

FOREIGNERS WHO FAILED TO COMPLY WITH THE TERMS AND CONDITIONS OF THEIR PROVISIONAL LIBERTY

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Adopted: 21 April 2015

Date Filed: 24 April 2015

WHEREAS, under CA 613, Sec. 40, the Commissioner may grant provisional liberty on bail or recognizance to numerous foreigners with deportation charges under such conditions he may prescribe;

WHEREAS, there are deportable foreigners who failed to comply with the terms and conditions of their Undertaking for Provisional Liberty on Bail/ Recognizance including their duty to report to the Intellectual Division of the BI extension/ district/field office;

WHEREAS, there is a need for a fast and efficient legal process in dealing with deportable foreigners who violated the terms and conditions of their provisional liberty;

NOW THEREFORE, pursuant to the Commissioner's rule-making authority under Commonwealth Act No. 613, Section 3, the following shall be observed:

Section 1. Foreigners who Failed to Comply with the Terms and Conditions of their Provisional Liberty – Foreigners who failed to comply with the terms and conditions of their provisional liberty on bail recognizance shall cause the immediate cancellation of their provisional liberty.

Section 2. Duties of the Intelligence Division – The Intelligence Division is principally tasked to monitor compliance with the terms and conditions of the foreigners' provisional liberty on bail/recognizance, particularly the duty to report to the BI (Intelligence Division and/or BI extension/district/field office).

The Intelligence personnel in charge of recording shall: (i) affix his signature in the journal/logbook attesting that the concerned foreigner appeared before him in compliance with the conditions of his bail; (ii) take photograph of said foreigner holding a copy of a newspaper [headline displayed] to indicate the date when the photograph was taken; and (iii) upload the photo to the database that the Intelligence Division and the MISD shall create.

The Intelligence Division shall submit a monthly report to the Legal Division which shall contain the following: (i) list of foreigners [with nationality & date of birth] who violated the terms and conditions of their provisional liberty; (ii) date of actual release of the foreigners; and (iii) amount of cash bond. If the violation consists of failure to report to the BI, the report shall state that the subject foreigners failed to report to the Intelligence Division and the BI extension/ district/field office in appropriate cases.

The report shall be in soft and hard copy form. The Intelligence Division shall send the soft copy to the Legal Division via e-mail with copy furnished to the Office of the Commissioner.

Section 3. Duties of the Legal Division – Within three (3) days from receipt of the Intelligence Division Report on the foreigners violation of the terms and conditions of their provisional liberty, the Legal Division shall prepare an Order for the approval of the Commissioner which shall state the following:

(i)

cancellation of the subject foreigners' provisional liberty;

(ii)

forfeiture of the foreigners' cash bond (if they posted any);

(iii)

the forfeited cash bond shall answer for all expenses incident to the re-arrest of the subject foreigners and for all other expenses incurred in connection with their deportation;

(iv)

the Finance and Management Division (FMD) shall be directed to release such amount as needed but not in excess of the cash bond posted to the Intelligence Division in relation to (iii) subject to the usual accounting and auditing procedures; and

(v)

inclusion of the subjects' names in the BI Alert List with remarks: violation of the terms and conditions of provisional liberty.

The LD shall attach a Mission Order 1 or Warrant of Deportation 2 in the Order canceling their provisional liberty.

Section 4. Implementation of the Mission Order Or Warrant of Deportation – The Intelligence Division shall immediately implement the Mission Order/ Warrant of Deportation.

If after twenty one (21) days from issuance, the Mission Order/Warrant of Deportation remained unserved, the Intelligence Division shall submit a report to the Commissioner stating the reason thereof.

Section 5. Duties of the Finance and Management Division – The FMD shall implement the Order directing the forfeiture of the foreigners' cash bond. It shall then release the appropriate amount of cash to the Intelligence Division to answer for all expenses incident to the re-arrest of the subject foreigners and for all other expenses incurred in connection with their deportation subject to the usual accounting and auditing procedures.

Section 6. Motion for Reconsideration – The subject foreigners may file a Motion for Reconsideration of the Order cancelling their provisional liberty.

The Motion for Reconsideration must point out justifiable grounds for their failure to strictly comply with the terms and conditions of their provisional liberty. Supporting evidence must be attached to the Motion for Reconsideration.

The LD shall evaluate the Motion for Reconsideration and draft the Order for the Commissioner's approval and signature.

The forfeited cash bond shall NOT be returned to the subject foreigners in case the cash bond has been spent for their re-arrest. In which case, the LD shall direct the foreigner to post another cash bond in the event that the Motion for Reconsideration is granted.

Section 7. Repealing Clause – All rules, procedures, guidelines and previous issuances inconsistent herewith are hereby repealed and/or modified accordingly.

Section 8. Effectivity – This Operation Order shall take effect immediately upon approval.

Furnish a copy of this Operations Order to the Office of the National Administrative Register (ONAR), U.P. Law Center, U.P. Diliman, Quezon City.

21 April 2015

(SGD) SIEGFRED B. MISON
Commissioner

[1] In case a deportation order/judgment is yet to be issued.

[2] If a deportation order/judgment has been issued.

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