

NARCISO B. GUINTO (RELEASED AND REARRESTED PRISONER N216P-3611), INMATES OF NEW BILIBID PRISON INCLUDING ROMMEL BALTAR, ESMUNDO MALLILLIN, ALDRIN GALICIA, HENRY ALICNAS, DENMARK...*G.R. No. 249027. April 03, 2024*

Ponente: SINGH, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-249027/>**SINGH, J.:**

Before the Court are two consolidated[1] Petitions for Certiorari and Prohibition (Petitions) filed under Rule 65 of the Rules of Court assailing the validity of the 2019 Revised Implementing Rules and Regulations of Republic Act (R.A.) No. 10592[2] (2019 IRR) for excluding persons convicted of heinous crimes from the application of the Good Conduct Time Allowance (GCTA).

The Facts

In G.R. No. 249027, petitioners Narciso B. Guinto (Guinto) (released and rearrested Prisoner N216P-3611), Rommel Baltar, Esmundo Mallillin, Aldrin Galicia, Henry Alicnas, Denmark Juderial, Juanito Miñon, Jr., Fromencio Enacmal, Benjamin Ibañez, Ricky Bautista, Eddie Karim, Alfredo Romano, Jr., Mario Sarmiento, Danilo Morales, and Alex Rivera (collectively, Guinto et al.) are inmates of the New Bilibid Prison's Maximum Security Compound and were convicted of heinous crimes. They filed the present Petition for Certiorari and Prohibition with prayer for issuance of a status quo ante order as real parties-in-interest and as representatives in a class suit for themselves and on behalf of all those who are similarly situated. According to Guinto et al., respondents Department of Justice (DOJ), Bureau of Corrections (BuCor), Bureau of Jail Management and Penology (BJMP), and the Philippine National Police (PNP) (collectively, the respondents) committed grave abuse of discretion amounting to lack or excess of jurisdiction in excluding persons convicted of heinous crimes from the benefits of R.A. No. 10592, or the New GCTA law.[3]

According to Guinto et al., the dispositive portion of the Court's Decision in *Inmates of the New Bilibid Prison v. De Lima*[4] (De Lima) that ordered the re-computation of the time allowance of the "petitioners and all those who are similarly situated" did not make a distinction between those convicted of heinous crimes and those convicted of other crimes.[5] The dispositive portion of the said Decision reads as follows:

WHEREFORE, the consolidated petitions are GRANTED. Section 4, Rule 1 of the Implementing Rules and Regulations of Republic Act No. 10592 is DECLARED invalid insofar as it provides for the prospective application of the grant of good conduct time allowance, time allowance for study, teaching and mentoring, and special time allowance for loyalty. The Director General of the Bureau of Corrections and the Chief of the Bureau of Jail Management and Penology are REQUIRED to RE-COMPUTE with reasonable dispatch the time allowances due to petitioners and all those who are similarly situated and, thereafter, to CAUSE their immediate release from imprisonment in case of full service of sentence, unless they are being confined thereat for any other lawful cause.

This Decision is IMMEDIATELY EXECUTORY.

SO ORDERED.[6] (Emphasis supplied)

As alleged in their Petition, Guinto et al. are on the list of those who were ordered to surrender by then President Rodrigo R. Duterte after a certificate of discharge from prison was issued to them. Particularly, Guinto averred that after surrendering to the police authorities, he was held at the Arayat Municipal Jail and was subsequently transferred to the New Bilibid Prison. According to Guinto, he was not a fugitive because he was discharged from prison by the Board of Pardons and Parole; thus, his discharge was entitled to the presumption of regularity.[7] Further, according to him, there was no judicial determination that his discharge was illegal and void.[8] He is therefore filing the present case on behalf of all other prisoners who were given certificates of discharge from prison, but were being asked to surrender without any judicial warrant or order.[9]

According to Guinto et al., they have no other plain, speedy, and adequate remedy in the ordinary course of law, except the present Petition as a "mode of judicial review against the acts of the Executive Department rendered with grave abuse of discretion." [10] They seek to determine whether R.A. No. 10592 prevents any prisoner or person deprived of liberty (PDL), particularly those convicted of heinous crimes, from earning good conduct time allowances.

On September 16, 2019, the 2019 IRR of R.A. No. 10592 was issued.[11] Thus, on September 27, 2019, Guinto et al. filed a Supplement to the Petition.[12] Guinto, et al. alleged that the provisions of the 2019 IRR are unconstitutional for being inconsistent with the express provisions of R.A. No. 10592 and argued that "persons convicted with [sic] heinous crimes" are not prevented from earning the benefits of R.A. No. 10592.[13] They further claim that the phrase "persons charged with heinous crimes" contemplates only a person who is only undergoing preventive imprisonment, and not a person who has been convicted and is already serving his sentence considering that "persons charged with heinous crimes" is not the same as "persons convicted with [sic] heinous crimes." [14]

Guinto et al. prayed for the following: (1) issuance of a status quo ante order requiring the respondents to refrain from implementing their policy and legal position that "persons convicted [of] heinous crimes" are prohibited from earning time allowance under R.A. No. 10592; (2) declare that any convict, including those convicted of heinous crimes, are not prohibited from earning good conduct time allowance; and (3) enjoin respondents to compute time allowance under R.A. No. 10592 for convicted persons, including those who have been convicted of heinous crimes.[15]

Acting on the Court En Banc's Notice,[16] dated October 1, 2019, respondents, through the Office of the Solicitor General (OSG), filed their Comment,[17] dated October 29, 2019. The OSG argued that the writs of certiorari and prohibition do not lie against the implementation of R.A. No. 10592 considering that the DOJ did not act in any judicial, quasi-judicial, or ministerial capacity when it issued the assailed 2019 IRR of R.A. No. 10592. Likewise, the BuCor, the BJMP, and the PNP merely implemented the 2019 IRR in the exercise of their administrative functions. The OSG further argued that the present Petition is not a plain, speedy, and adequate remedy in the ordinary course of law since the proper remedy to assail the alleged unlawful incarceration of Guinto et al. is through a petition for habeas corpus.[18] Moreover, the OSG alleged that Guinto et al. failed to exhaust administrative remedies before coming to the Court, which is fatal to their cause. The respondents prayed that the Petition be denied due course and dismissed for lack of merit.[19]

On November 5, 2019, the BJMP filed its Comment and Opposition to the Petition.[20] The BJMP submitted that Guinto et al.'s allegation that the exclusion of persons charged with heinous crimes should pertain only to preventive imprisonment under Article 29 of the Revised Penal Code (RPC), as amended by R.A. No. 10592, is

an incorrect interpretation of the law.[21] In refutation of Guinto et al.'s allegations, the BJMP argued that the law excludes recidivists, habitual delinquents, escapees, and persons charged with heinous crimes from entitlement to the benefits of Credit for Preventive Imprisonment (CPI), Good Conduct Time Allowance (GCTA), Time Allowance for Study, Teaching or Mentoring (TASTM), Special Time Allowance for Loyalty (STAL), and all other benefits granted by R.A. No. 10592.[22]

The BJMP further argued that the allegations of Guinto et al. in support of their application for status quo ante order are not plausible since R.A. No. 10592 is clear when it provided that recidivists, habitual delinquents, escapees, and persons charged with heinous crimes are excluded from the coverage of R.A. No. 10592 and its IRR.[23] Likewise, the BJMP, citing *People v. Tan*,[24] posited that the surrender of Guinto et al. without a warrant of arrest is not a deprivation of their liberty without due process of law because they were not yet entitled to liberty at the time they were released considering that they are not entitled to the benefits of R.A. No. 10592, as their release was erroneous.[25]

In a Resolution,[26] dated November 19, 2019, the Court En Banc required Guinto et al. to file a consolidated reply to the comments of the respondents. On November 25, 2019, the Court received Guinto et al.'s Reply (with Urgent Motion to Resolve),[27] dated November 19, 2019. Guinto et al. argued that the respondents' Comment mainly focused on technicalities and insisted on the propriety of the legal remedy they resorted to.

Meanwhile, in G.R. No. 249155, petitioners Russel A. Fuensalida, Toshing Yiu, Benjamin D. Galvez, Cerilo C. Obnimaga, Urbano D. Mison, Roland A. Gamba, Pablo Z. Panaga, and Rommel T. Deang (collectively, Fuensalida et al.) averred that the 2019 IRR should be declared invalid for going beyond the letter of R.A. No. 10592, which it seeks to implement.

The respondents, through the OSG, filed their Comment,[28] dated December 20, 2019, to the Petition filed by Fuensalida, et al. According to the respondents, the writs of certiorari and prohibition do not lie against the implementation of R.A. No. 10592. The respondents argued that the Petition filed by Fuensalida et al. is not the plain, speedy, and adequate remedy in the ordinary course of law since the issuance of the 2019 IRR of R.A. No. 10592 is an exercise of the DOJ and the DILG's quasi-legislative power and Fuensalida et al.'s remedy is to directly assail the said IRR before the Regional Trial Court.[29] The respondents averred that they did not commit grave abuse of discretion in the issuance of the 2019 IRR. In fact, the 2019 IRR filled in the details of R.A. No. 10592 to bring it into actual operation. They added that under the 2019 IRR, those who are entitled to CPI, GCTA, TASTM, and STAL are clearly enumerated, and it was passed to harmonize the application of the rules on credit for preventive imprisonment and the grant of increased time allowance for good conduct, including studying, teaching, and mentoring, and for loyalty, to qualified PDLs.[30]

In a Resolution,[31] dated November 26, 2019, the Court En Banc ordered the consolidation of G.R. No. 249027 and G.R. No. 249155.

The Issue

Whether recidivists, habitual delinquents, escapees, and persons charged with heinous crimes are excluded from the benefits granted under R.A. No. 10592.

The Ruling of the Court

The judiciary plays an indispensable role in our democratic system of government as the ultimate guardian of the Constitution and the last bastion and final protector of the people's rights. "The political departments, if only because of the nature of their powers, have a tendency to bend if not actually break the laws, sometimes for the best of motives or out of mistaken zeal[.]"[32] When the political departments do so, the judiciary is expected to rectify the wrong and affirm its sacred and solemn duty to uphold the Constitution and the laws of the land.[33]

Procedural Issues

According to Guinto et al., they have no other plain, speedy, and adequate remedy in the ordinary course of law, except the present Petition as a "mode of judicial review against the acts of the Executive Department rendered with grave abuse of discretion." However, the respondents argue that the writs of certiorari and prohibition do not lie against the implementation of R.A. No. 10592 considering that the DOJ did not act in any judicial, quasi-judicial, or ministerial capacity when it issued the assailed 2019 IRR of R.A. No. 10592. Likewise, the BuCor, the BJMP, and the PNP merely implemented the 2019 IRR in the exercise of their administrative functions. The OSG further argued that the present Petition is not the plain, speedy, adequate remedy in the ordinary course of law since the proper remedy to assail the alleged unlawful incarceration is through a petition for habeas corpus.[34]

As aptly explained in *Araullo et al. v. Aquino III et al.*[35] (*Araullo*), petitions for certiorari and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.[36] *Araullo* explained:

[The] remedies of certiorari and prohibition are necessarily broader in scope and reach, and the writ of certiorari or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. This application is expressly authorized by the text of the second paragraph of Section 1, *supra*.

....

Necessarily, in discharging its duty under Section 1, *supra*, to set right and undo any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, the Court is not at all precluded from making the inquiry provided the challenge was properly brought by interested or affected parties. The Court has been thereby entrusted expressly or by necessary implication with both the duty and the obligation of determining, in appropriate cases, the validity of any assailed legislative or executive action. This entrustment is consistent with the republican system of checks and balances.[37]

Similar to the present case is *De Lima*, where the Court ruled that the exercise of the power of judicial review is necessary to resolve the controversy engulfing the implementation of R.A. No. 10592. *De Lima* explained:

There is an actual case or controversy in the case at bar because there is a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence ... The legal issue posed is ripe for adjudication as the challenged regulation has a direct adverse effect on petitioners and those detained and convicted prisoners who are similarly situated. There exists an immediate and/or threatened injury and they have sustained or are immediately in danger of sustaining direct injury as a result of the act complained of. In fact, while the case is pending, petitioners are languishing in jail. If their assertion proved to be true, their illegal confinement or detention in the meantime is oppressive. With the prisoners' continued incarceration, any delay in resolving the case would cause them great prejudice. Justice demands that they be released soonest, if not on time.[38]

Contrary, however, to Guinto et al. and Fuensalida, et al.'s (collectively, the petitioners) claim that "they have no other plain, speedy, and adequate remedy in the ordinary course of law" to assail their unlawful incarceration but the present Petitions, a petition for habeas corpus is extraordinary and summary in nature, consistent with the law's zealous regard for personal liberty.[39]

Rule 102, Section 1 of the Rules of Court expressly provides:

Rule 102

Habeas Corpus

Section 1. To what habeas corpus extends. — Except as otherwise expressly provided by law, the writ of habeas corpus shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto. (Emphasis supplied)

As early as 1919, the Court has already declared in *Villavicencio v. Lukban*[40] that the writ of habeas corpus was devised and exists as a speedy and effectual remedy to relieve persons from unlawful restraint, and serves as the best and sufficient defense of personal freedom.[41] As enunciated in *Calvan v. Court of Appeals*,[42] the writ of habeas corpus, although not designed to interrupt the orderly administration of justice, can be invoked by the attendance of a special circumstance that requires immediate action.[43] This remedy is available for any form of illegal restraint, the nature of the restraint need not be related to any offense. The writ may still be availed of as a post-conviction remedy or where there has been a violation of the liberty of abode.[44] Accordingly, the remedy may also be availed of even when the deprivation of liberty has already been judicially ordained.[45] To justify the grant of the writ of habeas corpus, what is essential is that the person seeking the relief, be it in his favor or for another, is illegally deprived of his or her freedom of movement or that he or she is placed in some form of illegal restraint.

Specifically, the writ is available to (a) obtain immediate relief from illegal confinement, (b) liberate those who may be imprisoned without sufficient cause, and (c) deliver them from unlawful custody.[46]

Verily, the extraordinary writ of habeas corpus is available to the petitioners as a more expeditious and ample way to determine the legality of their confinement considering that, as claimed by the petitioners, "hundreds of those released are already in custody and deprived of their liberty." [47]

The determination of whether a PDL is entitled to immediate release would, however, necessarily involve ascertaining, among others, the actual length of time a PDL has actually been detained and whether time allowance for good conduct should be granted. Such an exercise is necessarily more properly ventilated in a separate proceeding and better undertaken by a trial court, which is better equipped to make findings of fact and both fact and law. This is the primary reason behind the doctrine of hierarchy of courts. As enunciated in *Gios-Samar v. DOTC*: [48]

[W]hile this Court has original and concurrent jurisdiction with the RTC and the CA in the issuance of writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus (extraordinary writs), direct recourse to this Court is proper only to seek resolution of questions of law. Save for the single specific instance provided by the Constitution under Section 18, Article VII, cases the resolution of which depends on the determination of questions of fact cannot be brought directly before the Court because we are not a trier of facts. We are not equipped, either by structure or rule, to receive and evaluate evidence in the first instance; these are the primary functions of the lower courts or regulatory agencies. This is the *raison d'être* behind the doctrine of hierarchy of courts. It operates as a constitutional filtering mechanism designed to enable this Court to focus on the more fundamental tasks assigned to it by the Constitution. It is a bright-line rule which cannot be brushed aside by an invocation of the transcendental importance or constitutional dimension of the issue or cause raised.[49] (Citations omitted)

Moreover, in *Aspacio v. Inciong*, [50] the Court emphasized that it is not a trier of facts and its sole role is to apply the law based on the findings of facts brought before it.[51] Evidently, although the trial courts, the Court of Appeals, and the Court has concurrent jurisdiction apropos the issuance of writs of habeas corpus, direct recourse to the Court is still improper considering the determination of the propriety of the issuance thereof requires evaluation of facts, to which the Court, as a rule, is not equipped to receive in its original jurisdiction. To reiterate,

this doctrine is not mere policy, rather, it is a constitutional filtering mechanism designed to enable the Court to focus on the more fundamental and essential tasks assigned to it by the highest law of the land.[52]

Substantive Issues

R.A. No. 10592 was approved on May 29, 2013 and effectively amended Articles 29, 94, 97, 98, and 99 of the RPC. The amendments are as follows:

Section 1. Article 29 of Act No. 3815, as amended, otherwise known as the Revised Penal Code, is hereby further amended to read as follows:

"ART. 29. Period of preventive imprisonment deducted from term of imprisonment. – Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:

"1. When they are recidivists, or have been convicted previously twice or more times of any crime; and

"2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

"If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall do so in writing with the assistance of a counsel and shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

"Credit for preventive imprisonment for the penalty of reclusion perpetua shall be deducted from [thirty] (30) years.

"Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance: Provided, however, That if the accused is absent without justifiable cause at any stage of the trial, the court may motu proprio order the rearrest of the accused: Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment." (Underscoring supplied)

Section 2. Article 94 of the same Act is hereby further amended to read as follows:

"ART. 94. Partial extinction of criminal liability. – Criminal liability is extinguished partially:

"1. By conditional pardon;

"2. By commutation of the sentence; and

"3. For good conduct allowances which the culprit may earn while he is undergoing preventive imprisonment or serving his sentence."

Section 3. Article 97 of the same Act is hereby further amended to read as follows:

"ART. 97. Allowance for good conduct. – The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the

period of his sentence:

"1. During the first two years of imprisonment, he shall be allowed a deduction of twenty days for each month of good behavior during detention;

"2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a reduction of twenty-three days for each month of good behavior during detention;

"3. During the following years until the tenth year, inclusive of his imprisonment, he shall be allowed a deduction of twenty-five days for each month of good behavior during detention;

"4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of thirty days for each month of good behavior during detention; and

"5. At any time during the period of imprisonment, he shall be allowed another deduction of fifteen days, in addition to numbers one to four hereof, for each month of study, teaching or mentoring service time rendered.

"An appeal by the accused shall not deprive him of entitlement to the above allowances for good conduct."

Section 4. Article 98 of the same Act is hereby further amended to read as follows:

"ART. 98. Special time allowance for loyalty. – A deduction of one[-]fifth of the period of his sentence shall be granted to any prisoner who, having evaded his preventive imprisonment or the service of his sentence under the circumstances mentioned in Article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. A deduction of two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code.

"This Article shall apply to any prisoner whether undergoing preventive imprisonment or serving sentence."
(Emphasis supplied)

Accordingly, the 2019 IRR provides:

Rule IV

GOOD CONDUCT TIME ALLOWANCE (GCTA)

Section 1. GCTA During Preventive Imprisonment. – The good conduct of the detained PDL qualified for credit for preventive imprisonment shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the possible maximum penalty.

The following shall not be entitled to any GCTA during preventive imprisonment:

- Recidivists;
- An accused who has been convicted previously twice or more times of any crime
- An accused who, upon being summoned for the execution of his sentence has failed to surrender voluntarily before a court of law;
- Habitual Delinquents;
- Escapees; and
- PDL charged of [sic] Heinous Crimes.

Section 2. GCTA During Service of Sentence. – The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions

described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 10592

The following shall not be entitled to any GCTA during service of sentence:

- Recidivists;
- Habitual Delinquents;
- Escapees; and
- PDL convicted of Heinous Crimes.

....

RULE V

TIME ALLOWANCE FOR STUDY, TEACHING AND MENTORING (TASTM)

....

Section 2. Who are Disqualified. – The following shall not be entitled to TASTM:

- Recidivists;
- Habitual Delinquents;
- Escapees; and
- PDL charged and convicted of Heinous Crimes.

RULE VI

IMMEDIATE RELEASE OF A PDL UNDER PREVENTIVE IMPRISONMENT

....

Section 2. Who are Disqualified. – The following are not qualified to be released under this Rule:

- Recidivists;
- An accused who has been convicted previously twice or more times of any crime;
- An accused who, upon being summoned for the execution of his sentence has failed to surrender voluntarily before a court of law;
- Habitual Delinquents;
- Escapees; and
- PDL charged of [sic] Heinous Crimes.

RULE VII

SPECIAL TIME ALLOWANCE FOR LOYALTY (STAL)

....

Section 2. Who are Disqualified. – The following shall not be entitled to STAL:

- Recidivists;
- Habitual Delinquents;
- Escapees; and

- PDL charged or convicted of Heinous Crimes.

RULE X

PARTIAL EXTINCTION OF CRIMINAL LIABILITY

Section 1. Partial Extinction of Criminal Liability. – Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of sentence; and
- For good conduct time allowances which the culprit may earn while he is undergoing preventive imprisonment or serving sentence.

The grant of time allowances to a disqualified PDL, whether under the previous or present Rules, shall not extinguish criminal liability.

Likewise, the 2019 IRR defined "Heinous Crimes" as:

n. "Heinous Crimes" – crimes which are grievous, odious and hateful to the senses and which, by reason of their inherent and or manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society, including crimes which are mandatorily punishable by Death under the provisions of RA No. 7659, as amended, otherwise known as the Death Penalty Law, and those crimes specifically declared as such by the Supreme Court[.]

R.A. No. 7659,[53] as amended by R.A. No. 9346,[54] provided what crimes are considered as heinous. The following are: (1) Treason; (2) Piracy and Mutiny on the high seas or in the Philippine waters; (3) Qualified Piracy; (4) Qualified Bribery; (5) Parricide; (6) Murder; (7) Infanticide; (8) Kidnapping and Serious Illegal Detention; (9) Robbery with violence against or intimidation of persons; (10) Destructive Arson; (11) Rape; (12) Plunder; and (13) Importation, Distribution, Manufacture and Possession of Illegal Drugs, among others.

The bone of contention of the petitioners is the application of R.A. No. 10592 to benefit those convicted of heinous crimes. They argue that "persons convicted with [sic] heinous crimes" are not prevented from earning the benefits under R.A. No. 10592.

The argument is tenable.

Before the advent of R.A. No. 10592, Article 97 of the RPC reads:

Article 97. Allowance for good conduct. – The good conduct of any prisoner in any penal institution shall entitle him to the following deductions from the period of his sentence:

- During the first two years of his imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
- During the third to the fifth year, inclusive of his imprisonment, he shall be allowed a deduction of eight days for each month of good behavior;
- During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
- During the eleventh and successive years of imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

Section 3 of R.A. No. 10592 amended Article 97 of the RPC which reads as follows:

Section 3. Article 97 of the same Act is hereby further amended to read as follows:

"ART. 97. Allowance for good conduct. – The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the period of his sentence:

"1. During the first two years of imprisonment, he shall be allowed a deduction of twenty days for each month of good behavior during detention;

"2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a reduction of twenty-three days for each month of good behavior during detention;

"3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of twenty-five days for each month of good behavior during detention;

"4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of thirty days for each month of good behavior during detention; and

"5. At any time during the period of imprisonment, he shall be allowed another deduction of fifteen days, in addition to numbers one to four hereof, for each month of study, teaching or mentoring service time rendered.

"An appeal by the accused shall not deprive him of entitlement to the above allowances for good conduct."

Article 97 of the RPC, as amended by Section 3 of R.A. No. 10592, used the coordinating conjunction "or" which is used to join two independent clauses[55] "[t]he good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code" and "or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail[.]" Further, "or" is a coordinating conjunction that is used to express alternative ideas. As elucidated by Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) during deliberations, the use of comma"," and the conjunction "or" separates the two categories entitled to GCTA, which are: (1) any offender qualified for credit for preventive imprisonment, pursuant to Article 29 of the RPC, as amended by Section 1 of R.A. No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail.[56]

As illustrated by Associate Justice Alfredo Benjamin S. Caguioa, when two persons are charged, arrested, detained, and subsequently sentenced one for qualified theft and the other for parricide, and both were preventively imprisoned for 10 years before they were convicted by final judgment at the end of their 10[th] year and throughout their imprisonment, they exhibited good conduct until the end of their 15[th] year, the effects of Article 97, as amended by R.A. No. 10592,[57] shall be as follows:

- The person convicted of qualified theft, who is not a recidivist, habitual delinquent, escapee or person charged with a heinous crime, will be released from prison after serving 7.37 years, taking into consideration his or her period of preventive imprisonment, GCTA earned during preventive imprisonment, and GCTA earned after conviction by final judgment;[58] and

- The person charged with a heinous crime and later convicted of one will be released from prison after serving 25.06 years, taking into account only his or her GCTA earned after his or her conviction by final judgment.[59]

Otherwise stated, since qualified theft is not a heinous crime, the person charged with the same may already earn GCTA credits during their preventive imprisonment. On the other hand, the person charged with parricide, which is considered a heinous crime, may only avail the benefits of GCTA only after they are convicted pursuant to Article 97 of the RPC, as amended by R.A. No. 10592, which provides that "any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle [them] to the following

deductions[.]"[60]

Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 of the 2019 IRR are invalid and are against R.A. No. 10592 and the Constitution

The petitioners allege that the provisions of the IRR are unconstitutional for being inconsistent with the express provisions of R.A. No. 10592 and argue that "persons convicted [of] heinous crimes" are not prevented from earning the benefits of R.A. No. 10592. They further insist that R.A. No. 10592 only pertains to "persons charged with heinous crimes" and not to persons who have been convicted and are already serving their sentence.[61] According to the petitioners, the provisions of the 2019 IRR adopted an interpretation that is strict or less lenient to the accused[62] and should be stricken down pursuant to the prevailing doctrine that an IRR cannot go beyond the terms and provisions of the basic law since the executive department cannot amend or modify legislation.[63]

The power of subordinate legislation allows administrative bodies to implement the broad policies laid down in a statute by filling in the details which the legislature may not have the opportunity or competence to provide.[64] In *Calalang v. Williams*,[65] the Court recognized the complexities of modern governments and the increased difficulty of administering laws:

[T]his Court had occasion to observe that the principle of separation of powers has been made to adapt itself to the complexities of modern governments, giving rise to the adoption, within certain limits, of the principle of "subordinate legislation," not only in the United States and England but in practically all modern governments. Accordingly, with the growing complexity of modern life, the multiplication of the subjects of governmental regulations, and the increased difficulty of administering the laws, the rigidity of the theory of separation of governmental powers has, to a large extent been relaxed by permitting the delegation of greater powers by the legislative and vesting a larger amount of discretion in administrative and executive officials, not only in the execution of the laws, but also in the promulgation of certain rules and regulations calculated to promote public interest.[66]

The purpose of IRRs is to "fill in" the details pursuant to a delegated authority to determine some fact or state of things upon which the enforcement of law depends.[67] These IRRs have the force and effect of law.[68] All that is required for the valid exercise of this power of subordinate legislation is that the regulation be germane to the objects and purposes of the law and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law,[69] following the legal truism that the "spring cannot rise higher than its source":

To be valid, the delegation itself must be circumscribed by legislative restrictions, not a "roving commission" that will give the delegate unlimited legislative authority. It must not be a delegation "running riot" and "not canalized with banks that keep it from overflowing." Otherwise, the delegation is in legal effect an abdication of legislative authority, a total surrender by the legislature of its prerogatives in favor of the delegate.[70]

The two tests to determine the validity of delegation of legislative power are: (1) the completeness test and (2) the sufficient standard test. A law is complete when it sets forth therein the policy to be executed, carried out, or implemented by the delegate.[71] It lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate's authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy, and identify the conditions under which it is to be implemented.[72]

The assailed provisions of the 2019 IRR read:

RULE IV

GOOD CONDUCT TIME ALLOWANCE (GCTA)

....

Section 2. GCTA During Service of Sentence. – The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 10592.

The following shall not be entitled to any GCTA during service of sentence:

- Recidivists;
- Habitual Delinquents;
- Escapees; and
- PDL convicted of Heinous Crimes. (Emphasis supplied)

RULE VII

SPECIAL TIME ALLOWANCE FOR LOYALTY (STAL)

....

Section 2. Who are Disqualified. – The following shall not be entitled to STAL:

- Recidivists;
- Habitual Delinquents;
- Escapees; and
- PDL charged or convicted of Heinous Crimes. (Emphasis supplied)

RULE X

PARTIAL EXTINCTION OF CRIMINAL LIABILITY

Section 1. Partial Extinction of Criminal Liability. – Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of sentence; and
- For good conduct time allowances which the culprit may earn while he is undergoing preventive imprisonment or serving sentence.

The grant of time allowances to a disqualified PDL, whether under the previous or present Rules, shall not extinguish criminal liability. (Emphasis supplied)

As aptly pointed by Chief Justice Gesmundo, prior to Section 3 of R.A. No: 10592's amendment to Article 97 of the RPC, Article 97 did not contain any qualification as to the applicability of the GCTA. The limitation of the application of GCTA is found in Article 94,[73] which states:

Art. 94. Partial Extinction of Criminal Liability. – Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of the sentence; and
- For good conduct allowances which the culprit may earn while he [or she] is serving his [or her] sentence.

Moreover, when Article 97 used the connecting conjunction "or" to express that (1) "any offender qualified for credit imprisonment pursuant to Article 29 of the RPC," as amended by Section 1 of R.A. No. 10592, and in the alternative, (2) "any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail" may avail of the benefits granted by R.A. No. 10592, the 2019 IRR exceeded the scope of its legislative power when it excluded recidivists, habitual delinquents, escapees, and PDLs convicted of heinous crimes from earning GCTA credits during their service of sentence when the law itself did not do so.

Thus, with the passage of R.A. No. 10592, Section 2 thereof effectively amended Article 94, which now reads as follows:

Art. 94. Partial extinction of criminal liability. – Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of the sentence; and
- For good conduct allowances which the culprit may earn while he [or she] is undergoing preventive imprisonment or serving his [or her] sentence.

Therefore, the following may earn GCTA credits:

- Those offenders who are not recidivists, habitual delinquents, escapees, and charged with heinous crimes under Article 29 of the RPC, as amended by R.A. No. 10592; and
- Those offenders who are already convicted, regardless if they are recidivists, habitual delinquent, escapees, or convicted of heinous crimes, so long as they are in any penal institution, rehabilitation or detention center or any local jail pursuant to Article 97 of the RPC, as amended by R.A. No. 10592.

Clearly, the DOJ exceeded the rule-making powers granted by R.A. No. 10592 when it included Rule IV, Section 2 and Rule VII, Section 2 of the 2019 IRR, which contradict Section 3 of R.A. No. 10592, by expanding the scope of offenders that cannot earn GCTA credits, to the latter's prejudice.

Consequently, as observed by Associate Justice Rodil V. Zalameda during deliberations, the last paragraph of Rule XIII, Section 1 of the 2019 IRR in so far as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of R.A. No. 10592 should likewise be nullified:

RULE XIII

TRANSITORY AND FINAL PROVISIONS

Section 1. Transitory Provisions. — The grant of time allowances to a PDL under RA No. 10592 shall be retroactive in application, provided that such PDL is not disqualified under the said law and these Rules.

However, a disqualified PDL who had been under preventive imprisonment or had commenced the service of his sentence by final judgment prior to the effectivity of RA No. 10592 shall be entitled to CPI and time allowances that had already accrued, and shall continue to be entitled to such time allowances authorized to be granted, in accordance with the applicable provisions of the RPC.

A disqualified PDL under preventive imprisonment or who has commenced the service of his sentence by final judgment after effectivity of RA No. 10592 shall not be entitled to any CPI or Time Allowances. (Emphasis supplied)

As discussed, Article 97 of the RPC, as amended by R.A. No. 10592, allows any convicted prisoner to be entitled to GCTA as long as the prisoner is in any penal institution, rehabilitation or detention center or any other local jail.

ACCORDINGLY, the Petitions for Certiorari and Prohibition in G.R. Nos. 249027 and 249155 are GRANTED. Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 of the 2019 Revised Implementing Rules and Regulation of Republic Act No. 10592 in so far as it disqualifies persons deprived of liberty who are subsequently convicted by final judgment are NULLIFIED. The Respondents are required to compute the Petitioners' good conduct time allowance in accordance with this ruling.

SO ORDERED.

Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, and Kho, Jr., JJ., concur.

Gesmundo, C.J., Please see concurring opinion.

Leonen, SAJ., I dissent. See separate opinion.

Caguioa, J., see concurring opinion.

[1] Rollo (G.R. No. 249027), pp. 3-50; rollo (G.R. No. 249155), pp. 3-34.

[2] An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as Amended, Otherwise Known as The Revised Penal Code. Approved on May 29, 2023.

[3] Rollo (G.R. No. 249027), p. 5.

[4] 854 Phil. 675 (2019) [Per J. Peralta, En Banc].

[5] Rollo (G.R. No. 249027), pp. 4-5, Petition for Review on Certiorari and Prohibition.

[6] *Inmates of the New Bilibid Prison v. De Lima*, 854 Phil. 674, 713 (2019) [Per J. Peralta, En Banc].

[7] Rollo (G.R. No. 249027), p. 5.

[8] *Id.* at 5-6.

[9] *Id.* at 6.

[10] *Id.*

[11] *Id.* at 147, Supplement to the Petition.

[12] *Id.* at 147-178.

[13] *Id.* at 151-152.

[14] *Id.* at 152.

[15] *Id.* at 162.

[16] *Id.* at 141-142.

[17] *Id.* at 179-191.

[18] *Id.* at 186, Comment.

[19] *Id.* at 187-188.

[20] *Id.* at 192-205.

[21] *Id.* at 196.

- [22] Id.
- [23] Id. at 202.
- [24] 125 Phil. 822 (1967) [Per J. Reyes, J.B.L., En Banc].
- [25] Rollo (G.R. No. 249027), p. 201.
- [26] Id. at 205-A-205-C.
- [27] Id. at 209-219.
- [28] Id. at 220-235.
- [29] Id. at 230.
- [30] Id. at 231.
- [31] Rollo (G.R. No. 249155), pp. 57-A-57-B.
- [32] ISAGANI CRUZ, CONSTITUTIONAL LAW, p. 38 (2015).
- [33] Id.
- [34] Rollo, p. 186.
- [35] 737 Phil. 457 (2014) [Per J. Bersamin, En Banc].
- [36] Id. at 531.
- [37] Id.
- [38] 854 Phil. 675, 694 (2019) [Per J. Peralta, En Banc].
- [39] In Re Salibo v. Warden, 757 Phil. 630, 644 (2015) [Per J. Leonen, Second Division].
- [40] 39 Phil. 778 (1919) [Per J. Malcolm].
- [41] Id. at 788.
- [42] 396 Phil. 133 (2000) [Per J. Vitug, Third Division].
- [43] Id. at 144-145.
- [44] In re Boratong, 882 Phil. 439, 466 (2020) [Per J. Leonen, En Banc].
- [45] Id. at 468.
- [46] MAGDANGAL M. DE LEON & DIANNA LOUISE R. WILWAYCO, SPECIAL PROCEEDINGS: ESSENTIAL FOR BENCH AND BAR, p. 391 (2020).
- [47] Rollo (G.R. No. 249027), p. 22.
- [48] 849 Phil. 120 (2019) [Per J. Jardeleza, En Banc].
- [49] Id. at 149-150.
- [50] 244 Phil. 180 (1988) [Per J. Gancayco, First Division].
- [51] Id.

- [52] *Gios-Samar v. DOTC*, 849 Phil. 120, 131-132 (2019) [Per J. Jardeleza, En Banc].
- [53] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes (1993).
- [54] An Act Prohibiting the Imposition of Death Penalty in the Philippines (2006).
- [55] John Eastwood, *The Oxford Guide To English Grammar*, p. 324, available at https://ia800305.us.archive.org/31/items/ilhem_20150408_1814%5BJohn_Eastwood%5D_Oxford_Guide_to_English_Grammar.pdf (last accessed on January 12, 2024).
- [56] Letter of Chief Justice Alexander G. Gesmundo, dated November 21, 2023, p. 3.
- [57] Reflection of Associate Justice Alfredo Benjamin S. Caguioa, dated August 22, 2023, pp. 10-12.
- [58] *Id.* at 11.
- [59] *Id.*
- [60] Similarly, Justice Ricardo R. Rosario opines that persons charged with heinous crimes are not entitled to earn GCTA during preventive imprisonment, but persons convicted thereof are entitled to earn GCTA during service of sentence.
- [61] *Rollo* (G.R. No. 249027), p. 152, Supplement to the Petition.
- [62] *Id.* at 155.
- [63] *Id.* at 148.
- [64] See *Sigre v. Court of Appeals*, 435 Phil. 711, 719 (2002) [Per J. Austria-Martinez, First Division].
- [65] 70 Phil. 726 (1940) [Per J. Laurel, First Division].
- [66] *Id.* at 732-733.
- [67] *United States v. Ang Tang Ho*, 43 Phil. 1 (1922) [Per J. Johns, En Banc].
- [68] ISAGANI CRUZ, *PHILIPPINE POLITICAL LAW*, pp. 174-175 (2014).
- [69] *Gerochi v. Department of Energy*, 554 Phil. 563, 584-585 (2007) [Per J. Nachura, En Banc].
- [70] ISAGANI CRUZ, *PHILIPPINE POLITICAL LAW*, p. 97 (1996).
- [71] *Pelaez v. The Auditor General*, 122 Phil. 965 (1965) [Per J. Concepcion, En Banc].
- [72] *ABAKADA Guro Party list v. Purisima*, 584 Phil. 246, 272 (2008) [Per J. Corona, En Banc].
- [73] Letter of Chief Justice Alexander G. Gesmundo, dated November 21, 2023, p. 4-6.

CONCURRING OPINION

GESMUNDO, C.J.:

I concur in the ponencia circulated by the esteemed Associate Justice Maria Filomena D. Singh in the above-captioned case. I write this Concurring Opinion to share my perspective on the applicability of the benefits granted by Republic Act No. 10592[1] to convicted offenders, whether recidivists, habitual delinquents, escapees,

or those convicted of heinous crimes.

These are two consolidated Petitions for Certiorari and Prohibition assailing the validity of the 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592[2] (2019 IRR) insofar as it excludes persons convicted of heinous crimes from the application of Good Conduct Time Allowance (GCTA). In G.R. No. 249027, Narciso B. Guinto (Released and Rearrested Prisoner N216P-3611) and Inmates of the New Bilibid Prison, including Rommel Baltar, Esmundo Mallillin, Aldrin Galicia, Henry Alicnas, Denmark Juderial, Juanito Minon, Jr., Fromencio Enacmal, Benjamin Ibañez, Ricky Bautista, Eddie Karim, Alfredo Romano, Jr., Mario Sarmiento, Danilo Morales, and Alex Rivera (Guinto et al.) are inmates of the New Bilibid Prison's Maximum Security Compound who have been convicted of heinous crimes. They contend that persons convicted of heinous crimes are not prevented from earning the benefits of Republic Act No. 10592. The phrase "persons charged with heinous crimes" contemplates only a person who is undergoing preventive imprisonment, not one serving sentence due to his or her conviction. Meanwhile, Inmates of the New Bilibid Prison as represented by Russel A. Fuensalida, Toshing Yiu, Benjamin D. Galvez, Cerilo C. Obnimaga, Urbano D. Mison, Roland A. Gamba, Pablo Z. Panaga, and Rommel T. Deang (Inmates of New Bilibid Prison) in G.R. No. 249155 assert that the 2019 IRR goes beyond the letter of Republic Act No. 10592 and is, thus, invalid.[3] Guinto et al. and Inmates of New Bilibid Prison are collectively referred to as petitioners.

The ponencia nullified Rule IV, Section 2 and Rule VII, Section 2 of the 2019 IRR of Republic Act No. 10592. It ordered the Department of Justice (DOJ), Bureau of Corrections (BuCor), Bureau of Jail Management and Penology (BJMP), Philippine National Police, DOJ Secretary Menardo Guevarra, Department of the Interior and Local Government Secretary Eduardo Año, BuCor Director General Gerald Bantag, and BJMP Chief Allan Sullano Iral (collectively, respondents) to compute the GCTA of petitioners in accordance with its ruling. The ponencia held that persons convicted of heinous crimes are not excluded from the benefits granted under Republic Act No. 10592. It elucidated that Section 3 of Republic Act No. 10592, which amended Article 97 of the Revised Penal Code, used the coordinating conjunction "or" to join two independent clauses. It further noted that "or" is used to express alternative ideas. It concluded that the use of comma (",") and "or" separates the two categories entitled to GCTA, which are: (1) any offender qualified for credit for preventive imprisonment, pursuant to Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail. Citing Associate Justice Alfredo Benjamin S. Caguioa, the ponencia illustrated the effects of Article 97 of the Revised Penal Code, as amended by Republic Act No. 10592.[4]

Accordingly, the ponencia declared Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 (insofar as it disqualifies persons deprived of liberty [PDLs] who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592) of the 2019 IRR as invalid and against Republic Act No. 10592 and the Constitution. It noted that, prior to Section 3 of Republic Act No. 10592's amendment to Article 97 of the Revised Penal Code, Article 97 did not contain any qualification as to the applicability of the GCTA. Rather, this limitation is found in Article 94. As the ponencia previously elucidated, in using the connecting conjunction "or," Article 97 granted the benefits of Republic Act No. 10592 to (1) any offender qualified for credit imprisonment pursuant to Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail. Thus, the ponencia declared that the DOJ exceeded the scope of its legislative power by including Rule IV, Section 2 and Rule VII, Section 2 in the 2019 IRR, thereby excluding recidivists, habitual delinquents, escapees, and PDLs convicted of heinous crimes from earning GCTA credits during the service of their sentence despite Republic Act No. 10592 itself not doing so.[5]

The ponencia, thus, concluded that the following may earn GCTA credits:

- Those offenders who are not recidivists, habitual delinquents, escapees, and charged with heinous crimes under Article 29 of the Revised Penal Code, as amended by Republic Act No. 10592; and
- Those offenders who are already convicted, regardless if they are recidivists, habitual delinquent, escapees, or convicted of heinous crimes, so long as they are in any penal institution, rehabilitation or detention center, or any local jail pursuant to Article 97 of the Revised Penal Code, as amended by Republic Act No. 10592.[6]

Citing the observations of Associate Justice Rodil V. Zalameda during the deliberations, the ponencia further held that the last paragraph of Rule XIII, Section 1 of the 2019 IRR, insofar as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592, should likewise be nullified. This is because Article 97 of the Revised Penal Code, as amended by Republic Act No. 10592, allows any convicted prisoner to be entitled to GCTA as long as the prisoner is in any penal institution, rehabilitation or detention center, or any other local jail.[7]

I fully agree in the ponencia and echo the observations of Justice Caguioa that Republic Act No. 10592 does not disqualify recidivists, habitual delinquents, escapees, and persons charged with heinous crimes from earning the benefits granted by Republic Act No. 10592. Thus, Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 (insofar as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592) of the 2019 IRR exceeded the scope of legislative power delegated by Republic Act No. 10592.

Rule IV, Section 2 of the 2019 IRR provides:

RULE IV
GOOD CONDUCT TIME ALLOWANCE (GCTA)

....

Section 2. GCTA During Service of Sentence. — The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder' as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 10592.

The following shall not be entitled to any GCTA during service of sentence:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL convicted of Heinous Crimes.

Meanwhile, Rule VII, Section 2 of the 2019 IRR reads as follows:

RULE VII
SPECIAL TIME ALLOWANCE FOR LOYALTY (STAL)

....

Section 2. Who are Disqualified. — The following shall not be entitled to STAL:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL charged or convicted of Heinous Crimes.

On the other hand, Rule XIII, Section 1 of the 2019 IRR provides:

RULE XIII

TRANSITORY AND FINAL PROVISIONS

Section 1. Transitory Provisions. — The grant of time allowances to a PDL under RA No. 10592 shall be retroactive in application, provided that such PDL is not disqualified under the said law and these Rules.

However, a disqualified PDL who had been under preventive imprisonment or had commenced the service of his sentence by final judgment prior to the effectivity of RA No. 10592 shall be entitled to CPI and time allowances that had already accrued, and shall continue to be entitled to such time allowances authorized to be granted, in accordance with the applicable provisions of the RPC.

A disqualified PDL under preventive imprisonment or who has commenced the service of his sentence by final judgment after effectivity of RA No. 10592 shall not be entitled to any CPI or Time Allowances.

Meanwhile, Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, which Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 of the 2019 IRR implements, reads as follows:

ARTICLE 97. Allowance for good conduct. – The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the period of his sentence[.] (Emphasis supplied)

The use of comma (",") and the conjunction "or" separates the two categories entitled to GCTA. Thus, those entitled to GCTA are (1) any offender qualified for credit for preventive imprisonment pursuant to Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation or detention center, or any other local jail. A plain reading of Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, reveals that there is no qualification to the second category for allowance of GCTA.

On the other hand, Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, states that:

ARTICLE 29. Period of preventive imprisonment deducted from term of imprisonment. – Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:

- When they are recidivists, or have been convicted previously twice or more times of any crime; and
- When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall do so in writing with the assistance of a counsel and shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Credit for preventive imprisonment for the penalty of reclusion perpetua shall be deducted from thirty (30) years.

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this

paragraph shall be the actual period of detention with good conduct time allowance: Provided, however, That if the accused is absent without justifiable cause at any stage of the trial, the court may motu proprio order the rearrest of the accused: Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment." (Emphasis supplied)

It is evident from the foregoing that the phrase "pursuant to Article 29 of this Code," which contains the exclusion of "recidivists, habitual delinquents, escapees, and persons charged with heinous crimes," qualifies only the first category. It does not qualify the second category of persons entitled to GCTA – any convicted prisoner in any penal institution, rehabilitation, or detention center or any other local jail. Notably, Article 29 of the Revised Penal Code, as amended by Section 1 of Republic Act No. 10592, which covers the period of preventive imprisonment deducted from the term of imprisonment, only pertains to preventive imprisonment; and not the imprisonment that constitutes as the service of sentence after a conviction.

It must be pointed out that Article 97 of the Revised Penal Code, prior to its amendment by Section 3 of Republic Act No. 10592, did not contain any qualification as to the applicability of GCTA. It merely stated that "any prisoner in any penal institution" is entitled to deductions in his or her sentence. The limitation of the application of GCTA to only those serving sentence is found in Article 94 of the Revised Penal Code, viz.:

ARTICLE 94. Partial Extinction of Criminal Liability. – Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of the sentence; and
- For good conduct allowances which the culprit may earn while he is serving his sentence.

. . . .

ARTICLE 97. Allowance for Good Conduct. – The good conduct of any prisoner in any penal institution shall entitle him to the following deductions from the period of his sentence:

- During the first two years of his imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
- During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of eight days for each month of good behavior;
- During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
- During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

Republic Act No. 10592, through Section 2 thereof, also amended Article 94 of the Revised Penal Code. It now reads as follows:

ARTICLE 94. Partial Extinction of Criminal Liability. – Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of the sentence; and
- For good conduct allowances which the culprit may earn while he is undergoing preventive imprisonment or

serving his sentence. (Emphasis supplied)

Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, is plain and unambiguous. Thus, the plain meaning rule or *verba legis* applies:

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the [plain meaning] rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or "speech is the index of intention." Furthermore, there is the maxim *verba legis non est recedendum*, or "from the words of a statute there should be no departure." [8] (Emphasis supplied, citations omitted)

Article 97 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 10592, must be given its literal meaning. Accordingly, Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 of the 2019 IRR, which excluded recidivists, habitual delinquents, escapees, and persons charged with heinous crimes from the benefits of GCTA, appear to have exceeded the scope of legislative power granted under Republic Act No. 10592.

Further, resort to the legislative deliberations will not lend support to a contrary position. The legislative deliberations demonstrate the intent behind the amendment of Article 97 of the Revised Penal Code – to extend GCTA to those under preventive imprisonment and to allow GCTA for all jails, not only those run by the BuCor. There is nothing in the legislative deliberations that would suggest that the prohibition applicable to those under preventive imprisonment for purposes of GCTA also applies to those already convicted.

The following discussion occurred during the December 14, 2010 Meeting of the Senate Committee on Justice and Human Rights, joint with the Committees on Constitutional Amendments, Revision of Codes and Laws; Youth, Women and Family Relations, and Finance on Senate Bill No. 3064, the precursor bill to Republic Act No. 10592:

THE CHAIRMAN (SEN. ESCUDERO). Our legal teams studied it if I can consolidate the bills on GCTA being made available to all convicts wherever they may be detained and with these two subject matters na in writing 'yong hindi n'ya pagsunod at full credit with GCTA.

Can't you do this by regulation, iyong in writing? Kasi if you can do that by regulation, GCTA na lang ang subject matter ko eh. GCTA for purposes of a convict by final judgment—a person convicted by final judgment and GCTA for preventive imprisonment. 'Yon na lang ang topic ko. In writing, 'yong in writing.

MR. BENITEZ. There is no regulation in the Bureau of Corrections granting GCTA for those under preventive imprisonment.

THE CHAIRMAN (SEN. ESCUDERO). That's why so the bill will just be on GCTA, its recomputation and reconfiguration and making it available, number one, for preventive imprisonment; and, number two, for all jails.

Ang tanong ko, 'yong in writing. Article 29 of the Revised Penal Code, "... agrees voluntarily in writing to abide by ..." Binabaliktad natin eh. He has to, in writing, say, he is not willing to abide by.

I don't even know why this is a big thing when perhaps by regulation it can be automatically—meaning, ministerially, i-present sa kanya in writing 'yon. O, pirma ka rito na you will abide by.

Sa totoo lang . . . Sa totoo lang, meron bang bilanggo under preventive detention na hindi pipirma r'on?[9]

It is plain to see from this excerpt that the amendment to the Revised Penal Code was intended only (1) to extend

GCTA to those under preventive imprisonment and (2) to allow GCTA for all jails, not only those run by the BuCor.

