

[BPAP RESOLUTION NO. 24-4-10, April 13, 2010]

**AMENDING AND REPEALING CERTAIN RULES AND SECTIONS OF
THE RULES ON PAROLE AND AMENDED GUIDELINES FOR
RECOMMENDING EXECUTIVE CLEMENCY OF THE 2006 REVISED
MANUAL OF THE BOARD OF PARDONS AND PAROLE**

WHEREAS, Section 19, Article VII of the 1987 Philippine Constitution provides that the President, except in cases of impeachment or as otherwise provided therein, may grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment;

WHEREAS, in accordance with the above-cited constitutional provision, the President has the plenary power to grant executive clemency, except on the following three (3) constitutional limitations, to wit:

1. In cases of impeachment;
2. In cases involving violation of election laws, rules and regulations as provided for in Section 5, Paragraph C, Article IX of the 1987 Philippine Constitution without the favorable recommendation of the Commission on Elections; and
3. In cases where the conviction is on appeal or has not become final and executory;

WHEREAS, the eight (8) disqualifications or exceptions enumerated and provided for in Section 5 of the Amended Guidelines for Recommending Executive Clemency of the 2006 BPP Revised Manual are not in consonance with the provisions of Section 19, Article VII of the 1987 Philippine Constitution, constitute as limitations on the pardoning power of the President, and violate the time-honored principle of equal protection of the laws enshrined in the Bill of Rights, thus defeating the primary purpose of restorative justice;

WHEREAS, Section 5, Paragraphs a, b, c, d, e, f, g, and h of the Amended Guidelines for Recommending Executive Clemency discriminates against certain criminal offenders and denies them equal opportunity for executive clemency;

WHEREAS, under Section 10, notices to the prosecutor and convicting judge are no longer necessary since, as pillars of the criminal justice system, they have done their part and have lost jurisdiction over the case;

WHEREAS, under Section 3 of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines", enacted on June 24, 2006, persons convicted of offenses punished with *reclusion perpetua*, or whose sentences were reduced to *reclusion perpetua* by reason of this Acts shall not be eligible for parole under Act No. 4103, otherwise known as "The Indeterminate Sentence Law", as amended;

WHEREAS, under Executive Order No. 83 dated January 11, 1937, the Board of Pardons and Parole is mandated to assist the President in exercising the power of executive clemency; and

WHEREAS, pursuant to the mandate of the law to redeem and uplift valuable human resources and prevent excessive deprivation of liberty, there is a need to provide opportunities to qualified and deserving inmates in order to ease congestion now plaguing the correctional institutions.

WHEREFORE, premises considered, the Board resolves, as it is hereby Resolved, to AMEND and REPEAL the following provisions of the Rules on Parole and the Amended Guidelines for Recommending Executive Clemency of the 2006 BPP Revised Manual:

I. Rule 2.1. of the Rules on Parole is hereby AMENDED to read as follows:

"RULE 2.1. Eligibility for Review of A Parole Case - an inmate's case may be eligible for review by the board provided:

- a. Inmate is serving an indeterminate sentence the maximum period of which exceeds one (1) year;
- b. Inmate has served the minimum period of the indeterminate sentence;
- c. Inmate's conviction is final and executory; In case the inmate has one or more co-accused who had been convicted, the director/warden concerned shall forward their prison records and carpetas/ jackets at the same time.
- d. Inmate has no pending criminal case; and
- e. Inmate is serving sentence in the national penitentiary, unless the confinement of said inmate in a municipal, city, district or provincial jail is justified.

A national inmate, for purposes of these Rules, is one who is sentenced to a maximum term of imprisonment of more than three (3) years or to a fine of more than five thousand pesos; or regardless of the length of sentence imposed by the Court, to one sentenced for violation of the customs law or other laws within the jurisdiction of the Bureau of Customs or enforceable by it, or to one sentenced to serve two (2) or more prison sentences in the aggregate exceeding the period of three (3) years."

II. Rule 2.2, Paragraphs i to l of the Rules on Parole are hereby DELETED for being inconsistent with the provisions of Section 2 of the "Indeterminate Sentence Law", as amended. Further, said Rule is hereby AMENDED to read as follows:

"RULE 2.2. Disqualifications for Parole - Pursuant to Section 2 of Act No. 4103, as amended, otherwise known as the "Indeterminate Sentence Law", parole shall not be granted to the following inmates:

- a. Those convicted of offenses punished with death penalty or life imprisonment;
- b. Those convicted of treason, conspiracy or proposal to commit treason or espionage;
- c. Those convicted of misprision of treason, rebellion, sedition or coup d'

etat;

d. Those convicted of piracy or mutiny on the high seas or Philippine waters;

e. Those who are habitual delinquents, i.e., those who, within a period of ten (10) years from the date of release from prison or last conviction of the crimes of serious or less serious physical injuries, robbery, theft, estafa, and falsification, are found guilty of any of said crimes a third time or oftener;

f. Those who escaped from confinement or evaded sentence;

g. Those who having been granted conditional pardon by the President of the Philippines shall have violated any of the terms thereof;

h. Those whose maximum term of imprisonment does not exceed one (1) year or those with definite sentence;

i. Those convicted of offenses punished with reclusion perpetua, or whose sentences were reduced to reclusion perpetua by reason of Republic Act No. 9346 enacted on June 24, 2006, amending Republic Act No. 7659 dated January 1, 2004; and

j. Those convicted for violation of the laws on terrorism, plunder and transnational crimes."

III. Rule 2.3 of the Rules on Parole is hereby AMENDED to read as follows:

"RULE 2.3. Review Upon Petition or referral by the correctional and/or other agencies - a parole case may be reviewed by the Board upon petition or referral by the correctional and/or other agencies if inmate is not otherwise disqualified under Rule 2.2."

IV. Section 1 of the Amended Guidelines for Recommending Executive Clemency is hereby AMENDED to read as follows:

"SECTION 1. Plenary Power of the President to Grant Executive Clemency - Under Section 19, Article VII of the Constitution, except in cases of impeachment or as otherwise provided therein, the President may grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment. Executive clemency rests exclusively within the sound discretion of the President, and is exercised with the objective of preventing a miscarriage of justice or correcting a manifest injustice.

These Guidelines are meant solely for the guidance of the Board of Pardons and Parole (hereafter the "Board") in the performance of its duty to assist the President in exercising the power of executive clemency pursuant to Executive Order No. 83 dated January 11, 1937. These Guidelines create no vested or enforceable rights in persons applying for executive clemency."

V. Section 3 of the Amended Guidelines for Recommending Executive Clemency is hereby AMENDED to read as follows:

"SECTION 3. Extraordinary Circumstances - The Board shall recommend to the President the grant of executive clemency when any of the following extraordinary circumstances are present: