



**Republic of the Philippines
Supreme Court
Manila**

BY: _____
TIME: 3:19

FIRST DIVISION

RUBEN E. TIU,
Petitioner,

G.R. No. 211269

- versus -

Present:

HON. NATIVIDAD G. DIZON,
Acting Chairperson of the
Board of Pardons and Parole,
**HON. FRANKLIN JESUS
BUCAYU,** Director of the
Bureau of Corrections, **HON.
SECRETARY LEILA M. DE
LIMA** of the Department of
Justice, **HON. PAQUITO N.
OCHOA JR.,** the Executive
Secretary,

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, JJ.

Promulgated:

JUN 15 2016

Respondents.

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for *habeas corpus*¹ filed by petitioner Ruben E. Tiu (petitioner), who is detained at the Sablayan Prison and Penal Farm in Sablayan, Occidental Mindoro, seeking his immediate release from prison on the strength of his conditional pardon without parole conditions, as well as the automatic reduction of his sentence by virtue of his status as a penal colonist.²

¹ *Rollo*, pp. 3-6. An Amended Petition for *Habeas Corpus* was filed on July 7, 2014; id. at 75-81.

² See Certification dated June 23, 2014 issued by Chief Document Section Rex L. Celestino; id. at 84.

The Facts

On June 16, 2000, petitioner and two others³ were found guilty beyond reasonable doubt by the Regional Trial Court of Makati City, Branch 143, of selling, delivering, and giving away to a poseur-buyer 1,977 grams of *methamphetamine hydrochloride*, commonly known as “shabu,” a regulated drug, without authority of law or corresponding license therefor.⁴ Consequently, they were sentenced to suffer the penalty of *reclusion perpetua* and to pay the fine of ₱10,000,000.00 each.⁵ Their conviction, which was affirmed by the Court in a Decision⁶ dated March 10, 2004, became final and executory on July 29, 2004.⁷

On March 24, 2009, the Board of Pardons and Parole (BPP) issued Resolution No. 022-3-09⁸ recommending the grant of executive clemency to petitioner, among many others. On June 3, 2010, acting on said recommendation, then President Gloria Macapagal-Arroyo (PGMA) granted⁹ him “conditional pardon without parole conditions,”¹⁰ but was, nonetheless, still “subject to the conditions indicated in [the individual pardon papers].”¹¹ It turned out, however, that no such papers were issued in petitioner’s favor. Thus, petitioner repeatedly requested¹² for a certificate of conditional pardon without parole conditions from the Legal Affairs Office of the Office of the President (OP), but said requests were denied by Deputy Executive Secretary for Legal Affairs Michael G. Aguinaldo (Deputy Executive Secretary Aguinaldo) in three (3) separate letters dated March 13, 2013,¹³ August 12, 2013,¹⁴ and August 14, 2013,¹⁵ informing petitioner that the records of his case were referred back to the BPP. Respondent Natividad G. Dizon, Chairman of the BPP, confirmed in a letter¹⁶ dated September 5, 2013 that: (a) petitioner’s Certificate of Conditional Pardon without Parole Conditions was not signed by PGMA; (b) consequently, the documents relative to petitioner’s case were returned to the BPP; and (c) the BPP had resolved to defer action thereon pending compliance with all the basic requirements for executive clemency.¹⁷

³ Namely, Rosalina Sumili a.k.a. Rose and Tan Hung a.k.a. Emmie Tan. See id. at 4.

⁴ See Decision in *People of the Philippines v. Tiu*, 469 Phil. 163, 166 (2004).

⁵ Id. at 179.

⁶ Id.

⁷ See BPP Resolution No. 022-3-09 dated March 24, 2009; *rollo*, pp. 112-113.

⁸ Approved by then Secretary of Justice Raul M. Gonzalez. Id. at 111-115.

⁹ Id. at 85-89.

¹⁰ Id. at 88.

¹¹ See id. at 85.

¹² See indorsement letter dated April 5, 2011; id. at 18. See also various letter-requests dated July 6, 2011 (id. at 20), March 11, 2013 (id. at 21), and July 29, 2013 (id. at 22-24 and 25-27).

¹³ Id. at 116.

¹⁴ Id. at 117.

¹⁵ Id. at 118.

¹⁶ Id. at 119-120.

¹⁷ See id. at 119.

In the meantime, President Benigno Simeon C. Aquino III signed into law Republic Act No. (RA) 10592,¹⁸ which, subject to its provisions, would substantially increase the Good Conduct Time Allowance (GCTA) of qualified inmates. Thus, on July 27, 2013, petitioner's *carpeta* was returned to the Bureau of Corrections in Muntinlupa City for the re-computation of his time served.¹⁹

On July 7, 2014, petitioner filed the instant Amended Petition for *Habeas Corpus*,²⁰ insisting on the efficacy and enforceability of his conditional pardon without parole conditions, which allegedly necessitates his release from prison. Further, he claims that he is entitled to nineteen (19) years and seven (7) months of GCTA, computed hereafter, which, when tacked to his actual service of fourteen (14) years and nine (9) months, would add up to thirty-four (34) years and four (4) months, or more than his alleged reduced sentence of thirty (30) years.²¹

MONTHS	DAYS GCTA	MONTHLY GCTA
01 October 1999 – 01 October 2001	20 days	24 months
01 October 2002 – 01 October 2005	23 days	36 months
01 October 2006 – 01 October 2010	25 days	178 months
01 October 2011 – 01 July 2014	30 days	44 months

He argues that, since he was granted a “colonist status” by then Director of Corrections Gaudencio S. Pangilinan (Director of Corrections Pangilinan) on December 21, 2011, as contained in Correction's Order No. 015-5-2012,²² his sentence was automatically reduced to thirty (30) years²³ pursuant to Section 7 (b), Chapter 3, Part II, Book I of the Bureau of Corrections Operating Manual (BuCor-OM), the pertinent portions of which read as follows:

SECTION 7. *Privileges of a colonist.* – **A colonist** shall have the following privileges:

- a. credit of an additional GCTA of five (5) days for each calendar month while he retains said classification aside from the regular GCTA authorized under Article 97 of the Revised Penal Code;
- b. automatic reduction of the life sentence imposed on the colonist to a sentence of thirty (30) years;

x x x (Emphasis and underscoring supplied)

¹⁸ Entitled “AN ACT AMENDING ARTICLES 29, 94, 97, 98, AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE,” approved on May 29, 2013.

¹⁹ *Rollo*, pp. 119-120.

²⁰ *Id.* at 75-81.

²¹ *Id.* at 80.

²² See *id.* at 84.

²³ See *id.* at 76-77.

To bolster his claim of reduction of sentence, petitioner cites²⁴ Sections 5 and 7 of Act No. 2489,²⁵ which provide for automatic modification of sentence from life imprisonment to thirty (30) years for prisoners receiving and retaining the classification of penal colonists or trustees. He theorizes²⁶ that, although said law **requires executive approval** for such classification, his colonist status was nonetheless “regularly awarded” by the Director of Corrections whose authority to so classify him as such is derived from Section 6, Chapter 3, Part II, Book I of the BuCor-OM. The aforementioned provisions read:

Provisions in Act No. 2489

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

Section 7. The provisions of this Act as applied in the case of **penal colonists** and trustees may, **by executive approval and upon recommendation of the Director of Prisons [(now Director of Corrections)]**, be made applicable to all first-class workmen confined in Bilibid Prison who have earned the privilege of classification as penal colonists or trustees by serving one-fifth of the time sentence as imposed by the court, or seven years in the case of a life-sentenced prisoner, in addition to the compensation allowed, if any of such first-class workmen shall by written petition elect to remain in the industrial division at Bilibid Prison: *Provided*, That no prisoner shall receive the benefit of this section during the first two years of imprisonment unless authorized by the Director of Prisons [(now Director of Corrections)] for special reasons. (Emphases and underscoring supplied)

Section 6, Chapter 3, Part II, Book I of the BuCor-OM

Section 6. *Colonist.* – **The Director may, upon the recommendation of the Classification Board, classify an inmate who has the following qualifications as a colonist:**

- a. be at least a first class inmate and has served one (1) year immediately preceding the completion of the period specified in the following qualifications;
- b. has served imprisonment with good conduct for a period equivalent to one fifth (1/5) of the maximum term of his prison sentence, or seven (7) years in the case of a life sentence. (Emphasis and underscoring supplied)

²⁴ Id. at 77.

²⁵ “AN ACT AUTHORIZING SPECIAL COMPENSATION, CREDITS, AND MODIFICATION IN THE SENTENCE OF PRISONERS AS A REWARD FOR EXCEPTIONAL CONDUCT AND WORKMANSHIP, AND FOR OTHER PURPOSES” (January 1, 1915).

²⁶ *Rollo*, p. 77.