At this juncture, it is observed that the Court, in the 2016 case of *Cruz III v. Go*,^[10] promulgated after the effectivity of Republic Act No. 10592, but before the issuance of the 2019 IRR, ordered the immediate release of Rolito T. Go, therein respondent, who was convicted of murder (a heinous crime under Republic Act No. 7659^[11]), due to the application of Articles 70 and 97 of the Revised Penal Code.

Finally, it is worthy to note that two lawmakers filed House Bill No. 4649 or "An Act Defining Good Conduct and Providing Conditions in the Grant of Good Conduct Time Allowance, Further Amending for the Purpose Article 97 of Act No. 3815, otherwise known as the 'Revised Penal Code,' as Amended by Republic Act No. 10592." House Bill No. 4649, through Section 2, specifically provides that "persons convicted of heinous crimes as defined in Republic Act No. 7659, as amended, known as the Death Penalty Law, are not entitled to the benefits of this Act." House Bill No. 4649 remains pending with the Committee on Justice as of writing. To my mind, this proposed House Bill demonstrates that even members of the Legislature acknowledge that Republic Act No. 10592, as currently worded, does not exclude persons convicted of heinous crimes from the benefits of the current GCTA law.

While I do not take lightly the varied concerns on the possible release of offenders convicted of heinous crimes due to this ruling, I am of the mind that this is a policy question which is best addressed to the Legislative Branch. The Court must merely apply the letter of the law, which is, in this case, plain and unambiguous. *Verba legis*.

Applying the foregoing to the instant case, I concur in the grant of the Petitions and the nullification of Rule IV, Section 2, Rule VII, Section 2, and the last paragraph of Rule XIII, Section 1 (insofar as it disqualifies PDLs who are subsequently convicted by final judgment after the effectivity of Republic Act No. 10592) of the 2019 IRR of Republic Act No. 10592.

ACCORDINGLY, I CONCUR in the ponencia and vote to GRANT the Petitions.

[1] An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code. Approved on May 29, 2013.

[2] Issued on September 16, 2019.

[3] Ponencia, pp. 2-6.

[4] *Id.* at 16.

[5] *Id.* at 17-20.

[6] *Id.* at 20.

[7] *Id.* at 20-21.

[8] *Bolos v. Bolos*, 648 Phil. 630, 637 (2010) [Per J. Mendoza, Second Division].

[9] Transcript of Committee Minutes, Discussion and Deliberation of House Bill Nos. 600 and 417 and Senate Bill Nos. 117, 1292, 2317, 1295, and 2374 (Subsidiary Imprisonment and Preventive Imprisonment), Committee on Justice and Human Rights Joint with Committees on Constitutional Amendments, Revision of Codes and Laws; Youth, Women and Family Relations; and Finance, December 14, 2010, pp. 44-46.

[10] G.R. No. 223446, November 28, 2016 [Notice, Third Division].

[11] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes, December 13, 1993.

DISSENTING OPINION

LEONEN, SAJ.:

The ponencia has exhaustively discussed why Section 2, Rule IV[1], Section 2, Rule VII[2], and the last paragraph of Section 1, Rule XIII of the 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592[3] should be nullified for being ultra vires.

Nonetheless, it is my position that, to comprehensively and precisely determine who is entitled to and who is excluded from Republic Act No. 10952, all of its sections must be read together, particularly Section 1, amending Article 29 of the Revised Penal Code, and Section 2, amending Article 97 of the same Code.

Deductions for preventive imprisonment from the service of sentence was a statutory privilege in Act No. 2557. This Act gave persons deprived of liberty (PDL) already serving their sentences credit for half of the period they had undergone preventive imprisonment. However, Section 2 of Act No. 2557 excluded certain categories of offenders from availing of this privilege:

SECTION 2. The benefits of this Act shall not apply to:

(a) Criminals convicted more than once of the same crime or more than twice of any crime.

(b) Absent offenders who, upon being summoned in legal form, have failed to surrender themselves voluntarily.

(c) Persons convicted of robo, hurto, and estafa.

When various Philippine penal laws were codified in Act No. 3185, the provisions of Act No. 2557 were incorporated, with modifications, in Article 29:

ARTICLE 29. One-half of the Period of the Preventive Imprisonment Deducted from Term of Imprisonment. — Offenders who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with one-half of the time during which they have undergone preventive imprisonment, except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times of any crime;
2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily;
3. When they have been convicted of robbery, theft, estafa, malversation of public funds, falsification, vagrancy, or prostitution.

The third category, which pertained specifically to the offense committed by the PDL, was expanded in Act No. 3185 to include malversation of public funds, falsification, vagrancy, or prostitution.

This category was later completely removed from Article 29 by virtue of Section 1 of Republic Act No. 6127, which also added new conditions for its availment:

SECTION 1. Article 29 of the Revised Penal Code is hereby amended to read as follows:

Art. 29. Period of preventive imprisonment deducted from term or imprisonment. — Offenders who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment, if the detention prisoner agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted

prisoners, except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times of any crime; and
2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily;

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Article 29 was again amended by Batas Pambansa Blg. 85, which appended a new last paragraph thereto, with a special exception against the immediate release or those detained under arrest, search and seizure orders (ASSO):

Whenever an accused has undergone preventive imprisonment for a period equal to or more than the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation or the trial thereof or the proceeding on appeal, if the same is under review unless he is detained by virtue of an arrest, search and seizure order (ASSO). In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment. (Emphasis supplied)

During the Martial Law era, the issuances of ASSOs were generally governed by General Order No. 60, series of 1977, and Letter of Instruction No. 772. Thus, Executive Order No. 214, series of 1987, removed the ASSO exception from Article 29 while retaining the new paragraph introduced by Batas Pambansa Blg. 85, to wit:

ART. 29. Period of preventive imprisonment deducted from term of imprisonment. – Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment, if the detention prisoner agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times or any crime; and
2. When upon being summoned for the execution or their sentence they have failed to surrender voluntarily.

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Whenever an accused has undergone preventive imprisonment for a period equal to or more than the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days or preventive imprisonment.

The next major amendment to Article 29 was embodied in Republic Act No. 10592. Section 1 of this Act amended the last paragraph of Article 29 to state that GCTA is included in the computation of preventive imprisonment:

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance ... (Emphasis supplied)

Finally, Section 1 inserted in the last paragraph of Article 29 the proviso that "recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act." The inclusion of

persons charged with heinous crimes in Article 29 marks the first time since Act No. 3185, and to a lesser extent, Batas Pambansa Blg. 85, that the type of offense committed by the PDL was relevant to their entitlement of Article 29's privileges.

In contrast to Article 29, Article 97 of the Revised Penal Code has an abbreviated statutory history. An early version of reducing sentences of convicted PDLs for good conduct in Philippine law was embodied in Act No. 1533. Based on this Act, diminution of time to be served for good conduct and diligent prison labor was available to all PDLs actually serving their sentences, so long as their sentence was more than 30 days and less than life.[4] A later law, Act No. 2489, gave a special dispensation for good conduct for those serving sentences of life imprisonment under certain conditions:

SECTION 5. Prisoners serving sentences of life imprisonment receiving and retaining the classification of penal colonists or trustees will automatically have the sentence of life imprisonment modified to a sentence of thirty years when receiving the executive approval for this classification upon which the regular credit now authorized by law and special credit authorized in the preceding paragraph, for good conduct, may be made.

Sections 1, 2 and 6 of Act No. 1533 were expressly repealed by Act No. 3185.[5] These provisions were superseded by Article 97 of Act No. 3185, which stated:

ARTICLE 97. Allowance for Good Conduct. — The good conduct of any prisoner in any penal institution shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of his imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of eight days for each month of good behavior;
3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

By repealing Section 1 of Act No. 1533 and using the phrase "any prisoner in any penal institution", Article 97 of Act No. 3185 entitled all convicted PDLs to good conduct deductions from their sentences regardless of their sentences' length, or any other qualification.

Republic Act No. 10592 marked the most extensive changes to Article 97 since the effectivity of the Revised Penal Code. Article 97, as amended, revised the number of deductible days that may be earned by a PDL for good behavior; permitted PDLs to earn additional days' deductions for study, teaching or mentoring service time rendered; expressly made the PDL's availment of appeal not a disqualifying condition; expanded the whereabouts of convicted PDLs; and inserted the phrase "any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code" to the first paragraph.

To the extent that Section 2 of Republic Act No. 10592 extends GCTA to both convicted PDLs and PDLs who are preventively imprisoned, I agree with the ponencia that the first paragraph of Article 92, as amended by Republic Act No. 10592, must be construed in the conjunctive:

Section 3 of R.A. No. 10592 which amended Article 97 of the RPC used the coordinating conjunction "or" which is used to join two (2) independent clauses "[t]he good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code" and or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail[.] Further, "or is a coordinating conjunction

that is used to express alternative ideas. As elucidated by Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) during deliberations, the use of comma "," and the conjunction "or" separates the two (2) categories entitled to GCTA, which are: (1) any offender qualified for credit for preventive imprisonment, pursuant to Article 29 of the RPC, as amended by Section 1 of R.A. No. 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail.[6]

This interpretation is borne out by the counterpart amendment in Article 29, where, for the purpose of immediate release of a PDL who has already undergone preventive imprisonment equal to the maximum penalty for the offense charged, the computation of preventive imprisonment credit shall be actual time served with any GCTA earned by the PDL. The intent to extend GCTA, which previously was only available to convicted PDLs, to PDLs preventively imprisoned but not yet convicted, is evident.

Yet, the wording of the exclusionary proviso included by Republic Act No. 10592 in the last paragraph of the amended Article 29 must be closely examined:

Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. (Emphasis supplied)

Republic Act No. 10592 used many markers to denote the limited applicability of certain portions.

In Section 1, it used "this paragraph" for the computation of preventive imprisonment in the amendments to Article 97:

SECTION 1. Article 29 of Act No. 3815, as amended, otherwise known as the Revised Penal Code, is hereby further amended to read as follows:

...

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation or the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance: ... (Emphasis supplied)

Section 4 used "this Article" for the scope of the amended Article 98:

SECTION 4. Article 98 of the same Act is hereby further amended to read as follows:

ART. 98. Special time allowance for loyalty. — A deduction or one fifth of the period of his sentence shall be granted to any prisoner who, having evaded his preventive imprisonment or the service of his sentence under the circumstances mentioned in Article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. A deduction or two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code.

This Article shall apply to any prisoner whether undergoing preventive imprisonment or serving sentence. (Emphasis supplied)

Further, Republic Act No. 10592 used "this Code" in reference to the Revised Penal Code in both the amended Articles 97 and 98:

SECTION 3. Article 97 of the same Act is hereby further amended to read as follows:

ART. 97. Allowance for good conduct. — The good conduct any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution,

rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the period or his sentence: ... (Emphasis supplied)

SECTION 4. Article 98 or the same Act is hereby further amended to read as follows:

ART. 98. Special time allowance for loyalty. — A deduction of one fifth of the period of his sentence shall be granted to any prisoner who, having evaded his preventive imprisonment or the service of his sentence under the circumstances mentioned in Article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. A deduction of two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code. ... (Emphases supplied)

Outside the proviso in Article 29, "this Act" in Republic Act No. 10592 is used to refer to Republic Act No. 10592:

SECTION 6. Penal Clause. — Faithful compliance with the provisions of this Act is hereby mandated. As such, the penalty of one (1) year imprisonment or a fine of One hundred thousand pesos (P100,000.00) and perpetual disqualification to hold office shall be imposed against any public officer or employee who violates the provisions of this Act.

SECTION 7. Implementing Rules and Regulations. — The Secretary of the Department of Justice (DOJ) and the Secretary of the Department of the Interior and Local Government (DILG) shall, within sixty (60) days from the approval of this Act, promulgate rules and regulations on the classification system for good conduct and time allowances, as may be necessary, to implement the provisions of this Act.

SECTION 9. Repealing Clause. — Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 10. Effectivity Clause. — This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) newspapers of general circulation. (Emphases supplied)

Taken together, the conclusion is inescapable that "this Act" as used in the exclusionary proviso of the last paragraph of Article 29 refers to Republic Act No. 10592. This exclusion could not have only been limited to deductions for preventive imprisonment; otherwise, Congress would have used "this paragraph" or "this Article" as it did elsewhere in the text of Republic Act No. 10592.

