

RODRIGO LOZA Y APOLONIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 258592 (Formerly UDK No. 17170), August 12, 2025

Ponente: GAERLAN, J.

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GAERLAN, J.:

Before the Court is a Petition for Review on Certiorari[1] filed to assail both the Decision[2] dated October 26, 2020 and the Resolution[3] dated July 7, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 41783. Said rulings of the appellate court affirmed the Decision[4] dated April 6, 2018 of Branch 5, Regional Trial Court of Legazpi City, Albay in Criminal Case No. 9878, which convicted petitioner Rodrigo Loza y Apolonio (Loza) of the crime of bigamy as penalized under Article 349 of Act No. 3815, otherwise known as the Revised Penal Code, as amended.

Factual Antecedents and Ruling of the Trial Court

The facts of the case can be gathered from the succinct narration by the CA, viz.:

Accused-appellant was charged with the crime of Bigamy defined and penalized under Article 349 of the Revised Penal Code, as amended, in an Information which reads as follows:

That on or about the 16[th] day of September 2002, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then legally married to one FE DY LOZA, who is still living[,] and the marriage subsisting or undissolved by competent court and/or authorities, did then and there wilfully, [sic], unlawfully and feloniously contract a second marriage or subsequent marriage with all the essential requisites or validity with one IVY ARINGO Y TIAN SAY in a ceremony solemnized on September 16, 2002 at the Municipal Trial Court, Legazpi City; said subsequent marriage was discovered by FE DY LOZA on October 19, 2002, to her damage and prejudice.

CONTRARY TO LAW.

Upon his arraignment on [November 28, 2016], the accused-appellant pleaded not guilty to the charge against him.

On [June 30, 2017], accused-appellant submitted a Plea Bargaining Proposal praying that he be allowed to enter a plea of guilty to [the] lesser offense of violation of Article 350 of the Revised Penal Code and to consider and admit, as mitigating circumstances his voluntary surrender and plea of guilty.

On [July 31, 2017], pre-trial was conducted.

Accused-Appellant filed a Motion to Withdraw Original Plea of Not Guilty on [August 23, 2017]. In its Order dated [October 23, 2017], the RTC granted the said motion and on even date, accused-appellant was re-arraigned under the same Information, where he withdrew and changed his previous plea of not guilty to plea of guilty.

To prove the voluntary surrender of the accused-appellant, the defense counsel presented Special Investigator

Mark Anthony G. Diaz (SI Diaz) who testified that he is a National Bureau of Investigation (NBI) Special Investigator since 2005 and was assigned at the NBI Laguna District Office Compound, Sta. Rosa, Laguna.

SI Diaz narrated that on [August 30, 2016], accused-appellant applied for [an] NBI clearance. In the course of processing accused-appellant's application, it turned out that there was a case filed against a certain Rodrigo Loza. When informed of the said pending case, accused-appellant admitted that he has a pending case. Since the office had no available records of the case, SI Diaz told accused-appellant to come back for an interview.

SI Diaz immediately conducted a record check by requesting the NBI Manila for [a] copy of the records of a certain accused Rodrigo Loza. Subsequently, a copy of the records indicating the pendency of a warrant of arrest against a certain Rodrigo Loza was sent to [the] NBI Laguna District Office.

When accused-appellant came back for an interview, SI Diaz informed and confirmed to accused-appellant that there is a pending case and an outstanding warrant of arrest against Rodrigo Loza. Accused-appellant then told SI Diaz "Masuko na lang ako" (I will surrender) and sought help from SI Diaz for the posting of his bail.

Thereupon, SI Diaz served the warrant of arrest against accused-appellant and informed the latter of his rights. He then issued a Certificate of Detention for the posting of bail of the accused-appellant and a Certification dated [September 13, 2017] stating that accused-appellant voluntar[il]y surrendered to their office.

On cross[-]examination, SI Diaz testified that when accused-appellant went to NBI on [August 30, 2016] for a clearance and learned that he has a "hit," he admitted that he has a pending case. Since SI Diaz had no records of the case, he allowed accused-appellant to go home. He admitted having issued an Endorsement dated [September 15, 2016] stating that accused-appellant was arrested by the operatives of the NBI Laguna District Office. He explained that he usually uses the term "the person was arrested by the authority" [sic] in the return of the warrant of arrest, without considering if the person has voluntar[il]y surrendered or not.[5]

RTC-Legazpi City convicted Loza in the following manner:

WHEREFORE, after finding the voluntariness of his plea of guilty, accused Rodrigo Loza y Apolonio is hereby adjudged GUILTY beyond reasonable doubt of the crime [of] bigamy [as] defined and penalized under Art. 349 of the Revised Penal Code. In view of the mitigating circumstance of [his] plea of guilty, he is sentenced to suffer the indeterminate penalty of imprisonment of 6 months and 1 day of prisión correccional, as minimum, to 6 years and 1 day of prisión mayor, as maximum.

In view of the manifestation of Prosecutor Tena that the prosecution will no longer present evidence in this case, the civil action which was deemed instituted in this criminal action is DISMISSED.

SO ORDERED.[6]

The trial court reasoned, thus, when it denied Loza's plea for consideration of his surrender at the National Bureau of Investigation (NBI)-Laguna District Office to Special Investigator Mark Anthony G. Diaz (SI Diaz) as an additional mitigating circumstance:

"For voluntary surrender to mitigate criminal liability, the following elements must concur: (1) the offender has not been actually arrested; (2) the offender surrenders himself to a person in authority or to the latter's agent; and (3) the surrender is voluntary. To be sufficient, the surrender must be spontaneous and made in a manner clearly indicating the intent of the accused to surrender unconditionally, either because they acknowledge their guilt or wish to save the authorities the trouble and the expense that will necessarily be incurred in searching for and capturing them." [7]

In this case, the court finds that the accused did not voluntarily surrender to Diaz as the first and third requisites of voluntary surrender are not present.

Notably, the purpose of [the] accused in going to the NBI Laguna District Office was to apply for a Clearance. As there is a record appearing at the NBI office that there is a pending case against a certain Rodrigo Loza, the NBI could not issue a clearance in his favor. It is of judicial notice that when there is a "record hit" or a record stating a pending criminal case against a person applying for a Clearance from the NBI, the applicant has to return a week after to the same NBI office so that the latter could verify the record. If the maternal surname or other pertinent data like birth date do not match that of the applicant, the necessary NBI clearance could be issued to the applicant. However, if the applicant is indeed the person with a pending warrant of arrest, the NBI has to arrest that accused.

Here, accused already admitted to Diaz on 30 August 2016 that he has a pending criminal case in this court. As standard operating procedure, however, Diaz has to verify the status of the warrant of arrest and the case.

Second, Diaz admitted during cross-examination that the NBI Manila Office sent him a copy of the pending warrant of arrest against the accused. As an officer of the law, it was already his duty to arrest [the] accused when the latter appeared again at his office on [September 7, 2016]. The surrender could no longer be "voluntary" on the part of [the] accused[,] as his arrest [wa]s already inevitable.

Third, the return of the warrant of arrest dated [September 15, 2016,] which Diaz also issued[,] stated that [the] accused was "arrested." Even the Order of release dated [September 9, 2016] of RTC-Branch 25, Biñan, Laguna stated that the NBI officers "arrested" the accused. The court finds the sudden turn-around of Diaz as a mere afterthought.

Finally, the records show that the Information in this case was filed on [January 23, 2003]. The warrant of arrest was issued on [January 30, 2003,] while the [alias] warrant of arrest was issued on [September 30, 2003]. This case had been pending for more than thirteen (13) years when [the] accused was arrested on [September 7, 2016]. Certainly, the supposed "surrender" of the accused could not be "spontaneous" considering the long years that the warrant of arrest ha[d] not been implemented due to the fact that [the] accused could not be located in the five places (Muntinlupa City, Legazpi City, Parañaque City, Pasig City, and Cavite City) stated in the warrant of arrest.[8]

Loza duly filed his Motion for Reconsideration[9] relative to the trial court's unfavorable consideration of his supposedly voluntary surrender as an additional mitigating circumstance, which was in turn duly opposed by the prosecution.[10] The trial court denied Loza's Motion for Reconsideration in an Order[11] dated April 23, 2018, which then prompted Loza to interpose his Notice of Appeal.[12]

Rulings of the Appellate Court

In its Decision dated October 26, 2020, the CA denied Loza's appeal and affirmed the Decision of RTC-Legazpi City, viz.:

ACCORDINGLY, the appeal is DENIED. The Decision dated [April 6, 2018] of the Regional Trial Court (RTC), Fifth Judicial Region, Branch 5, Legazpi City, in Criminal Case No. 9878, finding accused-appellant Rodrigo Loza y Apolonio guilty beyond reasonable doubt of the crime of bigamy [as] defined and penalized under Article 349 of the Revised Penal Code and sentencing him to suffer the indeterminate penalty of imprisonment of 6 months and 1 day of prisión correccional, as minimum, to 6 years and 1 day of prisión mayor, as maximum, and dismissing the civil action which was deemed instituted in this criminal case, is hereby AFFIRMED.

SO ORDERED.[13]

The appellate court essentially ruled that Loza's appeal was unmeritorious and that the trial court was correct in not appreciating the circumstances of Loza as constitutive of voluntary surrender as contemplated by the Revised Penal Code. The CA's reasoning is instructive, viz.:

For voluntary surrender to be appreciated as a mitigating circumstance, the following elements must be present, to wit: (1) the accused has not been actually arrested; (2) the accused surrenders himself to a person in authority or the latter's agent; and (3) the surrender is voluntary. The essence of voluntary surrender is spontaneity and the intent of the accused to give himself up and submit himself to the authorities, either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture.[14]

The Court concurs with the RTC that the first and third elements of voluntary surrender, that the accused has not been arrested and the surrender is voluntary, are lacking in this case.

