

SC ADMINISTRATIVE CIRCULAR NO. 16-93, September 09, 1993

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TO

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ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS

SUBJECT

:

PROCEDURE AFTER AFFIRMANCE OR MODIFICATION BY SUPREME COURT OR COURT OF APPEALS OF JUDGMENTS OF CONVICTION IN CRIMINAL CASES

To ensure uniformity in the procedure to be observed by the trial courts in criminal cases after their judgments of conviction shall have been affirmed or modified by the Supreme Court or the Court of Appeals, attention is invited to the decisional and statutory guidelines set out hereunder.

1. The procedure for promulgation of judgments in the trial courts in criminal cases, 1/ differs from that prescribed for the Supreme Court and the Court of Appeals where promulgation is effected by filling the signed copy of the judgment with the Clerk of Court who causes true copies thereof to be served upon the parties. 2/ The procedural consequence of this distinction was reiterated in *Jesus Alvarado, etc. vs. The Director of Prisons*, 3/ to wit:

By sections 8 and 9 of Rule 53 (now Sections 10 and 11 of Rule 51) in relation to section 17 of Rule 120 (now Section 17 of Rule 124), a judgment is entered 15 days after its promulgation, and 10 days thereafter, the records are remanded to the court below including a certified copy of the judgment for execution.

In the case of *People vs. Sumilang* (44 Off. Gaz., 881, 883; 77 Phil. 764), it was explained that "the certified copy of the judgment is sent by the clerk of the appellate court to the lower court under section 9 of Rule 53, not for the promulgation or reading thereof to the defendant, but for the execution of the judgment against him," it "not being necessary to promulgate or read it to the defendant, because it is to be presumed that accused or his attorney had already been notified thereof in accordance with sections 7 and 8, as amended, of the same Rule 53 (now sections 9 and 10 Rule 51), " and that the duty of the court of first instance in respect to such judgment is merely to see that it is duly executed when in their nature the intervention of the court of first instance is necessary to that end. (Italics words in parentheses supplied.)

2. The practice of requiring the convict to appear before the trial court for "promulgation" of the judgment of the appellate court should, therefore, be immediately discontinued. It is not only an unauthorized surplusage entailing

unnecessary expense, but it could also create security problems where the convict was already under detention during the pendency of the appeal, and the place of confinement is at some distance from the station of the court. Upon receipt of the certified copy of the judgment of the appellate court if the convict is under detention, the trial court should issue forthwith the corresponding mittimus or commitment order so that the prisoner may be considered remitted or may be transferred to the corresponding prison facility for confinement and service of sentence. When the convict is out on bail, the trial court shall immediately order the bondsman to surrender the convict to it within ten (10) days from notice and thereafter issue the corresponding mittimus. In both cases, the trial court shall submit to this Court proof of the execution of judgment within fifteen (15) days from date of such execution.

3. In determining the prison facility to which the convict shall be remitted or transferred under the commitment order to be issued by the court a quo pursuant to Articles 78, 86, and 88 of the Revised Penal Code, it should be noted that the pertinent provisions of the Revised Administrative Code of 1917 have been amended by Presidential Decree No. 29, effective October 25, 1972. Under the amendment, considered municipal prisoners are:

(d) Persons who by reason of their sentence may be deprived of liberty for not more than six months. The imposition of subsidiary imprisonment shall not be taken into consideration in fixing the status of a prisoner hereunder except when the sentence imposes a fine only (Subparagraph [d] of Section 1739, Revised Administrative Code, as amended).

and considered provincial prisoners are:

(b) Persons who by reasons of their sentence may be deprived of liberty for not more than three years or are subjected to a fine of not more than penalties; but if a prisoner receives two or more sentences in the aggregate exceeding the period of three years, he shall not be considered a provincial prisoner. The imposition of subsidiary imprisonment shall not be taken into consideration in fixing the status of a prisoner hereunder except when the sentence imposes a fine only (Sub-paragraph [b] of Section 1740, id., as amended).

Prisoners who are neither municipal nor provincial prisoners shall be considered national prisoners (Section 1741, id.). Under Section 26 of Executive Order No. 292 (Administrative Code of 1987), the Bureau of Corrections shall exercise such powers and functions as are now provided for the Bureau of Prisons or may hereafter be provided by law.

4. This Administrative Circular shall take effect immediately.

Manila, Philippines, September 9, 1993.

(Sgd.) ANDRES R. NARVASA

Chief Justice

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