Regardless of the intent to include PDLs preventively imprisoned in the availment of GCTA in the amended Article 97, the amendments to Article 29 are clear that recidivists, habitual delinquents, escapees, and persons charged with heinous crimes cannot reduce their time in detention either by crediting their period in preventive imprisonment or good conduct while in detention. These categories of offenders are similarly disqualified from availing of special time allowance for loyalty under Section 4 of Republic Act No. 10592 and cannot have their criminal liability partially extinguished pursuant to Section 2 of Republic Act No. 10592. It is of no moment that Republic Act No. 10592 now excluded these offenders from the application of provisions other than Article 29. As the statutory history of Article 29 itself shows, the legislature may at any time withdraw or extend, or modify the conditions for availment of, these privileges.

As such, the 2019 IRR was issued in excess of rule-making power only insofar that persons convicted of heinous crimes were not entitled to GCTA in Rule IV, Section 2; and that Rule VII, Section 2 disqualified PDLs convicted of heinous crimes from special time allowance for loyalty. Republic Act No. 10592 expressly excluded persons charged with heinous crimes from its coverage, regardless of whether or not they were later convicted thereof.

Conversely, the 2019 IRR correctly disqualified recidivists, habitual delinquents, and escapees in Rule IV, Section 2; Rule VII, Section 2; and Rule X, Section 1.

Moreover, it bears pointing out that there is an inherent flaw to the GCTA beyond the expansion or diminution of its entitlements. The GCTA is not based on any metric which can gauge if a PDL has indeed been rehabilitated and is no longer a danger to society at large.

Penalty, in relation to criminal law, is understood to be "the suffering that is inflicted by the state for the transgression of the law." [7] The primary objectives for the imposition of a penalty are prevention, self-defense, exemplarity, and reformation. *Flores-Concepcion v. Castañeda* [8] expounds:

Several theories justify the imposition of a penalty. One theory is that of prevention, where the State punishes an offender to prevent or suppress danger to society arising from that person's criminal act. Similarly, under another theory, that of self-defense, the State punishes the offender to protect society from the threat inflicted by the criminal. These two theories underlie the imposition or penalties for attempted or frustrated crimes, as a measure of protection to society against the potential harm that could have been inflicted by the offender.

Another set of theories is punitive in nature. The first of these is exemplarity, where the imposition of the penalty acts as a deterrent to discourage others from committing the crime. Another theory is retribution or retributive justice, where the State punishes the offender as an act of vindication or revenge for the harm done. Finally, there is the theory of reformation, or what is now referred to as restorative justice. The State's objective in restorative justice "is not to penalize," but to "engage in a sincere dialogue toward the formulation of a reparation plan. A reparation plan typically includes both monetary reparation and a rehabilitative program" and even community work. [9] (Emphasis in the original, citations omitted)

Under our jurisdiction, the imposition of a criminal penalty is recognized to be largely aimed towards rehabilitation, rather than punitive, as evidenced by the state policy of restorative and compassionate justice. [10] As early as 1933, the Court in *People v. Ducosin* [11] viewed PDLs as individuals and members of society, with the State concerned with "redeeming the individual for economic usefulness and other social ends" [12] while also "protecting the social organization against the criminal acts of destructive individuals." [13]

Restorative justice, as applied in criminal punishments, is defined as "a principle which requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, the offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by activating the offender, the victim and the community in prevention strategies." [14] Thus, restorative justice recognizes the importance of restoring relations within the community by allowing victims to confront their offenders and giving remorseful offenders, who accept responsibility for the acts which led to their incarceration, a chance at rehabilitation and reintegration into society. [15]

This state policy of rehabilitating PDLs is reflected in the objectives stated in the 2019 Revised Implementing Rules and Regulations which read:

Section 3. Objectives. - The credit for preventive imprisonment and the grant of increased time allowances for good conduct, including for studying, leaching, and mentoring, and for loyalty, to qualified PDL, seek to:

- Redeem and uplift valuable human material towards economic and social usefulness;
- Level the field of opportunity to motivate PDL to pursue a productive and law-abiding life;
- Implement the state policy of restorative and compassionate justice by promoting reformation and rehabilitation of PDL, strengthening their moral fiber and facilitating their successful reintegration into the

mainstream of society; and

- Maintain a firm punitive or retributive policy towards certain classes of PDL.

The 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592 defines good conduct as:

[T]he conspicuous and satisfactory behavior of a detention or convicted PDL consisting of, among others, active involvement in development or rehabilitation programs, productive participation in authorized work activities or accomplishment of exemplary deeds coupled with faithful obedience to all prison/ jail rules and regulations, including the non-commission, or non-participation in the commission, of any crime or offense during the period of imprisonment[.][16]

It is clear from the definition of good conduct that only superficial compliance is needed to qualify for Good Conduct Time Allowance. Complete or sufficient rehabilitation cannot be seen from mere "active involvement in development or rehabilitation programs" or "accomplishment of exemplary deeds coupled with faithful obedience to all prison/jail rules and regulations."

A rehabilitated PDL who is ready to be reintegrated into mainstream society, should, at the very least, show genuine remorse and assume responsibility for the harm committed on the victims and the community. More importantly though, there must be "a cognitive and emotional transformation and improvement in [the PDL's] relationship with the community." [17]

The mechanism provided in the 2019 Revised Implementing Rules and Regulations shows a mere perfunctory compliance with the state policy of rehabilitation of PDLs, as evidenced by the composition and functions of the Management, Screening and Evaluation Committee provided for in Rule VIII Sections 1 and 2:

RULE VIII

MANAGEMENT, SCREENING AND EVALUATION COMMITTEE (MSEC)

Section 1. Creation and Composition. – The Director General of the BUCOR, the Chief of the BJMP and Wardens of the Provincial Jails shall respectively create an MSEC for each correctional facility. Membership in the MSEC shall not be less than five (5) and may include a representative from the appropriate records office, reformation office or welfare and development office, discipline office, legal/paralegal, Overseer, Probation and Parole Officer, and if available, a psychologist and a social worker.

Section 2. Functions. – Each MSEC shall assess evaluate, and recommend to the Director General of the BUCOR, the Chief of the BJMP and Wardens of the Provincial, District, City and Municipal Jails, as the case may be, the recognition of CPI and the grant of GCTA, TASTM, or STAL to a qualified PDL.

The Management, Screening and Evaluation Committee, which is tasked to "assess, evaluate and recommend" the PDLs who qualify for time credit is composed of representatives from "the appropriate records office, reformation office or welfare and development office, discipline office, legal/paralegal, Overseer, Probation and Parole Officer, and if available, a psychologist and social worker." [18]

The very composition of the Management, Screening and Evaluation Committee shows its mere lip service to the state policy of restorative justice because the optional inclusion of a psychologist or social worker proves that the genuine rehabilitation of PDLs, as confirmed by professionals, is not the primary consideration for the entitlement to a time credit. As it is, who may avail of time credits or time allowances is mainly reliant on the perception of the relevant correctional officers, leading to arbitrariness and potential abuses of the system.

The lack of quantifiable standards backed by behavioral science lead to a very real danger that PDLs convicted of heinous crimes or crimes that are manifestly wicked and vicious, making them "repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society," [19] are allowed to

reintegrate into society even if they have not undergone meaningful rehabilitation, which would have given them a better chance at a productive and law-abiding life.

This gap should not be seen by our correctional officers as license to be lenient in their assessment of PDLs vis-à-vis recommendations for time credits. As a privilege, the allowance of time credits should be strictly implemented because while the 2019 Revised Implementing Rules and Regulations aims to "redeem and uplift valuable human material towards economic and social usefulness,"[20] it also recognizes that there is a need to "maintain a firm punitive or retributive policy towards certain classes of PDL." [21]

ACCORDINGLY, I vote to DENY the petitions

[1] Department of Justice and Department of the Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act 10592 (2013), Rule IV GOOD CONDUCT TIME ALLOWANCE (GCTA), sec. 2. GCTA During Service of Sentence. - The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 1059s.

The following shall not be entitled to any GCTA during service of sentence:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL convicted of Heinous Crimes.

[2] Department of Justice and Department of the Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act No. 10592 (2013). Rule VII SPECIAL TIME ALLOWANCE FOR LOYALTY (STAL), sec. 2. Who are disqualified. - The following shall not be entitled to STAL:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL charged or convicted of Heinous Crimes.

[3] An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code.

[4] Act No. 1533, sec. 1 in rel. sec. 6.

[5] Act No. 3185, art. 367.

[6] Ponencia, pp. 15-16.

[7] Flores-Concepcion v. Castañeda, A.M. No. RTJ-15-2438, September 15, 2020 [Per J. Leonen, En Banc] citing Lorenzo Relova, Imposition of Penalties: Indeterminate Sentence Law, 22 ATENEO L.J. 1 (1978).

[8] 884 Phil. 66, 104 (2020) [Per J. Leonen, En Banc].

[9] Id., citing Lorenzo Relova, Imposition of Penalties: Indeterminate Sentence Law, 22 ATENEO L.J. 1 (1978) and Hadar Dancig-Rosenberg & Tali Gal, Restorative Criminal Justice 34 CARDOZO LAW REVIEW 2321 (2013).

[10] Sayre v. Xenos, 871 Phil. 86, 109-111 (2020) [Per J. Carandang, En Banc].

[11] 59 Phil. 109 (1933) [Per .J. Butte, En Banc].

[12] Id. at 118.

[13] Id.

[14] Republic Act No. 9344 (2006), sec. 4(q).

[15] Estacio v. Estacio, 885 Phil. 157, 180 (2020) [Per J. Leonen, Third Division], citing the United Nations Office on Drugs and Crime, Handbook on Restorative Justice Programmes, CRIMINAL JUSTICE HANDBOOK SERIES (2006) 9-11 available at <https://www.unodc.org/pdf/criminal_justice/Handbook_on_Restorative_Justice_Programmes.pdf> (last accessed on September 15, 2020).

[16] Department of Justice and Department of the Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act. 10592 (2013), Rule II, sec. 1(k).

[17] United Nations Office on Drugs and Crime, Handbook on Restorative Justice Programmes (Second Edition), CRIMINAL JUSTICE HANDBOOK SERIES (2020) 7, available at <https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf> (last accessed on February 9, 2024).

[18] Department of Justice and Department of the Interior and Local Government, 2019. Revised Implementing Rules and Regulations, Republic Act 10592 (2013), Rule VIII, sec. 1.

[19] Department of Justice and Department of the Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act 10592 (2013), Rule II, sec. 1(n).

[20] Department of Justice and Department of the Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act 10592 (2013), Rule I, sec. 3(a).

[21] Department of Justice and Department of the Interior and Local Government, 2019 Revised Implementing Rules and Regulations, Republic Act 10592 (2013), Rule I, sec. 1(d).

CONCURRING OPINION

CAGUIOA, J.:

I am in full agreement with the ponencia. The 2019 Revised Implementing Rules and Regulations (2019 Revised IRR) of Republic Act No. 10592,[1] insofar as it excluded recidivists, habitual delinquents, escapees, and persons convicted of heinous crimes from enjoying the benefit of a good conduct time allowance (GCTA) after their final conviction, should be nullified.

For convicted prisoners to avail themselves of GCTA credits earned during the service of their sentence after final conviction, Republic Act No. 10592 only requires that they have to be "in any penal institution, rehabilitation or detention center or any other local jail." [2] Thus, there was no basis for the exclusion by the 2019 Revised IRR of recidivists, habitual delinquents, escapees, and persons convicted of heinous crimes from earning GCTA after their final conviction if they are in a penal institution, rehabilitation or detention center, or in a local jail.

Factual background

As narrated in the ponencia, Republic Act No. 10592 amended Articles 29, 94, 97, and 98 of the Revised Penal

Code. Section 1 of Republic Act No. 10592 amended Article 29 of the Revised Penal Code (on deducting the period of preventive imprisonment from the term of imprisonment) by including the proviso "recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act."

Meanwhile, Section 3 of Republic Act No. 10592 amended Article 97 of the Revised Penal Code (allowance for good conduct, i.e., GCTA), by allowing qualified offenders under Article 29 to earn GCTA credits even during preventive imprisonment. Par. 1 of Article 97 now reads as follows: "The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him [or her] to the following deductions from the period of his [or her] sentence." [3]

Republic Act No. 10592 empowered the Department of Justice (DOJ) and the Department of the Interior and Local Government (DILG) to issue the implementing rules and regulations that resulted in the issuance of the 2019 Revised IRR. Section 2, Rule IV of the 2019 Revised IRR reads:

SECTION 2. GCTA during Service of Sentence. — The good conduct of a [Person Deprived of Liberty (PDL)] convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him [or her] to the deductions described in Section 3 hereunder, as GCTA, from the period of his [or her] sentence, pursuant to Section 3 of [Republic Act] No. 10592.