Records show that when accused-appellant went to [the] NBI Laguna District Office to apply for a clearance on [August 30, 2016], his name had a "hit." It is a general knowledge that once a clearance applicant's name has a "hit," the NBI conducts further interview to ascertain the personal circumstances of the applicant. As explained by the RTC, "it is of judicial notice that when there is a 'record hit' or a record stating a pending criminal case against a person applying for a Clearance from the NBI, the applicant has to return a week after to the same NBI [office] so that the latter could verify the records. If the maternal surname or other pertinent data like birth date do not match that of the applicant, the necessary NBI clearance could be issued to the applicant. However, if the applicant is indeed the person with a pending warrant of arrest, the NBI has to arrest the accused."

When accused-appellant returned to [the] NBI Laguna District Office for his interview on [September 7, 2016] regarding his clearance application, he was served with a Warrant of Arrest and was arrested by SI Diaz. Accused-appellant's arrest was supported by SI Diaz's 1st Endorsement dated [September 15, 2016], stating that accused-appellant was arrested by the operatives of the NBI Laguna District Office. Undoubtedly, accused-appellant went to [the] NBI Laguna District Office on [August 30, 2016] and [September 7, 2016] for the purpose of applying for clearance and not to surrender.

Neither can it be correctly claimed that the supposed surrender of the accused-appellant was voluntary because the latter told SI Diaz [Masuko na lang ako] (I will surrender). As borne by the records, those words were uttered during the interview of accused-appellant by SI Diaz on [September 7, 2016] at the NBI Laguna District Office, where accused-appellant was informed of the pending case and warrant of arrest against him. Given such circumstance, said utterance was made because accused-appellant had no [other] recourse but [to] submit himself to the authorit[ies], considering that he was inside the NBI office and [that] his arrest was inevitable. Even SI Diaz himself agreed with the prosecution that accused-appellant uttered "masuko na lang ako" because he had no [other] choice. [W]here [sic] the clear reasons for the supposed surrender are the inevitability of arrest and the need to ensure his safety, the surrender is not spontaneous and therefore cannot be characterized as "voluntary surrender" to serve as a mitigating circumstance.

Records belied the claim of accused-appellant that he did not admit to SI Diaz [of] his pending case. The testimony of SI Diaz regarding the admission of accused-appellant of his pending case was steadfast and consistent. The Court gives credence to the testimony of SI Diaz over that of the accused-appellant, who did not testify before the RTC to prove that his surrender was voluntary. The Court finds no motive on the part of SI Diaz to lie before the RTC, as he gains nothing from the admission of accused-appellant of his pending case. With or without accused-appellant's admission of his pending case, as standard operating procedure, SI Diaz [was] bound to conduct a verification because accused-appellant had a "hit name." [15]

Additionally, the CA noted that in line with extant jurisprudence, Loza's circumstances also warranted the non-appreciation of his circumstances as constitutive of a mitigating circumstance, viz.:

To further persuade the Court that his surrender was voluntary, accused-appellant invoked the case of *De Vera v. De Vera*. In the said case, accused Geren de Vera was granted the mitigating circumstance of voluntary surrender because he gave himself up to the authorities upon learning of the RTC's finding of probable cause

and before the issuance and implementation of [the] warrant of arrest; these circumstances are not found in the instant case because a warrant of arrest had already been issued against accused-appellant. Since the cited case and the instant case are not similarly situated, accused-appellant's reliance on [the] De Vera case is misplaced.

In [the] De Vera case, the Supreme Court declared that "We would like to point out that the mere filing of an information and/or the issuance of a warrant of arrest will not automatically make the surrender 'involuntary.' In *People v. Oco*, the Court appreciated the mitigating circumstance because immediately upon learning that a warrant for his arrest was issued, and without the same having been served on him, the accused surrendered to the police. Thus, it is clear that notwithstanding the pendency of a warrant for his arrest, the accused may still be entitled to the mitigating circumstance in case he surrenders, depending on the actual facts surrounding the very act of giving himself up."

Clearly, the appreciation of the mitigating circumstance of voluntary surrender still depends on the factual circumstances attending the act of the accused in surrendering.

In line with the foregoing jurisprudence, the Court cannot countenance the accused-appellant's claim that were it not for his honest answers, voluntariness in giving information and confirmation of his identity to the NBI, the warrant of arrest could not have been implemented by SI Diaz. As borne from the records, accused-appellant did not testify in his behalf to prove his voluntary surrender. The Court perused the testimony of SI Diaz during the hearing held on [March 23, 2018], but nowhere in his testimony did he state that accused-appellant honestly and voluntarily gave information of his identity. In fine, no evidence was presented to show that the surrender of the accused-appellant was attended by the said circumstances.[16] (Underscoring in the original, citations omitted)

Loza duly filed his Motion for Reconsideration,[17] but the CA denied the same via its Resolution dated July 7, 2021, viz.:

A reading of the Motion for Reconsideration shows that the issues have already been passed upon by the Court and were sufficiently threshed out in Our Decision. Accused-appellant failed to present any compelling reason or substantial arguments that would warrant its modification or reversal.

Accordingly, the Motion for Reconsideration is DENIED.

SO ORDERED.[18]

Hence, the instant Petition.

Arguments of the Parties

Loza puts forward the following arguments in support of his plea for the Court's reconsideration relative to the non-appreciation of his supposed voluntary surrender as a mitigating circumstance:

35. When the petitioner applied for NBI Clearance at NBI Laguna District Office, he was unaware of any outstanding warrant of arrest issued against him. He was not even aware that a case was filed against his person. It would be highly uncharacteristic for a person who knows that a warrant of arrest issued against his/her person and/or has a pending case, to apply for NBI Clearance when he knew beforehand that no such clearance would be issued in his favor, coupled with the probability of arrest to his person by NBI agents.

....

It is believed that the Hon. Court has overlooked the fact that at the time when the petitioner applied for NBI Clearance on August 30, 2016, both the petitioner and the NBI office are uncertain whether the petitioner and Rodrigo Loza appearing in the records of NBI [are] one and the same person. Diaz only stated that his application has a problem, and has a "hit." Accused did not admit that he has a pending case in the Regional Trial Court of Legazpi as he was unaware of that case that moment.

37. It is clear that when it was ascertained that there was a case and a warrant of arrest against petitioner upon his return to the NBI, he told the NBI, ["Masuko na lang ako"] which should be interpreted that petitioner voluntarily surrendered before his arrest. If he knew that he had a case pending and with warrant of arrest, petitioner would not return to the NBI.

38. It was only after the interview at the NBI office that petitioner learned [of] both the existence of the pending case and the warrant of arrest against a [sic] person of Rodrigo Loza, and his confirmation to the authority that he is the named accused therein and his uttering of "Masuko na lang ako" coupled with his submitting himself to the authority of the NBI officers, are clear spontaneous acts of voluntary surrender.

39. [Also], there was no record of search presented that when the case was filed in the RTC, Legazpi City in 2002, the police or NBI made search, incurred expenses and had trouble in searching to arrest the petitioner.[19]

In its Comment[20] filed on behalf of respondent, the Office of the Solicitor General (OSG) basically echoes the reasoning of both the trial and appellate courts in holding that the elements of voluntary surrender here are incomplete. In particular, the OSG zeroes in on the question of whether Loza indeed knew that there was a pending case filed against him, viz.:

12. Petitioner's arguments in the instant Petition boil down to one factual consideration: whether he knew about the case filed against him at the time he went to the NBI for clearance.

13. Petitioner argues that his surrender was spontaneous, in that he allegedly knew nothing about the Bigamy case filed against him, such that only when he went to the NBI that he knew about the said case [sic]. Therefore, when the NBI confirmed that there was indeed a case pending against petitioner, he "spontaneously and voluntarily" surrendered by saying "masuko na lang ako."

14. Whether he knew about the case filed against him at the time he went to the NBI for clearance is a question of fact which is not within the province of a Rule 45 petition. As held repeatedly, this Honorable Court is not a trier of facts. Although jurisprudence has provided several exceptions to this rule, exceptions must be alleged, substantiated, and proved by the parties so this Honorable Court may evaluate and review the facts of the case. The petition does not spell out any of the exceptions.

15. Be that as it may, the CA First Division and RTC already found, through the testimony of SI Diaz, that petitioner in fact knew that he has a pending case when he went to the NBI for clearance. The warrant of arrest against petitioner was issued 13 years prior to his arrest on [September 7, 2016]. Since petitioner already knew [of] his pending case, he should have voluntarily surrendered himself at the get-go, or from the time he learned of his case, which he did not. Thus, there could have been no spontaneity here.

16. And, as correctly found by the courts a quo, petitioner's arrest, at the time it was confirmed he has a pending case, was inevitable. Whether he declared "masuko na lang ako" to SI Diaz or not is immaterial. He was still supposed to be arrested following protocol. He had no choice on the matter.

17. Thus, the first and third elements of the voluntary surrender—that the accused has not been actually arrested; and that the surrender is voluntary—are not present in this case.

....

20. The factual circumstances surrounding the case are entirely different, the established fact[s] being: petitioner, knowing that he has a pending case for Bigamy, tried his luck to have an NBI clearance issued in his name. When he went to the NBI, it was found that he actually has a pending case, which he readily admitted. Instead of surrendering then and there, he still let the NBI investigate on the existence of such case. It was only after the NBI confirmed the existence of such case and set out to arrest him that he said "masuko na lang ako."