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Finally, petitioner invokes Section 5²⁷ of RA 10592, which provides that the time allowances for good conduct **once granted shall not be revoked.**²⁸ He further proposes that RA 10592 be given retroactive effect in light of the liberal construction provided for in the rules to favor detained or convicted prisoners like him.²⁹

On the other hand, herein respondents, through the Office of the Solicitor General (OSG), maintain³⁰ that a prisoner serving a sentence of life imprisonment receiving and retaining classification as a penal colonist will automatically have his sentence modified to thirty (30) years of imprisonment only **“when receiving the executive approval for this classification.”**³¹ However, petitioner failed to obtain such executive approval. They argue further against petitioner’s reliance on the BuCor-OM, which is a mere administrative rule or regulation that cannot amend Act No. 2489 by abridging or expanding its scope.³² Petitioner’s colonist status granted merely by the Director of Corrections, without executive approval, did not modify his sentence.³³ Hence, there being no unlawful restraint, no writ of *habeas corpus* should be issued in his favor.

The Issue Before the Court

The essential issue for the Court’s resolution is whether or not a writ of *habeas corpus* should be issued in favor of petitioner.

The Court’s Ruling

The petition lacks merit.

The object of the writ of *habeas corpus* is to inquire into the legality of the detention, and, if the detention is found to be illegal, to require the release of the detainee. Well-settled is the rule that the writ will not issue where the person in whose behalf the writ is sought is in the custody of an officer under process issued by a court or judge with jurisdiction or by virtue of a judgment or order of a court of record.³⁴ The

²⁷ Section 5. Article 99 of the same Act is hereby further amended to read as follows:
“Art. 99. *Who grants time allowances.* – Whenever lawfully justified, the Director of the Bureau of Corrections, the Chief of the Bureau of Jail Management and Penology and/or the Warden of a provincial, district, municipal or city jail shall grant allowances for good conduct. Such allowances once granted shall not be revoked.”

²⁸ *Rollo*, p. 77.

²⁹ See *id.* at 78-79.

³⁰ See Comment filed on August 18, 2015; *id.* 193-202.

³¹ *Id.* at 197.

³² *Id.* at 198.

³³ *Id.*

³⁴ *Mangila v. Pangilinan*, G.R. No. 160739, July 17, 2013, 701 SCRA 355, 361.

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writ is denied if the petitioner fails to show facts that he is entitled thereto *ex merito justicias*.³⁵

In this case, petitioner is serving sentence by virtue of a final judgment convicting him of the offense of selling and delivering prohibited drugs defined and penalized under Section 15, Article III of RA 6425,³⁶ as amended by RA 7659.³⁷ He failed to show, however, that his further incarceration is no longer lawful and that he is entitled to relief under a writ of *habeas corpus*.

First. Petitioner's insistence on the efficacy and enforceability of the conditional pardon without parole conditions granted to him by PGMA on June 3, 2010 deserves scant consideration.

It must be emphasized that pardon is an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual, on whom it is bestowed, from the punishment the law inflicts for a crime he has committed. It is the private, though official act of the executive magistrate, delivered to the individual for whose benefit it is intended and not communicated officially to the court. A pardon is a deed, to the validity of which delivery is essential.³⁸

The executive clemency extended by PGMA on June 3, 2010 to a number of prisoners including petitioner was made "subject to the conditions indicated in the corresponding documents."³⁹ It is undisputed, however, that no individual pardon papers were issued in petitioner's favour, thereby rendering the grant of executive clemency to him as **incomplete and ineffective**, as clarified by Deputy Executive Secretary Aguinaldo.⁴⁰ The necessity for the individual pardon papers is best explained by the nature of a conditional pardon, which is "a contract between the sovereign power or the Chief Executive and the convicted criminal to the effect that the former will release the latter subject to the condition that if he does not comply with the terms of the pardon, he will be recommitted to prison to serve the unexpired portion of the sentence or an additional one. By the pardonee's consent to the terms stipulated in this contract, the pardonee has thereby placed himself under the supervision of the Chief Executive or his delegate who is duty-bound to see to it that the pardonee complies with the terms and conditions of the pardon."⁴¹ The individual pardon papers, therefore, contain

³⁵ Id., citing *Caballes v. CA*, 492 Phil. 410, 422 (2005).

³⁶ Otherwise known as "The Dangerous Drugs Act of 1972" (March 30, 1972).

³⁷ Entitled "AN ACT TO IMPOSE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES," approved on December 13, 1993.

³⁸ *Monsanto v. Factoran, Jr.*, 252 Phil. 192, 198-199 (1989).

³⁹ *Rollo*, p. 85.

⁴⁰ Id. at 118.