The following shall not be entitled to any GCTA during service of sentence:

- Recidivists;
- Habitual Delinquents;
- Escapees; and
- PDL convicted of Heinous Crimes. (Emphasis supplied)

Under Section 2 of the 2019 Revised IRR, the DOJ and the DILG extended the exclusionary proviso "recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act" [4]—which, to reiterate, applies only to the entitlement of deducting one's preventive imprisonment from the full term of the imprisonment under Section 29—to Article 97 of the Revised Penal Code. Effectively, the 2019 Revised IRR excluded recidivists, habitual delinquents, escapees and those convicted of heinous crimes from earning GCTA altogether, whether during their preventive imprisonment or after final conviction.

Petitioners are inmates convicted of heinous crimes. When the Court, in *Inmates of New Bilibid Prison v. De Lima*, [5] ordered the recomputation of time allowances for the petitioners therein and "those who are similarly situated," [6] the respondents DOJ, Bureau of Corrections, Bureau of Jail Management and Penology excluded petitioners from those who would be granted GCTA earned during the service of their sentence pursuant to the 2019 Revised IRR.

Petitioners then filed Petitions for Certiorari and Prohibition (Petitions) praying: (a) for the issuance a status quo ante order; (b) for a declaration that any convict, including those convicted of heinous crimes, are not prohibited from earning GCTA after conviction; and (c) for the Court to enjoin the respondents to recompute the time allowance for those convicted of heinous crimes.

The ponencia grants the Petitions for the following reasons. First, Section 3 of Republic Act No. 10592 established two categories of persons entitled to earn GCTA, "which are: (1) any offender qualified for credit for preventive imprisonment, pursuant to Article 29 of the [Revised Penal Code], as amended by Section 1 of [Republic Act No.] 10592, and (2) any convicted prisoner in any penal institution, rehabilitation, or detention

center in any other local jail." [7] The only qualification for the second category is that the convicted prisoner be in "any penal institution." Second, the DOJ exceeded its rule-making powers granted by Republic Act No. 10592 when it "[expanded] the scope of offenders who cannot earn GCTA credits, to the latter's prejudice." [8]

Legislative history concerning GCTA

Before the Revised Penal Code and Republic Act No. 10592, Act No. 1533 [9] allowed "prisoners convicted of any offense" [10] and "sentenced for a definite term of more than 30 days and less than life" to reduce their sentence through their good conduct in the service thereof. Section 1 of Act No. 1533 provides:

SECTION 1. Each convict who is sentenced for a definite term of more than thirty days and less than life shall be entitled to diminish the period of his [or her] sentence under the following rules and regulations:

(a)

For each full month, commencing with the first day of his [or her] arrival at a provincial or Insular jail or prison, during which he [or she] has not been guilty of a violation of discipline or any of the rules of the prison, and has labored with diligence and fidelity upon all such tasks as have been assigned to him [or her], he [or she] shall be allowed a deduction of five days from the period of his [or her] sentence.

(b)

After he [or she] has served two full years of a sentence, the deduction shall be eight days for each month thereafter.

(c)

After he [or she] has served five full years of a sentence, the deduction shall be ten days for each month thereafter.

(d)

After he [or she] has served ten full years of his [or her] sentence, the deduction from his [or her] term shall be fifteen days for each month thereafter.

Notably, Section 5 of Act No. 1533 extended the right to earn GCTA to detention prisoners before conviction, to wit:

SECTION 5. Detention prisoners who voluntarily offer in writing to perform such labor as may be assigned to them shall be entitled to a credit in accordance with the provisions of this Act, which shall be deducted from such sentence as may be imposed upon them in the event of their conviction. (Emphasis supplied)

The intention of Congress in allowing prisoners to earn GCTA was two-fold: first, GCTA encouraged the convict to reform and to acquire habits of industry that will not be forgotten after he or she has served his or her sentence; and second, GCTA was a disciplinary aid within the various jails and penitentiaries. The Court in *Frank v. Wolfe* [11] explained:

The provisions of the Act [No. 1533] are in accord with approved principles of penology, adopted by most modern states, and it is evident from the terms of the Act itself that it was the intention of the lawmaker that all convicts serving sentences for more than thirty days and less than life should be entitled to the benefits conferred thereby. We would be loath, therefore, to construe doubtful language in a grant of commutation so as to defeat the object of the statute and thwart the wise purpose of the lawmaker; and unless the language of a grant of a pardon or commutation were so clear and explicit as to leave no room for doubt, we would not feel justified in construing it so as to impute to the Chief Executive the purpose so to do, unless some sound reason were suggested as a basis for his [or her] action in a particular case.

The Act has a double purpose: it is intended to encourage the convict in an effort to reform, and to induce him (or her) to acquire habits of industry and good conduct which will not be forgotten after he [or she] has served his (or her) sentence; and it is intended as an aid to discipline within the various jails and penitentiaries; thus the dictates of humanity and the interests of the public service would seem to negative a doubtful construction of a grant of a commutation which would tend to impair the usefulness of the Act as a means to the end which it was sought to secure by its enactment, unless, as we have stated before, some sound reason can be suggested for an exception in a particular case.[12] (Emphasis Supplied)

In *Frank v. Wolfe*, the Court noted that the legislative intent in enacting Act No. 1533 was to entitle all convicts to GCTA. Thereafter, the right to earn GCTA was carried over to the Revised Penal Code under Article 94, which prescribed the ways that criminal liability may be partially extinguished:

ARTICLE 94. Partial extinction of criminal liability.—Criminal liability is extinguished partially:

- By conditional pardon;
- By commutation of the sentence; and
- For good conduct allowances which the culprit may earn while he [or she] is serving his [or her] sentence. (Emphasis supplied)

However, Section 5 of Act No. 1533, which extended to detention prisoners the right to earn GCTA before their conviction, was not carried over to the Revised Penal Code. Thus, before Republic Act No. 10592, a deduction based on good conduct (i.e., the GCTA) was only available to those convicted and serving their sentence in a penal institution under Article 97 of the Revised Penal Code.

In this connection, the Court in *People v. Martin*[13] declared that GCTA was only available after conviction while the convict was serving his or her sentence, to quote: "[t]his allowance is given in consideration of the good conduct of the prisoner while serving his [or her] sentence. Not having served this remitted penalty, there is no reason for the allowance, namely, the good conduct of the appellant while serving his sentence." [14]

During the deliberations, a sound and insightful point was raised that when Act No. 1533 was enacted the crimes that are today considered heinous crimes were the same crimes punished in 1906 with reclusion perpetua under the 1870 Spanish Penal Code (at that time an indefinite penalty comparable to "life imprisonment" as we know today). Hence, persons in 1906 who were convicted of crimes that we now call "heinous crimes" were sentenced to serve the penalty of "life" imprisonment and were thus excluded from earning GCTA.

Consequently, it was asserted that when (a) when Act No. 1533 excluded persons serving life sentences from earning GCTA and (b) in 1906 the crimes that carried life sentences are the same crimes that are considered heinous crimes today, (c) Act No. 1533 is evidence of the principle that persons convicted of heinous crimes are excluded from earning GCTA.

On the contrary, the argument incorrectly considers the terms "heinous crimes" and "crimes carrying life sentences" as equivalents simply because the two coincided in 1906. To my mind, these are two different terms that do not always coincide, which is evidently the case today. In 1906, the reason why persons convicted of heinous crimes and serving life sentences could not avail themselves of GCTA was not because of the crime they committed, but because the penalty, i.e., imprisonment for life or less than 30 days, rendered GCTA meaningless for these persons.

Precisely, those persons who were excluded by Act No. 1533 from earning GCTA were those convicts who could derive no tangible benefit from GCTA. This exclusion was not because of the crime they committed or as some kind of additional punishment for the gravity of their offense but because of the nature of the penalties. Thus:

- Persons who had prison sentences of less than 30 days would be released even before their GCTA could be credited since the minimum period to earn GCTA is a "full month;" and
- Persons serving life sentences would naturally derive no benefit from GCTA since their sentence is precisely to remain in prison for the rest of their lives. It would thus be a futile exercise to grant one a "deduction" to a life sentence.
- The same logic applies with even more force with respect to the persons sentenced to the death penalty for obvious reasons.

The underlying principle that can be gleaned from the foregoing is that any convict who has an expectation to be released from prison and returned to society in the future, is entitled to earn GCTA. Thus, when Act No. 1533 in its title uses the phrase "all convicts," Congress necessarily meant all those convicts for whom GCTA could have some tangible benefit.

Moreover, heinous crimes are presently punished by reclusion perpetua, which has a maximum period of imprisonment of 40 years.[15] As the Court declared in *People v. Retuta*,[16] "the penalty of 'life imprisonment' does not appear to have any definite extent or duration." [17] Thus, the persons convicted of heinous crimes are no longer serving indefinite life sentences as they were in 1906. Accordingly, the principles embodied in Act No. 1533 suggest that the Revised Penal Code still allowed these persons to earn GCTA.

The Death Penalty Law

The legislative history of Republic Act No. 7659[18] or the "Death Penalty Law" is also instructive to provide context on why persons convicted of heinous crimes are entitled to earn GCTA credits after conviction and during the service of their sentence. In 1993, during the enactment of Republic Act No. 7659, an attempt was made to further restrict the right of convicted prisoners to earn GCTA by disqualifying those convicted of heinous crimes from earning the same. This attempt, however, was rejected by Congress as will be discussed below.

Republic Act No. 7659 was a consolidation of Senate Bill No. 891 and House Bill No. 62. Notably, Senate Bill No. 891 sought to amend Article 27 of the Revised Penal Code:

by inserting therein what are to be considered heinous crimes and to penalize these not with the death penalty, but with reclusion perpetua only, with the qualification that "any person sentenced to reclusion perpetua for ... [such heinous] crimes under this Code shall be required to serve thirty (30) years, without entitlement to good conduct time allowance and shall be considered for executive clemency only after service of said thirty (30) years." [19] (Emphasis supplied)

This amendment, however, was not adopted in the final text of Republic Act No. 7659.[20]

Amendments under Republic Act No. 10592

With the enactment of Republic Act No. 10592, Congress struck the middle ground between (a) Section 5 of Act No. 1533 in allowing, without qualification, detention prisoners to earn GCTA before conviction, "which shall be deducted from such sentence as may be imposed upon them in the event of their conviction," and (b) the proposed amendment in Senate Bill No. 891, in relation to Republic Act No. 7659 disqualifying persons convicted of heinous crimes from earning GCTA altogether. In other words, under Republic Act No. 10592, Congress entitled detention prisoners to earn GCTA during the time of their preventive imprisonment before conviction but excluded therefrom persons charged with heinous crimes.

To illustrate, Article 97 of the Revised Penal Code, before and after the amendments of Republic Act No. 10592, is shown below for comparison:

Article 97 (before Republic Act No. 10592)

Article 97, as amended by Republic Act No. 10592

ARTICLE 97. Allowance for good conduct.—The good conduct of any prisoner in any penal institution shall entitle him [or her] to the following deductions from the period of his [or her] sentence:

1. During the first two years of his [or her] imprisonment, he [or she] shall be allowed a deduction of five days for each month of good behavior;
2. During the third to the fifth year, inclusive, of his [or her] imprisonment, he [or she] shall be allowed a deduction of eight days for each month of good behavior;
3. During the following years until the tenth year, inclusive, of his [or her] imprisonment, he [or she] shall be allowed a deduction of ten days for each month of good behavior, and
4. During the eleventh and successive years of his [or her] imprisonment, he [or she] shall be allowed a deduction of fifteen days for each month of good behavior.

ARTICLE. 97. Allowance for good conduct.—The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him [or her] to the following deductions from the period of his [or her] sentence:

1. During the first two years of imprisonment, he [or she] shall be allowed a deduction of twenty days for each month of good behavior during detention;
2. During the third to the fifth year, inclusive, of his [or her] imprisonment, he [or she] shall be allowed a reduction of twenty-three days for each month of good behavior during detention;
3. During the following years until the tenth year, inclusive, of his [or her] imprisonment, he [or she] shall be allowed a deduction of twenty-five days for each month of good behavior during detention;
4. During the eleventh and successive years of his [or her] imprisonment, he [or she] shall be allowed a deduction of thirty days for each month of good behavior during detention; and
5. At any time during the period of imprisonment, he [or she] shall be allowed another deduction of fifteen days, in addition to numbers one to four hereof, for each month of study, teaching or mentoring service time rendered.