21. In the end, the Courts a quo cannot be blamed in finding that petitioner's surrender was not voluntary. Again, he already knew about the case, but opted to waste the NBI's time to confirm whether or not he is the respondent in the said case. When the NBI confirmed for themselves, procedure mandated the arrest of petitioner, whether he liked it or not. Saying "masuko na lang ako" did nothing.[21]

In his Reply,[22] Loza insists anew on the applicability of the provision on voluntary surrender as a mitigating circumstance, with a specific emphasis on the Certification dated September 13, 2017 issued by SI Diaz:

CERTIFICATION

THIS IS TO CERTIFY that RODRIGO LOZA y APOLONIO[,] presently residing at Block 27[,] Lot 15[,] Villa Anthurium Subdivision, Barangay Dila, Santa Rosa, Laguna voluntarily surrendered and posted no resistance to the operatives of the Laguna District Office, this Bureau, during the conduct of interview for his NBI clearance application on September [7,] 2016 in connection with the Warrant of Arrest issued by the Regional Trial Court (RTC), Branch 5, Rawis, Legaspi [sic] City, Albay in Criminal Case Number 9878 entitled "Pp[.] of the Philippines vs[.] RODRIGO LOZA y APOLONIO["] for Bigamy.

Accused LOZA was detained at the NBI LAGDO Detention Cell until his release after posting bail for his temporary liberty.

Given for whatever legal purpose it may serve him best this 13[th] day of September 2017 [in the] City of Santa Rosa, Laguna.

[Signed]

MARK ANTHONY G. DIAZ

Special Investigator, NBI-LAGDO[23]

Issue before the Court

The sole issue and pure question of law for the Court's determination is whether Loza is entitled to avail of the additional mitigating circumstance of voluntary surrender, as gathered from the facts of the case.

Ruling of the Court

The Court hereby rules the aforementioned issue and pure question of law in the affirmative, and accordingly grants the instant Petition, the same being impressed with merit.

To start, a preliminary examination and discussion relative to Loza's position in his pleadings before the courts below are needed for a full accounting of his arguments. Firstly, the following paragraph from the Decision of the trial court must be quoted for a fuller context of the facts, viz.:

During the hearing on [March 23, 2018], accused presented NBI Special Investigator Mark Anthony G. Diaz ("Diaz") who testified that on [August 30, 2016], accused applied for a Clearance at the NBI Laguna District Office. The records of the NBI revealed that there is a "hit" for the name "Rodrigo Loza." This means there is [a] case filed against a person named Rodrigo Loza. After being informed of the situation, accused admitted to Diaz that a case was indeed filed against him in the Regional Trial Court of Legazpi City. Diaz allowed accused to leave the NBI Laguna District office. In the meantime, Diaz verified from the NBI Manila Office the status of the case against accused. Diaz received a confirmation of the pendency of the warrant of arrest that this court issued against accused. When accused returned to the NBI Laguna District Office for the conduct of interview a week after or on [September 7, 2016] as can be seen on the Certification that Diaz issued on [September 13, 2017] (Exh. 1), Diaz informed accused of the pending warrant of arrest against him. Diaz believes that accused voluntarily surrendered because accused returned to the NBI Laguna District Office

on [September 7, 2016] and when informed of the existence of a warrant of arrest issued against him, accused said "[Masuko na lang ako.]" Thereafter, the NBI officers arrested accused. Accused did not resist the arrest.[24] (Emphasis supplied)

In his Motion for Reconsideration with regard to the aforementioned Decision of RTC-Legazpi City, Loza put forward the following paragraphs:

When the record of the NBI revealed that there is a "hit" for [the] name Rodrigo Loza, it only means that there is a pending case against a person named Rodrigo Loza. However, it doesn't necessarily follow that the Accused and the person named Rodrigo Loza in the NBI record is one and the same person. Also, pendency of the case doesn't automatically follow [sic] that a warrant of arrest is outstanding against the person. It is not uncommon that decided cases, terminated cases, and even withdrawn cases—the court's decision [sic] on these cases, have not been forwarded or transmitted to the NBI, thus, in the records of the NBI, the person still has a "hit."

....

We believe the Honorable Court has overlooked the fact that at the time when the accused applied for NBI Clearance on [August 30, 2016], both the accused and the NBI officer are uncertain whether the accused and Rodrigo Loza appearing in the records of NBI is one and the same person. Diaz only stated that his application has a problem and has a "hit." Accused did not admit that he has a pending case in the Regional Trial Court of Legazpi City as he is unaware of that case that moment.

Assuming arguendo that he did admit to Diaz that a case was indeed filed against him, there is no showing in the testimony of Diaz that the accused exactly knows what kind of case it was. The subsequent act of Diaz of verifying from the NBI Manila Office the status of the case against the accused further proved that the said NBI officer has also reservations on the identity of the accused.

It was only during the conduct of interview on [September 7, 2017] at the NBI Office by Diaz that the identity of the accused and the Rodrigo Loza in the records of the NBI, was confirmed to be one and the same person. Noteworthy, it was only after Diaz asked [a] series of questions to the accused like the information contained in the warrant of arrest, the name of private complainant and other information [sic]. It was the accused who confirmed to NBI special agent Diaz that he was the named accused in the said warrant of arrest, and thus uttered "Masuko na lang ako." Diaz has correctly believed that the act of the accused constitutes voluntary surrender.

....

From the facts established, the warrant of arrest was implemented only after the full cooperation of the accused to determine the identity of Rodrigo Loza named in the said warrant and after confirmation from the accused himself that he and Rodrigo Loza in the warrant is one and the same person. The warrant of arrest enumerated five places (Muntinlupa City, Legazpi City, Parañaque City, Pasig City, and Cavite City) to implement the warrant. Understandably, Diaz would not expect that the warrant be served in Sta. Rosa, Laguna, and in the very NBI District Office itself, without the voluntariness on the part of the accused of the giving information [sic] and later confirmation of his identity to the NBI officer.

The accused has not been actually arrested. His act of helping the NBI officer confirming his identity and later submits his person to the authority must not be taken against him. He surrendered himself to the person in authority, despite the fact that he has all the time and excuse not to appear anymore at the NBI office on that one-week period after his application for NBI Clearance, and could have provide [sic] the NBI officer with false information during the interview to cast a doubt on his identity, as nowhere in the place mentioned in the warrant of arrest was he a resident [sic] for the past years. In conforming his identity with the NBI officer, he saved the authorities the trouble and expense that will necessarily be incurred in proving his identity and in the

implementation of the warrant.

....

Accused has been living in Sta. Rosa, Laguna for quite a long time, having established his residence as well as business enterprises in that place. While he may stay on a short period on [sic] some of the places mentioned in the warrant of arrest, he has not changed residence in Sta. Rosa Laguna for more than ten years now. He was unaware of the case filed against him and of any pending warrant of arrest issued against his person. A person who would intentionally evade the warrant would not have possibly go near with [sic] the NBI office, much more [sic] transact with it.

It was only after during [sic] the interview at the NBI office that he learned [of] both the existence of the pending case and the warrant of arrest against a [sic] person of Rodrigo Loza, and his confirmation to the authority that he is the named accused therein. And his uttering of "[Masuko na lang ako]" coupled with his submitting himself to the authority of the NBI officers, are clear spontaneous acts which he is entitled to sympathy from the law [sic].[25] (Emphasis supplied)

Then, in his Appellant's Brief,[26] Loza somehow took a novel position relative to the matter, i.e., by basically asserting that he had other cases that were already settled amicably, and that these were the cases in mind when he admitted their existence at the NBI office in Laguna:

When Accused-appellant applied for NBI clearance at [the] NBI Laguna District Office, he was unaware of any outstanding warrant of arrest issued against him. He was not even aware that a case was filed and pending against his person. While admittedly, he was named defendants [sic] in prior cases, those cases have been resolved and settled amicably. It would be highly uncharacteristic for a person who knows that a warrant of arrest issued against his person and/or has a pending case, to apply for NBI Clearance when he knew beforehand that no such clearance will be issued in his favor, coupled with that probability of arrest to his person by NBI agents.

When the record of the NBI revealed that there is a "hit" for [the] name Rodrigo Loza, it only mean[t] that there [was] a pending case against a person named Rodrigo Loza. However, it doesn't necessarily follow that the Accused and the person named Rodrigo Loza in the NBI record is one and the same person. Also, pendency of the case doesn't automatically follow that a warrant of arrest is outstanding against the person. It is not uncommon that decided cases, terminated cases, and even withdrawn cases—the court[s'] decision[s] on these cases, have not been forwarded or transmitted to the NBI, thus, in the records of the NBI, the person still has a "hit."

....

We believe the Honorable Court has overlooked the fact that at the time when the accused applied for NBI Clearance on [August 30, 2016], both the accused and the NBI officer are uncertain whether the accused and Rodrigo Loza appearing in the records of NBI [are] one and the same person. Diaz only stated that his application has a problem and has a "hit." Accused did not admit that he has a pending case in the Regional Trial Court of Legazpi City as he was unaware of that case that moment. Accused-appellant was named defendants [sic] in other cases, and those has [sic] been amicably settled. Accused-appellant was contemplating whether that "hit" might arise from those cases.[27] (Emphasis supplied)

And crucially, Loza's Motion for Reconsideration does another reversal of his own position and adds another layer to the already convoluted argument relating to his lack of knowledge of the case filed against him:

2.4. [W]hile accused-appellant admitted that there was a case pending in the Regional Trial Court of Legazpi City to Special Investigator Mark Anthony Diaz (Diaz), he was not aware that the said case prospered and that a Warrant of Arrest was issued against him as he was not receiving any Notices, Resolutions of the filing of the

case from the Office of the Public Prosecutor during the preliminary investigation and not known to him [sic]. Further, accused-appellant totally did not mind it and he was not aware that there was a Warrant of Arrest issued by the RTC and such Warrant of Arrest was not implemented by the police or the NBI. If he knew from the very beginning that there was such Warrant of Arrest, he should [sic] have filed a bail [sic] and faced the charge against him.

So, when accused-appellant applied for NBI Clearance and upon knowing that there was a record "hit" or record stating that there was a pending criminal case, the accused-appellant could have simply not return [sic] to the District Office of the NBI to avoid arrest. However, since his intent was to face the matter, accused-appellant went back and upon knowing that there was such Warrant, accused-appellant told Diaz that he would voluntarily surrender.[28] (Emphasis supplied)

It must be emphasized and carefully noted for the record that this judicial admission of Loza with regard to his knowledge of the existence of the case in Legazpi City, and his admission at trial of informing the NBI agent of such knowledge, both totally disappear in the instant Petition proper. The Court cannot ignore such admissions, especially in light of the requirement of spontaneity in voluntary surrenders as mitigating circumstances, as will now be presently discussed along with the other relevant requirements as laid out by law and jurisprudence.

Admittedly, jurisprudence on the matter yields a smattering of varied interpretations as to the proper application of the requirements of voluntary surrender as a mitigating circumstance. Article 13(7) of Act No. 3815 identifies as mitigating circumstances the situations where "[t]he offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution." Loza has already been credited with the mitigating circumstance of voluntary confession of guilt, and it is the first part of the said paragraph that concerns the Court's attention here.

The eminent commentator and former CA Associate Justice Luis B. Reyes, citing the case of *People v. Hanasan*,[29] identified three requisites of the said mitigating circumstance: "a. That the offender had not been actually arrested[;] b. That the offender surrendered himself to a person in authority or to the latter's agent[; and] c. That the surrender was voluntary." [30] The last requisite, i.e., voluntariness, is what has dominated the discussions in Philippine criminal law jurisprudence relative to the mitigating circumstance of voluntary surrender.

As far back as *People v. Sakam*,[31] just nearly two years after the effectivity of the Revised Penal Code, the Court had already dealt with the nature of the voluntariness required for the third requisite in a very oft-quoted paragraph:

It has been suggested in the discussion of this case that perhaps the mitigating circumstance of having surrendered to the authorities might be taken into consideration in favor of said two accused. The evidence, however, does not show that their surrender was voluntary. What happened was that they surrendered because, as was stated, they considered it impossible to live in hostility and resistance to the constituted authorities and their agents in view of the fact that said authorities had neither given them rest nor left them in peace for a moment. In order that the mitigating circumstance of voluntary surrender may be taken into consideration in favor of an accused, it is necessary that the same be spontaneous in such manner that it shows the intent of said accused to surrender unconditionally to the authorities, either because he acknowledges guilt or because he wishes to save them the trouble and expense necessarily incurred in his search and capture.[32] (Emphasis and italics supplied)

In *People v. Yecla*,[33] another important pre-war case, the Court added to the discussion the aspect of the issuance of a warrant of arrest. This has evolved to become a contentious doctrine down the line, but in *Yecla*, the Court appreciated therein appellant's surrender two days after the issuance of the arrest warrant, viz.:

It is admitted that five days after the commission of the crime and two days after the issuance of the order for the arrest of the appellant, the latter presented himself in the municipal building to post the bond for his temporary release. We hold that this voluntary surrender constitutes a mitigating circumstance under paragraph 7 of article 13 of the Revised Penal Code.

The fact that the order of arrest of the appellant had already been issued is no bar to the consideration of this circumstance, because the law does not require that the surrender be prior to the order of arrest.

Moreover, the surrender of the appellant to post a bond for his temporary release was in obedience to the order of arrest and was tantamount to the delivery of his person to the authorities to answer for the crime for which his arrest was ordered.[34] (Emphasis supplied)

Over the years, additions to interpretations of the requirement of voluntariness, or essentially of spontaneity, have admittedly delivered a mixed bag of jurisprudential signposts, as previously mentioned. In *People v. Roldan*,^[35] the Court seemed to have gone on a different tack as opposed to its ruling in *Yecla* when it considered the fact of the issuance of the arrest warrant as depriving the surrender therein of any spontaneity, viz.:

Moreover, from the record of the proceeding had [sic] before the Justice of the Peace Court of Kalibo, Aklan, which conducted the preliminary investigation of the case, and which is legally before the court, it appears that herein appellant surrendered only after the warrant of arrest issued by the said Justice of the Peace was served upon him, which cannot be considered as a "voluntary surrender." Consequently, the lower court was right in considering in favor of herein appellant only the mitigating circumstance of his "plea of guilt" which offset the aggravating circumstance of evident premeditation.[36]

Yet in *People v. Braña*,^[37] the Court again noted that the issuance of the arrest warrant prior to the surrender did not negate the voluntariness, viz.:

But we have to appreciate in favor of the accused the mitigating circumstance of voluntary surrender. For while it is true that the warrant for his arrest was dated [March 7, 1967] and the police authorities were able to take custody of the accused only on [March 31, 1967], there is nothing on record to show that the warrant had actually been served on him, or that it had been returned unserved for failure of the server to locate said accused. Upon the other hand, there is direct evidence that the accused voluntarily presented himself to the police on [March 31, 1967]. And the fact that it was effected sometime after the warrant of arrest had been issued does not in the least detract from the voluntary character of the surrender, in the absence of proof to the contrary. Thus, in one case,^[38] this Court considered voluntary surrender in favor of the accused, notwithstanding that he showed up 16 days after the order for his arrest was issued, on the ground that the law does not require that before the privilege may be availed of[,] the surrender should take place prior to the issuance of the arrest order.[39] (Emphasis supplied)

In the wake of jurisprudential teachings of *Roldan*, other cases followed, such as *People v. Mabuyo*,^[40] *People v. Sabater*,^[41] *People v. Rodriguez*,^[42] *People v. Rodico*,^[43] *People v. Estanislao*,^[44] *People v. Taraya*,^[45] *People v. Adlawan*,^[46] *Luces v. People*,^[47] *People v. Abolidor*,^[48] *People v. Banhaon*,^[49] *People v. Regalario*,^[50] *People v. Tabarnero*,^[51] *Tadena v. People*,^[52] and most recently, *Pascual v. People*.^[53] In particular, certain cases in this train also come accompanied with the notion of imminence of the arrest of the accused, which was introduced in the case of *People v. Sion*.^[54] In *Taraya*, the issuance and existence of the arrest warrant was what characterized the apprehension of one of the accused-appellants therein as imminent. The same reasoning was also applied in *Luces*, in *Tadena*, and in *Pascual*.

At the same time, there have been other cases that have followed the jurisprudential wake of *Yecla* and *Braña*, such as *People v. Macandog*,^[55] *People v. Florague*,^[56] *People v. Oco*,^[57] and crucially, *De Vera v. De Vera*.^[58] In particular, the Court, in *De Vera*, emphasized that "notwithstanding the pendency of a warrant for his

arrest, the accused may still be entitled to the mitigating circumstance in case he surrenders, depending on the actual facts surrounding the very act of giving himself up." [59] Thus, the reasoning held in both *Yecla* and *Braña* still holds some sway in any discussion relating to voluntary surrender as a mitigating circumstance.

There are other "tweaks" to the proper interpretation of what actually constitutes voluntariness, or essentially, spontaneity. The Court has, in several cases, considered the fact of flight into fugitive life as a critical sign of lack of spontaneity, with *Sakam* being the lead case. It is also important to note that the circumstances in these precedents also directly negate the second intention identified in *Sakam*, which is to spare the authorities the trouble and expense related to the search and apprehension of the accused. [60] In *People v. Dimdiman*, [61] the Court also considered alongside the flight of therein accused to several towns away from the crime scene his "several opportunities to surrender himself," [62] such as the multiple times he had encountered Philippine Constabulary personnel and even a barrio lieutenant along his varied escape route. One must note, however, that the Court, in *People v. Saul*, [63] declared and emphasized that it is not a requirement for the accused to surrender at the first opportunity to do so, as long as the requirements of voluntary surrender have been validly met.

Some cases of flight also indicate the facts of the "manhunt" conducted on the accused along with the indication that the accused had realized that their escape was impossible, such as in *People v. Gervacio*. [64] Others simply count the number of years or months that the accused had evaded authorities, such as *People v. De la Cruz*, [65] *People v. Ablao*, [66] *People v. Alo*, [67] *People v. Almendras*, [68] and *Mendoza v. People*. [69] Some cases, like *Sabater* and *People v. Pagsanjan*, [70] considered both the number of years evading justice and the similar lack of spontaneity due to the realization of the impossibility of evading the authorities for longer. Still others noted the fact that the accused were already surrounded by authorities, like in *People v. Flores*, [71] along with previous opportunities to surrender beforehand, such as in *People v. Salvilla*. [72] It must be noted here that the lack of spontaneity due to the realization of the impossibility of evading the authorities for longer seems to also somehow run parallel to the imminence of arrest, which means they both negate any semblance of spontaneity and ultimately of voluntariness. They, however, seem to relate more to situations where the accused had been on the run evading justice, especially after the immediate commission of violent and gruesome crimes.

Another train of jurisprudence relates to the intention of the accused when he or she supposedly surrenders. In *People v. Rogales*, [73] the Court noted that the mitigating circumstance of voluntary surrender could not be appreciated, since the "appellant did not go to the [Philippine Constabulary] headquarters after the shooting to surrender but merely to report the incident. Indeed he never evinced any desire to own the responsibility for the killing of the deceased." [74] This is also similar to the more recent case of *Cambe v. People*. [75] In *Estacio v. Sandiganbayan*, [76] the Court noted that the accused had no intention of surrendering voluntarily, since he had gone to the NBI only in obedience to the instructions of a superior. In *People v. Dulos*, [77] the accused-appellant therein did not go to the military camp to surrender himself to military authorities, but to actually return to his residence at the camp's quarters for bachelor officers—an attempted ruse that the Court found not too elaborate. Crucially, in *People v. Peralta*, [78] therein accused-appellant "went to the police station not to give himself up but to verify the charge filed against him." [79] In *People v. Pinca*, [80] the presence of the accused at the police station was noted by the Court from the facts to be for the purpose of clearing his name upon learning that he had become a suspect in the murder case. This is the same thing that the Court observed in *Dela Cruz v. Court of Appeals* [81] and *People v. Viernes*. [82] And in *People v. Verceles*, [83] the intention of therein accused at the police station was merely to inquire about a warrant of arrest issued against him and his supposed involvement in the charge of alleged robbery with rape, which was not appreciated as an instance of voluntary surrender, similar in essence with *Peralta*.

The aforementioned "tweaks" and additions to interpretation of the principle of voluntary surrender as a

mitigating circumstance under the Revised Penal Code does indeed need some much-needed distillation, especially in light of some contradictory aspects among the various trains of jurisprudence. Firstly, voluntariness, and ultimately, spontaneity requires two intentions as spelled out in *Sakam*, which is either acknowledgment of guilt or a wish to save the authorities the trouble of searching for and arresting the accused.

Secondly, the circumstances of voluntary surrender exist in tandem with, but also independent of, the fact of the issuance of an arrest warrant, meaning that the totality of the circumstances of the voluntary surrender trump the fact that an arrest warrant had been issued, but circumstances such as the knowledge of the accused of said arrest warrant and his continued evasion of justice can negate an intention of voluntariness and ultimately, of spontaneity. This is consistent with *Yecla* and the clarifications of *Braña*, along with the Court's admonition in *Saul* that surrendering at the first available opportunity is not a requirement for voluntary surrender.

Thirdly, the amount of time an accused has utilized to evade the law is not the only criterion for totally negating spontaneity, but is only one among several factors to be considered in adjudging whether the accused is entitled to the benefit of the mitigating circumstance. It cannot be the sole consideration for denying the accused the said benefit, but depending on the other circumstances, it can weigh heavily in such ultimate consideration. For example, knowledge of the accused of the issuance of an arrest warrant against him or her many years ago can be negated by his or her submission to the nearest authority once he or she came by such knowledge. The reverse can also be true: the continued evasion by the accused of detection and arrest with the distinct knowledge that he or she is a wanted person can negate any notion of spontaneity entirely.

Fourthly, the notion of imminence of arrest should be seen in conjunction with any indication of the flight and/or fugitive situation of the accused, and not in conjunction with the issuance of an arrest warrant, which has been explained to be an independent circumstance separate, but still related remotely to the act of voluntary surrender. And as also previously mentioned, imminence runs together with the lack of spontaneity due to the realization of the impossibility of evading the authorities for longer.

Fifthly, the intention of the accused at the relevant time should also be one among the other considerations when adjudging a claim of voluntary surrender. This also has to be squared with the said other considerations, since there could be contradictory outcomes, such as, for example, when the accused went to a police station a first time for one purpose, and when he or she went there a second time with a different purpose in mind. One must keep in mind the Court's admonition in *Saul* that it is not required for the accused to surrender at the first opportunity. It would therefore be wrong to consider the intention of the accused during his or her first visit to the police station as the sole determinative factor in his or her claim of voluntary surrender, especially if said surrender happened during the second visit. Thus, the totality of intention is what must ultimately be determined and weighed.

And lastly, the Court is reminded of its ruling in *People v. Banzales*,^[84] where it categorically ruled that "[w]here the record does not clearly show that the accused voluntarily surrendered to the authorities, the doubt cannot be resolved in their favor."^[85]

These distillations and syntheses do not make the job of the Court with regard to the instant Petition any easier. In fact, there are a multitude of seemingly contradictory considerations that must be made in light of the myriad facts surrounding such an outwardly simple situation. To comprehensively recapitulate, Loza went to the NBI-Laguna District Office in Sta. Rosa, Laguna on August 30, 2016 to apply for an NBI clearance. He was duly informed by SI Diaz that his name had a hit, meaning that a person with the same name of "Rodrigo Loza" had a pending case that was yet to be verified in detail. Loza then admitted to SI Diaz that he indeed had a pending case, and was then instructed to return in one week for further interview. Upon his return on September 7, 2016, SI Diaz informed Loza of further details of the case pending in RTC-Legazpi City, including an outstanding warrant for the arrest

against a person named "Rodrigo Loza." Then and there, Loza uttered the words "masuko na lang ako," and asked SI Diaz's help in posting bail. SI Diaz then served the warrant of arrest upon Loza and informed the latter of his constitutional rights.

The trial court actually followed the logic of Roldan and specifically Taraya in its ruling, holding that the arrest warrant had been outstanding since its issuance on September 30, 2003, and that Loza's arrest was already imminent. The trial court also noted that documents on record indicate that Loza was arrested, despite SI Diaz's testimony that confirmed Loza's critical utterance after being informed of the existence of the arrest warrant. The appellate court, for its part, affirmed RTC-Legazpi City's findings, and even noted that Loza did not help in categorically confirming his identity before SI Diaz despite knowledge of the pending case.

The Court also notes that Loza seems to have grossly equivocated in his position regarding his knowledge of the pending case against him. At trial and as stated in the trial court's Decision, Loza is stated to have known of the pendency of the case in Legazpi City and to have admitted said knowledge to SI Diaz. In his Motion for Reconsideration relative to the trial court's Decision, Loza disclaimed any knowledge of the pending case prior to SI Diaz telling him. And in his Appellant's Brief, Loza admitted that he had been a defendant in different cases that had already been settled and resolved, and that this is what was on his mind when he admitted that he knew of a case or cases filed against him. He also reiterated that he had no prior knowledge of the case in Legazpi City until he was duly informed by SI Diaz. Loza then changed his position anew in his Motion for Reconsideration of the CA's Decision, averring that he knew of the existence of the case in Legazpi City, but that he did not know that it had prospered to the stage where an arrest warrant had been issued, and arguing that he was no longer receiving any more notices from the Office of the City Prosecutor.

Going down the list of basic requirements for a valid voluntary surrender, certain facts meet the first two. Firstly, it was an error on the part of the trial court to conclude that Loza had been arrested as indicated in certain documents such as the arrest warrant's return and the order of release (and that Loza's averment of his voluntary surrender was a mere afterthought), when it is clear from even the trial court's Decision that SI Diaz's testimony categorically confirmed Loza's words of capitulation as being uttered before the arrest warrant was served upon him, and this was not contradicted on cross-examination. Also, as noted by the appellate court, SI Diaz even stated under oath that his endorsement on the return of the arrest warrant was only using the term "arrested by the authority," which has no consideration of whether or not the person had voluntarily surrendered. Coupled with SI Diaz's admittedly belated certification dated a year after the incident, there is enough evidence to make the conclusion that the arrest was indeed preceded by Loza's words of capitulation. Thus, it appears that the first basic requirement of voluntary surrender as a mitigating circumstance is met. And secondly, there is also no question that SI Diaz, being an NBI agent, is without a doubt a person in authority to whom a valid voluntary surrender may be made, thus, it appears that the second basic requirement for voluntary surrender as a mitigating circumstance is met.

The case, thus, boils down to the issue of voluntariness, and essentially of spontaneity on the part of Loza. This is where the juxtaposition of the facts unto the principles distilled in previous paragraphs is critical. The Court proceeds to consider such juxtaposition thematically in *seriatim*.

To begin, it must be determined if Loza's intention at the time of his surrender was either due to overwhelming remorse, or that he wanted to spare the authorities the trouble and expense of locating and arresting him. There is no way for one to determine the former, so one must zero in on the second intention and determine if that was what Loza thought and acted upon. Necessarily, this can be drawn from further discussion regarding the other distilled principles.

It is true that the arrest warrant had already been outstanding since 2003, and this must be squared with other circumstances of the case. All indications point to the apparent conclusion that Loza only came to know of the arrest warrant when SI Diaz had informed him of the same during his return to the NBI-Laguna District Office for his follow-up interview, and crucially, there appears to be no evidence presented by the prosecution to definitively point to Loza's knowledge of the said arrest warrant prior to September 7, 2016. What exists is proof that Loza knew only of the pending case prior to even his first visit, since there is no doubt that Loza admitted (despite his equivocating stances) to SI Diaz of his knowledge of the case in Legazpi City. The Court regrettably notes that the trial court's Decision simply assumes Loza's knowledge of the arrest warrant, likely due to reliance on precedents that emphasize the length of time from issuance of the arrest warrant up to the time of the supposed voluntary surrender.

Additionally, the prosecution did not present any evidence indicating that Loza had fled or become a fugitive evading justice. There is absolutely nothing to indicate that Loza fled any "scene of the crime," or that he had "skipped town" surreptitiously and suddenly. One cannot simply assume that Loza had moved all the way to his indicated residence of Sta. Rosa, Laguna, or even his previous residences in Muntinlupa City, as indicated in his Petition proper, just to evade the long arm of the law. There is no proof on record that he was a resident of Legazpi City or its surrounding environs, and that he fled the trial court's territorial jurisdiction (which is immaterial when it comes to an arrest warrant anyway). He may have contracted marriage in the said locality, or his spouse may actually be from or residing in the area. But to simply assume that he was evading the arrest warrant while in hiding in Laguna would be to stretch the facts to their breaking point. What is more crucial for present purposes is the proven fact that upon being informed by a person in authority that there was indeed an outstanding warrant for his arrest, he immediately verbalized his capitulation without hesitation. The Court must also reiterate that the mere fact of the arrest warrant's prior issuance should not be taken against Loza's claim of voluntary surrender when other circumstances point to the fulfillment of all requirements, including that of voluntariness.

With regard to the arguments that Loza's arrest was imminent and that he realized that while in the NBI-Laguna District Office, he could no longer evade the authorities for longer, the Court must note that Loza's doubtful status as a fleeing fugitive also tends to negate such arguments. Again, imminence should not be seen in the context of the issuance of the arrest warrant, but instead it should be viewed in conjunction with any indication of flight or a fugitive situation. One cannot realize the imminence of one's own arrest or even the impossibility of further evasion or escape when one does not sense any indication of the authorities closing in on him or her. And this already presupposes that said person was continuing in the act of evasion in the first place. Here, Loza appears to have been living his life, and even using his real and actual name—negating any indication of flight or a fugitive situation, albeit in a place far away from the trial court. But as explained, one cannot assume that he is at such distance from Legazpi City because he fled, and since there is no proof of such flight, there can be no characterization of imminent arrest or impossibility of further escape and evasion.

