

SC ADMINISTRATIVE CIRCULAR NO. 40-2001, August 08, 2001

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TO : JUDGES OF THE FIRST AND SECOND LEVEL COURTS

RE

:GUIDELINES IN THE ISSUANCE OF SUBPOENA REQUIRING A DETENTION PRISONER DETAINED IN ONE PLACE TO APPEAR IN ANOTHER PLACE FOR THE PURPOSE OF TAKING HIS TESTIMONY

It has been observed that judges issue as a matter of course subpoenae to prisoners-accused who are detained in another place, requiring them to personally appear and testify before their courts, without considering the validity of the purpose of the application for subpoena and the necessity or indispensability of the personal attendance of such prisoners as required by the rules and other pertinent circulars. This practice exposes prisoners to security risks attendant to travel, often resulting in dire consequences.

To minimize or prevent the unnecessary transfer of detained prisoners to another place for the taking of their testimony, and subject to the provisions of Section 2, Rule 21 of the Rules on Civil Procedure and Administrative Circular No. 6 dated 05 December 1977, the following guidelines shall be strictly observed:

- Any application for the issuance of subpoena ad testificandum shall be studied carefully and judiciously by the judge receiving the same to determine whether the application is for a valid purpose.
- If, in his sound judgment, the personal appearance or attendance at the hearing or trial of the case before him by a prisoner detained in another place can be dispensed with, considering all the circumstances of the case in light of the "absolute necessity" rule and the availability under the Rules of Court of more practicable alternative modes of taking the testimony of the prisoner other than personal appearance, the application shall be denied.
- On the other hand, if the personal appearance or attendance of the prisoner at the hearing or trial is indispensable or that his complicity in the commission of the offense subject of the hearing or trial has been fully established, the said application shall be granted.
- In case a subpoena is issued, the court before which the case of the detained prisoner is pending shall forthwith be duly informed thereof by the judge issuing the same as a matter of judicial courtesy and an orderly procedure in the context of trial scheduling.
- The full testimony of the prisoner shall be taken at once, and immediately thereafter, the prisoner shall be returned to his original place of confinement.

Full compliance of the above matters is hereby enjoined. The Office of the Court Administrator is directed to implement this Administrative Circular.

This Administrative Circular shall take effect immediately.

Issued this 8th day of August 2001.

(Sgd.) HILARIO G. DAVIDE, JR.

Chief Justice

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