An appeal by the accused shall not deprive him [or her] of entitlement to the above allowances for good conduct. (Emphasis supplied)

Republic Act No. 10592 thus extended the right to earn GCTA to "any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code." It is evident from Article 29, as amended, that GCTA may be earned even during the period of preventive imprisonment by any offender or accused, as long as he or she is not a

recidivist, habitual delinquent, escapee, or person charged with heinous crimes, viz.:

ARTICLE. 29. Period of preventive imprisonment deducted from term of imprisonment. — Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:

- When they are recidivists, or have been convicted previously twice or more times of any crime; and
- When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners; he [or she] shall do so in writing with the assistance of a counsel and shall be credited in the service of his [or her] sentence with four-fifths of the time during which he [or she] has undergone preventive imprisonment.

Credit for preventive imprisonment for the penalty of reclusion perpetua shall be deducted from thirty (30) years.

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he [or she] may be sentenced and his [or her] case is not yet terminated, he [or she] shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance: Provided, however, That if the accused is absent without justifiable cause at any stage of the trial, the court may motu proprio order the rearrest of the accused: Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. In case the maximum penalty to which the accused may be sentenced is destierro, he [or she] shall be released after thirty (30) days of preventive imprisonment. (Emphasis supplied)

When Article 29 provides that the "computation of preventive imprisonment for purposes of immediate release ... shall be the actual period of detention with good conduct time allowance," it recognized that GCTA can be earned during preventive imprisonment—i.e., that good conduct during the period of preventive imprisonment can give rise to good conduct time allowance in addition to the deduction of the entire period of preventive imprisonment. To be sure, the bills that eventually became Republic Act No. 10592 explained that "it is unfortunate that under present laws, prisoners are not entitled to good conduct allowance while their cases are on appeal. This rule either discourages prisoners from complying with prison rules or withdrawing their appeals to qualify for good conduct allowance."^[21] Thus, Republic Act No. 10592, which allows qualified offenders or accused under Article 29 to earn GCTA credits even during the period of their preventive imprisonment, was set in stone.

Article 29 vs. Article 97

At this point, it is important to distinguish the deductions granted under Articles 29 and 97 of the Revised Penal Code.

Article 29 primarily pertains to the deduction of the time of one's preventive imprisonment from one's total sentence once the person is convicted by final judgment and begins to serve his or her adjudged sentence. This is separate and distinct from the deduction granted according to one's GCTA under Article 97. That said, the deduction that Article 29 speaks of is not the subject of this case, as the present Petitions only involve the question of a convict's eligibility to avail himself or herself of GCTA under Article 97. Stated differently, the petitioners—who were adjudged guilty of heinous crimes—are not asking the respondents to deduct the time they

were preventively imprisoned from the total term of their imprisonment. Neither are they asking for the right to earn GCTA during the time they were preventively imprisoned. Rather, they are asking the respondents to make a deduction of the requisite period provided by Article 97 based on their alleged good conduct after their conviction by final judgment.

I wholly agree with the ponencia that Article 97 of the Revised Penal Code, as amended, speaks of two categories of persons entitled to GCTA. For reference, the text of Article 97, as amended, is as follows:

ARTICLE 97. Allowance for good conduct.—The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code [(the first phrase)], or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him [or her] to the following deductions from the period of his [or her] sentence [(the second phrase)]. (Emphasis supplied)

The presence of the comma and the conjunction "or" separating the first and second phrases is necessarily persuasive that the first and second phrases are distinct categories within the meaning of Article 97. Accordingly, the two categories of persons entitled to GCTA are:

(a)

"any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code;" and

(b)

"any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail."

The phrase "qualified for credit for preventive imprisonment pursuant to Article 29 of this Code" only modifies the noun "offender" found in the first phrase. In contrast, the noun in the second phrase is "prisoner" and it has two modifiers—the first is the adjective convicted and the second is the phrase "in any penal institution, rehabilitation or detention center or any other local jail." Thus, a prisoner may earn GCTA: (1) during the period of preventive imprisonment before conviction (when he or she is merely an "offender"), in addition to the period (2) while he or she is serving his or her sentence after conviction.[22]

For the first period, i.e., preventive imprisonment, Article 97 allows only those persons qualified to deduct their preventive imprisonment under Article 29 to earn GCTA during the period of their detention, which shall be deducted from their sentence in the event of their conviction.[23]

Whereas for the second period, i.e., after conviction and service of his or her sentence, the Revised Penal Code and Republic Act No. 10592 provide no other qualifications for the grant of GCTA apart from the prisoner being "in any penal institution, rehabilitation, or detention center or any other local jail." [24]

Accordingly, Articles 29 and 97, as amended by Republic Act No. 10592, may be distinguished as follows:

Criterion

Article 29

Article 97

Period to be deducted from the sentence or term of imprisonment upon conviction

Total period of detention during preventive imprisonment

Graduated scale of 20 to 30 days per month of good conduct earned: (1) during preventive imprisonment; and (2) during service of sentence after conviction by final judgment.

Who are qualified to avail of the deductions

Any offender or accused except:

- "Recidivists"
- Those who "have been convicted previously twice or more times of any crime" (habitual delinquents)
- Those who "upon being summoned for the execution of their sentence they have failed to surrender voluntarily" (escapees)
- Persons charged with heinous crimes

1. For GCTA during detention while under preventive imprisonment:

Any offender or accused except:

- "Recidivists"
- Those who "have been convicted previously twice or more times of any crime" (habitual delinquents)
- Those who "upon being summoned for the execution of their sentence they have failed to surrender voluntarily" (escapees)
- Persons charged with heinous crimes

2. For GCTA during service of sentence (after conviction):

Any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail

How to avail

The detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners

Performance of good conduct

To illustrate, consider two prisoners—Pedro and Juan—who were charged and eventually convicted of qualified theft and parricide (a heinous crime), respectively. Pedro and Juan were sentenced to suffer the penalty of imprisonment for, hypothetically, 30 years. Pedro and Juan were charged, arrested, and detained on the same day, and both were preventively imprisoned for 10 years before they were convicted by final judgement at the end of their 10th year. Throughout their imprisonment, Pedro and Juan exhibited good conduct until the end of their 15th year. Both Pedro and Juan are not recidivists, habitual delinquents, or escapees. When they were preventively imprisoned at the beginning of Year 1, they both agreed in writing to abide by the same disciplinary rules imposed on convicted prisoners. Their prison sentences, taking into consideration the effects of Republic Act No. 10592, are as follows:

- Pedro (not a recidivist, habitual delinquent, escapee or person charged with heinous crime) will be released from prison after serving 7.37 years, taking into account his period of preventive imprisonment, GCTA earned during preventive imprisonment, and GCTA earned after conviction by final judgment, computed as follows:

(image supposed to be here)

- Juan (charged with a heinous crime and later convicted of one) will be released from prison after serving 25.06 years, taking into account only his GCTA earned after his conviction by final judgment, computed as follows:

(image supposed to be here)

Thus, guided by the foregoing discussion, recidivists, habitual delinquents, escapees and persons convicted of heinous crimes are not disqualified from earning GCTA credits after conviction by final judgment and during the service of their sentence. Otherwise stated, while they are excluded from deducting the period of their preventive imprisonment and prohibited from earning GCTA credits during the same period, nothing in Republic Act No. 10592 prohibits them from earning GCTA after their conviction by final judgment.

As earlier intimated, Section 2, Rule IV of the 2019 Revised IRR extended the proviso in Article 29 that disqualifies recidivists, habitual delinquents, escapees and persons charged with heinous crimes to Article 97, both for GCTA earned during preventive imprisonment and after conviction.

Republic Act No. 10592 indeed deprives persons charged with heinous crimes of the benefit to earn GCTA during the period of their preventive imprisonment. They are not, however, disqualified from earning GCTA once convicted by final judgment and are serving their sentences. This is clear from the letter of Article 97, as amended by Republic Act No. 10592, that GCTA may be earned by "any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail." To be clear, the clause in Article 97 that "the good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code ... shall entitle him [or her] to the following deductions from the period of his [or her] sentence," refers to GCTA earned during the period of preventive imprisonment. The plain meaning of this clause is that only those qualified to deduct their preventive imprisonment from their sentence are allowed to earn GCTA credits during their preventive imprisonment. Otherwise stated, those disqualified under Article 29, i.e., recidivists, habitual delinquents, escapees, and persons charged of heinous crimes, are also disqualified from earning GCTA credits, but only during their preventive imprisonment.

The 2019 Revised IRR effectively disregarded the distinctions between the two periods within which a prisoner may earn GCTA credits and thus denies them both to the petitioners even as the law deprives them of only one (i.e., GCTA earned during the period of their preventive imprisonment).

Consequently, the 2019 Revised IRR clearly went beyond the provisions of Republic Act No. 10592. Republic Act No. 10592 and the Revised Penal Code do not disqualify any convicted prisoner—regardless of the crime for which they were convicted—in a penal institution from earning GCTA.

Conclusion

In conclusion, I find it strange for Republic Act No. 10592 to recognize that recidivists, habitual delinquents, escapees and persons charged with heinous crime are able to reform after conviction, but not during their preventive imprisonment.

Nevertheless, I respectfully submit that it is not the business of the Court to go against the express language of the law. Likewise, the doctrine of separation of powers proscribes the Judiciary from inquiring into the wisdom of the Congress in not totally preventing persons convicted of heinous crimes from earning GCTA credits during their preventive imprisonment. The case of *Garcia v. Executive Secretary*[25] is instructive:

This legislative determination was a lawful exercise of Congress' prerogative and one that this Court must respect and uphold. Regardless of the individual opinions of the Members of this Court, we cannot, acting as a body, question the wisdom of a co-equal department's acts. The courts do not involve themselves with or delve into the policy or wisdom of a statute; it sits, not to review or revise legislative action, but to enforce the legislative will. For the Court to resolve a clearly non-justiciable matter would be to debase the principle of separation of powers that has been tightly woven by the Constitution into our republican system of government.[26]

To repeat, the subject of the present Petitions is the entitlement to GCTA credits earned during the service of final sentence, and to stress, the law does not disqualify anyone, including petitioners herein who were convicted of heinous crimes, from earning the same during the service of sentence, as long as they are "in any penal institution, rehabilitation or detention center or any other local jail."

All told, I CONCUR with the ponencia and vote that the Petitions should be GRANTED. Republic Act No. 10592 did not disqualify petitioners, and others similarly situated, from earning GCTA during the period of service of sentence after final conviction and deducting such credits from the term of their imprisonment. Section 2, Rule IV of the 2019 Revised IRR insofar as it excludes recidivists, habitual delinquents, escapees, and persons convicted of heinous crimes from earning GCTA under Article 97 of the Revised Penal Code, is null and void for going beyond the letter of the law.

[1] Republic Act No. 10592 (2013), "An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, known as the Revised Penal Code."

[2] Republic Act No. 10592 (2013), sec. 3, amending REV. PEN. CODE, art. 97.

[3] Emphasis supplied.

[4] REV. PEN. CODE, art. 29, as amended by Republic Act No. 10592, sec. 1.

[5] 854 Phil. 675 (2019) [Per J. Peralta, En Banc].

[6] Id. at 713.

[7] Ponencia, p. 16.

[8] Id. at 20.

[9] Act No. 1533 (1906), "An Act Providing For the Diminution Of Sentences Imposed Upon Prisoners Convicted Of Any Offense and Sentenced For A Definite Term Of More Than Thirty Days and Less Than Life In Consideration Of Good Conduct and Diligence."

[10] Emphasis supplied.

[11] 11 Phil. 466 (1908) [Per J. Carson, En Banc].

[12] Id. at 471.

[13] 68 Phil. 122 (1939) [Per C.J. Avanceña, Second Division].

[14] Id. at 125.

[15] REV. PEN. CODE, art. 27, as amended by Republic Act No. 7659.

[16] 304 Phil. 813 (1994) [Per J. Bellosillo, First Division].

[17] Id. at 827.

[18] Titled, "An Act to Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, as amended, Other Special Penal Laws, and for Other Purposes."

[19] *People v. Lucas*, 310 Phil. 77, 81 (1995) [Per J. Davide, En Banc].

[20] See discussion in *People v. Lucas*, Id.

[21] Explanatory Note of Senate Bill No 2462, An Act Amending Article 97 of Act No. 3815, Otherwise Known as the Revised Penal Code, filed by Senator Miriam Defensor Santiago on August 31, 2010.

[22] See also REV. PEN. CODE, as amended by Republic Act No. 10592.

[23] To use the language in Act No. 1533.

[24] Emphasis supplied.

[25] 602 Phil. 64 (2009) [Per J. Brion, En Banc].

[26] Id. at 77.

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