Going back to the facts, if Loza really had been a fugitive up to that point, he would have either never gone to the NBI-Laguna District Office in the first place, or he would have never returned for his follow-up interview. The closest moment to what would approximate imminence in Loza's mind would likely be the moment he was informed of both the nature of his pending case and the existence of the arrest warrant during his next visit, but the Court finds it too harsh and exacting to not credit Loza's immediate capitulation to authority as deserving of positive consideration. It is true that SI Diaz also testified at trial that in his view, Loza uttered his words of capitulation because he seemed to have realized that he had no more choice. But to view said capitulation as lacking any spontaneity, when there is no proof that he was actually living his life as a fugitive and when there is every indication that he immediately and without any external prompt (other than being informed of the existence

of the arrest warrant against him) gave himself up to SI Diaz then and there, would indeed be an unjust bridge too far.

Loza came to know that he was definitely a potential fugitive only at the moment he found out about the arrest warrant, but he did not act on the impulse for flight at that critical moment. Instead, he acknowledged the person in authority before him and willingly relinquished his freedom. The fact that he was in a national law enforcement agency's provincial outpost is of no matter. What matters is that when the moment was ripe for his voluntary surrender, he met said moment. Indeed, to not appreciate Loza's voluntary surrender here would potentially discourage the future voluntary surrender of persons under investigation altogether, since it can be inferred that the relevant provision in the Revised Penal Code exists not only as a benefit for the accused, but also as an incentive towards the less violent and less aggressively confrontational apprehension of persons, each of whom needing to face his or her proverbial day in court. In the Court's mind, society would actually be better off with such a less strict approach towards such critical situations.

Going now to the critical issue of Loza's intentions, it is necessary to separate them, i.e., to view his intention during his first visit as separate and distinct from his intention during his next one. It must also be reiterated that Loza, in line with jurisprudence, was not required to surrender at the first visible or evident opportunity. Thus, when Loza visited the NBI office the first time, he really was intending to secure an NBI clearance. That much is clear, certain, and proven. But this alone cannot characterize the entire situation. It is his intention for, and during, his second visit that bears heavily on the instant case. The appellate court was thus in error when it summarily concluded that Loza's sole intent in returning to the NBI office was still for purposes of his NBI clearance.

As the Court reaffirmed in *Delos Santos v. People*,^[86] "[i]ntent is a state of mind that accompanies the act. Since intent is an internal state, the same can only be verified through the external acts of the person."^[87] The Court admits that it is impossible to know fully and exactly what was going through Loza's mind as he walked through the entrance of the NBI-Laguna District Office a second time. But one can surmise his intention from what can be gathered from the attendant external actions he performed, and one can also factor in what established facts were already in his mind prior to his return to the NBI office.

Loza knew that the case in Legazpi City was apparently still active after confirming this during the first visit, and deep down, he most likely knew that there was a distinct possibility that he would have to answer for himself in the trial court a quo. So when he entered the NBI office a second time, he had already and most likely abandoned any thought of evading the authorities. In other words, his entrance into the NBI office a second time evinces his willingness to abide by the law and to not dodge the case any further. And knowing that his name had a "hit" in the NBI's database, Loza most likely had little hope and a near-zero chance that an NBI clearance would be issued to him, more so since he knew of which case SI Diaz was referring to during the first visit.

This is almost similar to the case of *People v. Mazo*,^[88] where therein accused had actually encountered a police officer (who incidentally was also his relative) at his residence after commission of the crime, but only surrendered hours later. The Court there noted that the accused "could have escaped right after that meeting but he did not. Instead, he submitted himself unconditionally later that morning when [his police officer-relative] came for him. By doing so, appellant manifested his intention to save the authorities the trouble of conducting a manhunt for him."^[89] Here, Loza willingly returned to the NBI office, and then and there surrendered upon being informed of the arrest warrant. He could have avoided such situation by no longer returning, but it seems that his intent to capitulate had already begun to form during that intervening week and as he entered the NBI office a second time.

Juxtaposing all these to Loza's immediate, relatively unprompted, unconditional, and respectful capitulation upon

learning of the arrest warrant against him, the Court sees every reason to welcome and appreciate the situation as one indeed of voluntary surrender constitutive of a mitigating circumstance as contemplated and stated in the Revised Penal Code. From the totality of the circumstances, it can be inferred that Loza clearly spared the authorities from undertaking any further actions to locate and arrest him, despite the apparent length of time it took for Loza to be informed of the existence of the arrest warrant, as well as the length of time it took for the arrest warrant to be actually served upon him.

And applying the last distilled principle as previously mentioned and discussed, the Court must note that contrary to the assertion of the prosecution below and the conclusions of both the trial and appellate courts, the records do not indicate any doubt as to the voluntariness and spontaneity of Loza's capitulation to SI Diaz. It behooves the Court to admonish all those involved in criminal trials to take into consideration all aspects, indeed the totality of all circumstances relating to even the seemingly minor issue of whether or not the accused is entitled to a mitigating circumstance for the lessening of his or her prison term.

While indeed the burden of proof is upon the shoulders of the accused to prove his or her entitlement to a mitigating circumstance, trial courts should not be too callous in their ultimate consideration of the facts relating to such issues, and this can actually lead to situations where trial courts assume facts not in evidence, such as when both the trial and appellate courts here basically assumed as proven that Loza was in effect a fugitive without any proffered evidentiary support to support such conclusion. Granting that their conclusions ultimately came from their interpretation and application of unresolved and unharmonized trains of jurisprudence on the matter, both the trial and appellate courts here were too quick to draw their findings in support of the notion that Loza had evaded justice for years and was, thus, undeserving of some warranted consideration. This is despite the totality of the circumstances pointing to Loza's genuine, manifest, and proven intention to go willingly back to the NBI office with the knowledge that he may not emerge anymore as a free man, and to his actual and overt utterance of word, of capitulation to a person in authority in an immediate, relatively unprompted, unconditional, and elective manner, and right before the arrest warrant was served upon his person.

In *People v. Clemente*,^[90] the Court noted thus: "That the surrender was induced by his fear of retaliation by the victim's relatives does not gainsay the spontaneity of the surrender, nor alter the fact that by giving himself up, this accused saved the State the time and trouble of searching for him until arrested."^[91] Here, Loza may have been motivated by a growing sense of dread and resignation to a likely fate involving his appearance in trial and his probable future in law enforcement custody, but again, this should not negate or detract from his submission to authority when the opportunity again presented itself, and with his full knowledge of the fact that he really and actually was a wanted man. Such action, dignified and solemn in retrospect, should actually be commended, welcomed, and appreciated instead of being harshly berated, belittled, and adjudged as unworthy of consideration. Despite Loza's equivocations with regard to his knowledge of the case in Legazpi City, he did not equivocate when he uttered the climacteric words: "Masuko na lang ako."

Thus, in conclusion, Article 64(5) of the Revised Penal Code finds application here. Said provision states that "[w]hen there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable according to the number and nature of such circumstances."

The penalty for bigamy, as mandated by Article 349 of the Revised Penal Code, is *prisión mayor* (six years and one day to 12 years). The penalty next lower in degree is *prisión correccional* (six months and one day to six years). Loza should, thus, be imposed an indeterminate sentence within the range of one month and one day to six months as minimum (or the entire range of *arresto mayor*, due to *arresto mayor* being the penalty next lower in degree), and the full range of six months and one day to six years as maximum. Given the totality of the attendant

circumstances in this case and the sentence already imposed upon Loza, the Court sees fit to impose a minimum sentence of six months (or the limit of *arresto mayor* in its maximum period), and a maximum sentence of only four years and two months (or the limit of *prisión correccional* in its medium period).

A final word: the Court understands that ultimately, each case of application for the benefit of the mitigating circumstance of voluntary surrender must be adjudged based on the unique attendant circumstances and with the consideration of all relevant jurisprudence. That being said, trial courts should again not be too quick to draw conclusions in order to deny such applications despite jurisprudence stating that any doubt should not be resolved in favor of the accused in such situations. What the Court asks and expects of magistrates on the frontlines of justice is to adjudge each case wholly, fully, and fairly as discerning persons learned in the law and literate in life experience, and not as cold-hearted automatons or soulless supercomputers, for even a single judge's role in the administration of our penal laws can indeed have far-reaching consequences for the parties and for human society as a whole.

Trial courts are indeed mandated to adhere firmly and strictly to all rules and precedents relative to criminal law and criminal procedure, but once guilt has been found and determined, instances such as applications for mitigating circumstances such as voluntary surrender demand a more considerate and broad-minded approach, and thus, a trial court judge should be able to stay and hold back the rough hand of justice from further adding to the guilty party's debt to society if justice, equity, and the facts demand so—and again, depending on the totality of circumstances present. The law may be harsh, but it need not be harsher.

ACCORDINGLY, the instant Petition for Review on Certiorari is GRANTED. The Decision dated October 26, 2020 and the Resolution dated July 7, 2021 of the Court of Appeals in CA-G.R. CR No. 41783 are REVERSED and SET ASIDE, and the Decision dated April 6, 2018 of Branch 5 of the Regional Trial Court of Legazpi City, Albay in Criminal Case No. 9878 is MODIFIED to the effect of sentencing petitioner Rodrigo Loza y Apolonio to suffer imprisonment of six months as his minimum sentence, and only up to four years and two months as his maximum sentence.

SO ORDERED.

Gesmundo, C.J., Leonen, S.J., Hernando, Lazaro-Javier, Inting, Zalameda, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Villanueva, JJ., concur.