⁴¹ *Torres v. Director, Bureau of Corrections*, 321 Phil. 1105, 1109 (1995).

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the terms and conditions of the contract of pardon, the compliance of which is essential to the pardonee's freedom from recommitment to prison.

Notably, when the records of petitioner's case were referred back to the BPP, it required compliance first with all the basic requirements for executive clemency before acting thereon.⁴² This is not to say, however, that petitioner's pardon papers may not have been issued due to non-compliance with the requirements, which is a matter that the Court shall not, and could not, resolve here. This is because the grant of pardon and the determination of the terms and conditions of a conditional pardon are purely executive acts which are not subject to judicial scrutiny.⁴³

Second. As correctly argued by the OSG, the conferment by the Director of Corrections of a colonist status to petitioner **did not** operate to reduce the latter's sentence. Section 5 of Act No. 2489 is clear and unambiguous: "[p]risoners serving sentences of life imprisonment **receiving and retaining the classification of penal colonists or trusties will automatically have the sentence of life imprisonment modified to a sentence of thirty years when receiving the executive approval for this classification upon which the regular credit now authorized by law and special credit authorized in the preceding paragraph, for good conduct, may be made.**"⁴⁴

The wording of the law is such that the act of classification as a penal colonist or trustie is separate from and necessarily precedes the act of approval by the Executive. Under Section 6, Chapter 3, Part II, Book I of the BuCor-OM quoted earlier, the Director of Corrections may, upon the recommendation of the Classification Board⁴⁵ of the Bureau of Corrections, classify an inmate as a colonist. It is crucial, however, that the prisoner not only receives, but retains such classification, because the grant of a colonist status may, for cause, be revoked at any time by the Superintendent with the approval of the Director of Corrections pursuant to Section 9⁴⁶ of the same Chapter. It is the classification of the penal colonist and trustie of the Director of Corrections which subsequently receives executive approval.

The foregoing is bolstered by the fact that **the reduction of a prisoner's sentence is a partial pardon,⁴⁷ and our Constitution reposes in the President the power and the exclusive prerogative to extend the same.**⁴⁸ The 1987 Constitution, specifically under Section 19, Article VII

⁴² Id. at 119.

⁴³ *Torres v. Gonzales*, 236 Phil. 292, 302 (1987).

⁴⁴ Emphases, underscoring, and italics supplied.

⁴⁵ Composed of the Superintendent (Chairman), Chief, Reception and Diagnostic Center (Vice-Chairman), Medical Officer; Chief, Education Section and Chief, Agro-Industries Section (Members), and Chief Overseer (Secretary). See Section 1, Chapter 3, Part II, Book I of the BuCor-OM.

⁴⁶ Section 9. *Revocation of colonist status.* – The grant of colonist status may, for cause, be revoked at anytime by the Superintendent with the Approval of the Director.

⁴⁷ *Gabor v. Director of Prisons*, 87 Phil. 592, 595 (1950).

⁴⁸ See *Garcia v. Chairman, Commission on Audit*, G.R. No. 75025 September 14, 1993, 226 SCRA 356, 360-361.

thereof, provides that the President possesses the power to grant pardons, along with other acts of executive clemency,⁴⁹ which petitioner explicitly recognized by applying for commutation of sentence even during the pendency of his request for the implementation of the conditional pardon.⁵⁰ Section 19, Article VII of the 1987 Constitution reads:

Section 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment.


He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.

It has long been recognized that the exercise of the pardoning power, notwithstanding the judicial determination of guilt of the accused, demands the **exclusive exercise by the President** of the constitutionally vested power.⁵¹ Stated otherwise, since the Chief Executive is required by the Constitution to act in person, he may not delegate the authority to pardon prisoners under the doctrine of qualified political agency, which “essentially postulates that the heads of the various executive departments are the alter egos of the President, and, thus, the actions taken by such heads in the performance of their official duties are deemed the acts of the President unless the President himself should disapprove such acts.”⁵²


In sum, there being no unlawful restraint on petitioner’s liberty, no relief under a writ of *habeas corpus* can be granted to him.

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

⁴⁹ See *Risos-Vidal v. Commission on Elections*, G.R. No. 206666, January 21, 2015.

⁵⁰ See *rollo*, p. 118.

⁵¹ See *Angeles v. Gaité*, 620 Phil. 422, 434 (2009).

⁵² *Manalang-Demigillo v. Trade and Investment Development Corporation of the Philippines*, G.R. No. 168613, March 5, 2013, 692 SCRA 359, 373-374.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice