the applicant (name) , may be placed on probation under existing laws, the application is hereby given due course.

Let a copy of this Order be served upon the (Prosecuting Officer) who may take appropriate action or submit his/her comments on the application within ten (10) days from receipt thereof.

Pending consideration of his/her application, the accused, (name) shall remain under confinement at the _____/or is allowed temporary liberty under his/her bail bond/or is released to the custody (name) on the latter's recognizance.

SO ORDERED.-----
(Place) (Date)

Judge _____

Or other appropriate court

Sample 3

REPUBLIC OF THE PHILIPPINES**REGIONAL TRIAL COURT OF _____**

Branch _____

_____ Judicial District

Criminal Case No. _____

For: _____

(Crime)

X-----X

ORDER

The Probation Officer of _____ (Province/City) _____ is hereby directed to conduct an investigation on the application for probation of the accused (name) and to submit his/her report thereon within 60 days from receipt hereof in accordance with Section 5 and 7 P.D. 968, as amended.

The Clerk of Court is hereby ordered to furnish said Probation Officer with a copy of the decision, as well as the necessary data pertinent to the case.

The accused, (name) is hereby ordered to report to the aforesaid Probation Officer within seventy-two (72) hours from receipt of this Order.

SO ORDERED.-----
(Place) (Date)

Judge _____

Or other appropriate court

248 Toribio v. Diaz, G. R. No. 84623, May 8, 1992, 208 SCRA 595; Bernardo v. Balagot, G. R. No. 86561,

November 16, 1992, 215 SCRA 526.

249 Last sentence, second paragraph, Sec. 4, PD 965, as amended.

250 Llamado v. Court of Appeals, G. R. No. 84850, June 29, 1989, 174 SCRA 566.

251 PD 968, Sec. 9.

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