Caguioa, J., see concurring.

Singh,[*] J., on leave.

[*] On leave.

[1] Rollo, pp. 26-40.

[2] Id. at 41-49. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Remedios A. Salazar-Fernando and Nina G. Antonio-Valenzuela of the First Division, Court of Appeals, Manila.

[3] Id. at 50-51. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Presiding Justice Remedios A. Salazar-Fernando and Associate Justice Nina G. Antonio-Valenzuela of the Former First Division, Court of Appeals, Manila.

[4] Id. at 60-64. Rendered by Acting Presiding Judge Annielyn B. Medes-Cabelis.

[5] Id. at 41-43.

[6] Id. at 63.

[7] Citing *People v. Rebucan*, 670 Phil. 363, 393 (2011) [Per J. Leonardo-De Castro, First Division].

[8] Rollo, pp. 61-62.

[9] Id. at 65-68.

[10] Id. at 70-73.

[11] Id. at 74.

[12] Id. at 75.

[13] Id. at 48-49.

[14] Citing *People v. Manzano*, 827 Phil. 113, 143 (2018) [Per J. Martires, Third Division].

[15] Rollo, pp. 45-47.

[16] Id. at 47-48.

[17] Id. at 52-58.

[18] Id. at 51.

[19] Id. at 35-37.

[20] Id. at 162-171.

[21] Id. at 166-168.

[22] Id. at 178-183.

[23] Id. at 59.

[24] Id. at 60-61.

[25] Id. at 66-68.

[26] Id. at 76-91.

[27] Id. at 81-83.

[28] Id. at 53-54.

[29] 140 Phil. 148, 155 (1969) [Per Curiam, En Banc]. See *People v. Canamo*, 222 Phil. 445, 450 (1985) [Per J. Relova, First Division].

[30] LUIS REYES, I THE REVISED PENAL CODE: CRIMINAL LAW 315 (2021 ed.).

[31] 61 Phil. 27 (1934) [Per Curiam, En Banc].

[32] Id. at 34-35. See *Quial v. Court of Appeals*, 211 Phil. 220 (1983) [Per J. Plana, First Division]. See also *People v. Fruelda*, 881 Phil. 434 (2020) [Per J. Caguioa, First Division]; *People v. Nicholas*, 422 Phil. 53 (2001) [Per J. Ynares-Santiago, First Division].

[33] 68 Phil. 740 (1939) [Per C.J. Avanceña, En Banc].

[34] Id. at 741. See *People v. Valera*, 116 Phil. 59 (1962) [Per J. Makalintal, En Banc].

- [35] 132 Phil. 376 (1968) [Per J. Angeles, En Banc].
- [36] Id. at 379.
- [37] 140 Phil. 668 (1969) [Per J. Reyes, J.B.L., En Banc].
- [38] *People v. Diva*, 131 Phil. 852 (1968) [Per J. Angeles, En Banc].
- [39] 140 Phil. 668, 678-679 (1969) [Per J. Reyes, J.B.L., En Banc].
- [40] 159-A Phil. 150 (1975) [Per C.J. Makalintal, Second Division].
- [41] 171 Phil. 501 (1978) [Per J. Aquino, Second Division].
- [42] 204 Phil. 598 (1982) [Per J. Aquino, Second Division].
- [43] 319 Phil. 421 (1995) [Per C.J. Narvasa, Second Division].
- [44] 333 Phil. 680 (1996) [Per J. Padilla, First Division].
- [45] 398 Phil. 311 (2000) [Per C.J. Davide, Jr., First Division].
- [46] 425 Phil. 804 (2002) [Per J. Ynares-Santiago, First Division].
- [47] 443 Phil. 636 (2003) [Per J. Ynares-Santiago, First Division].
- [48] 467 Phil. 709 (2004) [Per J. Ynares-Santiago, First Division].
- [49] 476 Phil. 7 (2004) [Per J. Callejo, Sr., Second Division].
- [50] 601 Phil. 716 (2009) [Per J. Leonardo-De Castro, En Banc].
- [51] 627 Phil. 304 (2010) [Per J. Leonardo-De Castro, First Division].
- [52] 850 Phil. 214 (2019) [Per J. Reyes, J. Jr., Second Division].
- [53] 890 Phil. 1130 (2020) [Per J. Inting, Third Division].
- [54] 342 Phil. 806 (1997) [Per J. Davide, Jr., Third Division]. See *People v. Cortezano*, 425 Phil. 696 (2002) [Per J. Ynares-Santiago, First Division].
- [55] 411 Phil. 76 (2001) [Per J. Gonzaga-Reyes, Third Division].
- [56] 413 Phil. 122 (2001) [Per J. Mendoza, Second Division].
- [57] 458 Phil. 815 (2003) [Per J. Puno, En Banc].
- [58] 602 Phil. 877 (2009) [Per J. Nachura, Third Division].
- [59] Id. at 888-889.
- [60] See, among others, *People v. Ibañez*, 455 Phil. 133 (2003) [Per J. Austria-Martinez, En Banc]; *People v. Guzman*, 423 Phil. 600 (2001) [Per J. De Leon, Jr., Second Division]; *People v. Mazo*, 419 Phil. 750 (2001) [Per J. Kapunan, First Division].
- [61] 106 Phil. 391 (1959) [Per Curiam]. See *People v. Gutierrez*, 429 Phil. 124 (2002) [Per J. Ynares-Santiago, En Banc]. See also *People v. Ibañez*, 455 Phil. 133 (2003) [Per J. Austria-Martinez, En Banc]; *People v. Verceles*, 437 Phil. 323 (2002) [Per J. Ynares-Santiago, First Division].

- [62] *People v. Dimdiman*, id. at 397. See *Roca v. Court of Appeals*, 403 Phil. 326 (2001) [Per J. Quisumbing, Second Division].
- [63] 423 Phil. 924 (2001) [Per J. Quisumbing, Second Division].
- [64] 133 Phil. 805 (1968) [Per Curiam, En Banc].
- [65] 146 Phil. 937 (1970) [Per Acting CJ. Reyes, J.B.L., En Banc.]
- [66] 262 Phil. 718 (1990) [Per J. Gutierrez, Jr., Third Division].
- [67] 401 Phil. 932 (2000) [Per J. Quisumbing, Second Division].
- [68] 423 Phil. 1035 (2001) [Per J. Kapunan, En Banc].
- [69] 561 Phil. 70 (2007) [Per J. Chico-Nazario, En Banc].
- [70] 293 Phil. 793 (1993) [Per J. Narvasa, Second Division].
- [71] 307 Phil. 674 (1994) [Per J. Puno, Second Division]. See *People v. Cagas*, 477 Phil. 338 (2004) [Per J. Carpio Morales, Third Division].
- [72] 263 Phil. 621 (1990) [Per J. Melencio-Herrera, Second Division].
- [73] 116 Phil. 1145 (1962) [Per J. Bautista Angelo, En Banc].
- [74] Id. at 1151.
- [75] 913 Phil. 569 (2021) [Per J. Lazaro-Javier, First Division].
- [76] 262 Phil. 13 (1990) [Per J. Paras, En Banc].
- [77] 307 Phil. 150 (1994) [Per J. Kapunan, First Division].
- [78] 307 Phil. 231 (1994) [Per J. Cruz, First Division].
- [79] Id. at 238.
- [80] 376 Phil. 377 (1999) [Per J. Panganiban, En Banc].
- [81] 414 Phil. 171 (2001) [Per J. Kapunan, First Division].
- [82] 423 Phil. 463 (2001) [Per J. Panganiban, En Banc].
- [83] 437 Phil. 323 (2002) [Per J. Ynares-Santiago, First Division].
- [84] 232 Phil. 605 (1987) [Per J. Fernan, Second Division].
- [85] Id. at 614, citing *People v. Lopez*, 107 Phil. 1039 (1960) [Per J. Bautista Angelo, En Banc].
- [86] 868 Phil. 621 (2020) [Per J. Reyes, Jr., First Division].
- [87] Id. at 631, citing *Jabalde v. People*, 787 Phil. 255 (2016) [Per J. Reyes, Third Division]. See also LUIS REYES, II *THE REVISED PENAL CODE: CRIMINAL LAW* 281 (2021 ed.).
- [88] 419 Phil. 750 (2001) [Per J. Kapunan, First Division].
- [89] Id. at 775.
- [90] 128 Phil. 268 (1967) [Per J. Reyes, J.B.L., En Banc]. See *People v. Amazan*, 402 Phil. 247 (2001) [Per J.

Mendoza, Second Division].

[91] Id. at 276-277.

CONCURRING OPINION

CAGUIOA, J.:

I fully concur with the ponencia in granting the Petition and modifying the penalty imposed on petitioner Rodrigo Loza y Apolonio (Loza) by appreciating the mitigating circumstance of voluntary surrender under Article 13(7)[1] of the Revised Penal Code.

The ponencia lays down a comprehensive framework for evaluating the voluntariness and spontaneity of a surrender. The ruling is expansive and doctrinally complete. In fact, it leaves little, if anything, to be clarified. I write simply with the hope that further exposition may clarify doctrinal application for the trial courts and litigants, as well as to underscore certain facts and draw out additional dimensions in the totality of circumstances that, to my mind, further strengthen the case for appreciating voluntary surrender.

At the heart of this case is a single legal question: Can Loza's act of returning to the National Bureau of Investigation (NBI) office and submitting himself upon confirmation of an outstanding warrant be deemed a voluntary surrender under Article 13(7) of the Revised Penal Code?

Under Article 13(7) of the Revised Penal Code, a voluntary surrender must meet three essential elements: 1) the offender had not been actually arrested; 2) the offender surrendered himself to a person in authority or the latter's agent; and 3) the surrender was voluntary.[2] The third requirement—voluntariness—is the most contested, and the most misunderstood. To be voluntary, the surrender must be spontaneous and deliberate, that is, there must be an intent to submit oneself unconditionally to the authorities. The surrender must be considered as an acknowledgment of guilt or an intention to save the authorities the trouble and expense that may be incurred for their search and capture.[3]

Despite these standards, the Regional Trial Court (RTC) and the Court of Appeals (CA) uniformly rejected Loza's claim of voluntary surrender, mainly on the following grounds: (a) that Loza had already admitted knowledge of the pending case; (b) that his return to the NBI was pursuant to standard clearance procedure, not a genuine intent to surrender; (c) that his surrender occurred only after the warrant was confirmed and was therefore inevitable; and (d) that saying "Masuko na lang ako" (I will surrender) had no legal effect given the surrounding circumstances.[4]

As stated at the outset, I agree that Loza is entitled to the mitigating circumstance of voluntary surrender.

To begin with, the first and second elements of voluntary surrender are satisfied. There is no dispute that Loza was not under any form of physical restraint or compulsion at the time he returned to the NBI-Laguna District Office. The warrant of arrest had not yet been served, and no enforcement measures had been taken to secure his custody. His presence at the NBI on the day of his surrender was therefore not the result of any actual arrest, fulfilling the first requirement. Further, Loza submitted himself to Special Investigator Mark Anthony G. Diaz (SI Diaz), who, as an NBI officer, is recognized as a person in authority for purposes of receiving a surrender.

It is with respect to the third element that the issue becomes more nuanced.

The following circumstances, taken together, justify the appreciation of the mitigating circumstance in this case.

First, while it may be acknowledged that Loza had prior knowledge of the pending bigamy case, there is insufficient basis to conclude that he was aware of an outstanding warrant of arrest prior to his return to the NBI for follow-up verification. Knowledge of a case is not equivalent to knowledge of the existence of an arrest warrant.[5] What is essential is whether the accused knew that a warrant of arrest had been issued and yet deliberately chose to evade it. This distinction is crucial because voluntary surrender requires that the accused knowingly submit to a person in authority despite having the option not to do so. If one is unaware of a warrant, there is no duty or pressure to surrender to begin with.

As the ponencia notes, Loza only learned of the warrant when SI Diaz confirmed its existence during their second meeting. Until then, his knowledge was limited to the existence of a pending case.[6] Further, Loza's admission that he knew of a pending case does not necessarily imply that he understood the case had reached the stage of formal prosecution, much less that a warrant had been issued. Without evidence that he was aware a warrant of arrest had already been issued against him, the argument that he delayed his surrender is speculative at best.

Second, as to the lapse of time between the commission of bigamy and the surrender. It is true that a substantial interval of over 13 years passed between the issuance of the warrant of arrest and Loza's appearance at the NBI. However, while delay is a relevant factor, the Court is also enjoined to consider the totality of circumstances surrounding the act of surrender. The ponencia rightly points out that passage of time does not, by itself, negate spontaneity. It must be assessed in conjunction with the accused's actual conduct and, more importantly, with any concrete evidence of the accused's knowledge of the arrest warrant or awareness that authorities were actively seeking him.[7]

Here, Loza lived openly under his real name for over a decade,[8] and even applied for an NBI clearance. There is no allegation, much less proof, that he changed his identity, concealed his whereabouts, or actively fled from authorities. In fact, he affirmatively sought out a government agency for an NBI clearance, a step that inherently requires disclosing one's identity and undergoing verification. That Loza would subject himself to this process strongly militates against any finding of evasive behavior. These are not the actions of someone evading arrest. In the absence of evidence of flight, the long interval should not, in and of itself, preclude the appreciation of voluntary surrender.

Third, on the supposed lack of inner impulse. An argument is made that Loza's surrender was triggered by an external stimulus, which was the disclosure by SI Diaz of the outstanding warrant of arrest, and therefore, his act of submission was not voluntary.

In *Mazo*,[9] the Court appreciated the mitigating circumstance of voluntary surrender even though the accused initially encountered a police officer who was also his relative at his residence and did not immediately give himself up. The surrender was nonetheless deemed spontaneous, as the accused could have fled right after that meeting, but instead submitted himself unconditionally a few hours later. The Court emphasized that the accused's decision spared the authorities the trouble of conducting a manhunt for him.

In the present case, the factual basis for appreciating voluntary surrender is even more compelling. Loza voluntarily returned to the NBI office a week after being informed of a "hit", despite having had every opportunity, to avoid doing so. His decision to return manifests a clear intent to cooperate with lawful processes. If the Court in *Mazo* recognized spontaneity in a surrender made after a direct encounter with the police, the circumstances surrounding Loza's conduct, which involved a more deliberate and self-initiated act, all the more justify the appreciation of this mitigating circumstance.

Fourth, it is argued that the State had already incurred trouble and expense in processing Loza's NBI "hit" and obtaining copies of his arrest warrant. However, these are standard administrative steps conducted in the course of

processing any individual with a "hit" in the clearance system. They do not rise to the level of burden that the law contemplates in denying the benefit of voluntary surrender. More importantly, Loza spared the State the far more significant cost of locating and apprehending him. He appeared, surrendered, and cooperated.

Indeed, the law does not require that the accused must spare the State all administrative action. In my view, what the law guards against is the expenditure of additional and avoidable effort in tracking down an unwilling or evasive accused. Here, Loza's submission eliminated the need for surveillance, enforcement planning, or even coordination among law enforcement agencies. His conduct streamlined the administration of justice rather than hindered it.

Fifth, the RTC and CA found that Loza's arrest was already inevitable, and therefore his surrender lacked spontaneity. However, as the ponencia clarifies, imminence must be understood in conjunction with actual indicators of flight or a fugitive situation[10]—neither of which is present here. Loza was not arrested at home, on the street, or in any enforcement action. He was at the NBI office voluntarily, and his arrest would not have occurred had he not returned.

Moreover, in *De Vera v. De Vera*,[11] the Court upheld the appreciation of voluntary surrender as a mitigating circumstance even though a warrant of arrest had already been issued. The Court clarified that the mere existence of a warrant of arrest does not automatically disqualify the surrender from being voluntary. In that case, the accused surrendered to the court on the same day the warrant was issued but before it was served, and his actions, along with his subsequent plea of guilty, were held to satisfy the elements of a genuine, voluntary surrender.

Loza's case presents comparable, if not stronger, circumstances. Although a warrant of arrest had already been issued, the facts show that it had not yet been served when he returned to the NBI office for his follow-up interview. Upon being informed of the outstanding warrant, he declared "Masuko na lang ako," thereby clearly indicating his intent to surrender. To disqualify surrender merely because it occurred in the presence of an officer holding a warrant would be to exclude all surrenders made at police stations or law enforcement offices, which is an overly restrictive reading of Article 13(7) of the Revised Penal Code.

Notably, Loza later moved to withdraw his earlier plea of not guilty and was re-arraigned to enter a plea of guilty under the same Information charging him with bigamy. While the plea of guilty came later, it remains a relevant factor in assessing the sincerity of his earlier submission to SI Diaz.

Lastly, on Loza's original intention in going to the NBI. It is undisputed that Loza's first visit was to secure a clearance, not to surrender. While that may have been true of his first visit, it is the second visit after he had been advised of a possible match and returned voluntarily that is legally relevant. As the Court emphasized in *Delos Santos v. People*,[12] intent is a state of mind verified through external acts of a person. Loza's second appearance at the NBI clearly demonstrates a shift from an administrative purpose to a conscious act of submission. That sequence of conduct, rather than his original intent, is what the law examines in determining the presence of spontaneity. In any case, it would be unreasonable to rely on Loza's original intent to discredit his surrender, given that he was not even aware of the existence of a warrant at the time of his first visit.

All these considerations lead to the conclusion that Loza's actions fall squarely within the rationale of Article 13(7) of the Revised Penal Code. Loza presented himself twice at a government office, fully aware that there could be adverse consequences, and surrendered the moment the existence of the warrant was confirmed. This qualifies as a positive and spontaneous act of submission to legal authority. Loza's actions spared the authorities any further burden, which is deserving of consideration under Article 13(7) of the Revised Penal Code.

Thus, in full agreement with the ponencia, I find that the totality of circumstances in this case supports the

appreciation of voluntary surrender. To deny Loza this benefit would not only be a misreading of the law, but may also create a disincentive for individuals who would otherwise choose to submit peacefully to lawful custody.

At its core, voluntary surrender shows a person's willingness to face the consequences of his actions. Trial courts should keep in mind that the purpose of this mitigating circumstance is both practical and grounded in law. As recognized in jurisprudence, it may be because he admits his guilt, or simply because he chooses to cooperate instead of hiding or running. Whatever the reason, the law recognizes this act as a sign that eases the burden on law enforcement. It is not intended to excuse wrongdoing, but to recognize a person's decision to take accountability. Trial courts are thus expected to apply the rule reasonably and consistently, guided by the facts, not assumptions.

All told, I vote to GRANT the Petition and to MODIFY the sentence imposed on Loza, in recognition of the proper appreciation of voluntary surrender as a mitigating circumstance under Article 13(7) of the Revised Penal Code.

[1] ART. 13. Mitigating circumstances.—The following are mitigating circumstances:

....

7.

That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for prosecution.

[2] *Casilac v. People*, 870 Phil. 888, 903 (2020) [Per C.J. Peralta, First Division].

[3] *People v. Mazo*, 419 Phil. 750, 774 (2001) [Per J. Kapunan, First Division].

[4] See ponencia, pp. 3-5 & 5-8.

[5] See *id.* at 23-24.

[6] *Id.*

[7] See *id.* at 20.

[8] See *id.* at 24.

[9] *Supra* note 2.

[10] Ponencia, p. 24.

[11] 602 Phil. 877 (2009) [Per J. Nachura, Third Division].

[12] 868 Phil. 621 (2020) [Per J. J. Reyes, Jr., First Division].

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