

## THIRD DIVISION

[ G.R. No. 116512, March 07, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,  
VS. WILLIAM O. CASIDO @ "MARIO," AND FRANKLIN A. ALCORIN  
@ "ARMAN," ACCUSED-APPELLANTS.**

### RESOLUTION

**DAVIDE, JR., J.:**

In our Resolution of 30 July 1996, we ruled that "the conditional pardons granted in this case to accused-appellants William Casido and Franklin Alcorin are void for having been extended on 19 January 1996 during the pendency of their instant appeal," and disposed of the incident as follows:

WHEREFORE, the accused-appellants' Urgent Motion To Withdraw Appeal is hereby DENIED and the Bureau of Corrections is DIRECTED to effect, with the support and assistance of the Philippine National Police, the re-arrest of accused-appellants William Casido and Franklin Alcorin who shall then, forthwith, be reconfined at the New Bilibid Prisons in Muntinlupa, Metro Manila, both within sixty (60) days from notice hereof, and to submit a report thereon within the same period. In the meantime, further action on the appeal is suspended until the re-arrest of the accused-appellants.

The Court further resolves to REQUIRE the officers of the Presidential Committee for the Grant of Bail, Release, and Pardon to SHOW CAUSE, within thirty (30) days from notice hereof, why they should not be held in contempt of court for acting on and favorably recommending approval of the applications for the pardon of the accused-appellants despite the pendency of their appeal.

In a Comment for the members of the Presidential Committee for the Grant of Bail, Release or Pardon (hereinafter Committee), dated 28 August 1996, two members of the Committee's Secretariat, namely, Nilo C. Mariano (Assistant Chief Prosecutor) and Nestor J. Ballacillo (Solicitor in the Office of the Solicitor General), submitted the following explanation in compliance with the above-mentioned resolution:

1. In line with the confidence building measures of government, the President on August 11, 1992 constituted the Presidential Committee for the Grant of Bail, Release or Pardon with the Secretary of Justice as the Chairman and Secretary of National Defense and the Secretary of the Interior and Local Government as members with the directive to establish guidelines for the grant of bail, release or pardon of persons detained or convicted of crimes against national security and public order and

violations of the Articles of War. Subsequently, membership to the Committee was expanded to include the Chairman of the Commission on Human Rights and a member of the defunct National Unification Commission who was later on replaced by the Presidential Adviser on the Peace Process.

2. On 9 December 1992, the President issued an amendment to the guidelines incorporating therein a provision which reads: "Those charged, detained or convicted of common crimes but who can establish by sufficient evidence that they have actually committed any of the crimes/offenses enumerated above may apply for possible grant of bail, release or pardon under these guidelines."

3. Corollary to the constitution of the Committee, a Secretariat was also constituted which was tasked to process and evaluate the applications of those desiring to be granted pardon or recommended for release or bail under the aforementioned guidelines and which will recommend to the Committee those who qualify under the guidelines.

4. The members of the Secretariat are representatives of the Office of the Chief State Prosecutor, the Board of Pardons and Parole, the Office of the Chief State Counsel, the Bureau of Corrections, the Philippine National Police Legal Service, the Judge Advocate's Office-Armed Forces of the Philippines, the Office of the Solicitor General, and the Commission on Human Rights (Legal Services).

5. In the processing and evaluation of the applications for the grant of pardon, release or bail, it was the agreement between the Secretariat and counsels for the applicants who are usually the lawyers of non-government organizations (NGOs), such as the Task Force Detainees of the Philippines (TFDP), the Free Legal Assistance Group (FLAG), the KAPATID, PAHRA, among others, that simultaneous with the processing of the applications, motions for the withdrawal of the applicant's appeals must be filed by them with this Honorable Court.

6. With the arrangement, the processing and evaluation of the applications for the grant of pardon, release or bail by the committee resulted in the grant of conditional pardon to 123 applicants and absolute pardon to eight (8) applicants as of June 27, 1994.

7. The applications for conditional pardon of the aforementioned prisoners were recommended by the Committee to the President for the grant of Conditional Pardon (after the Secretariat had evaluated that the former committed the crimes for which they had been charged in pursuit of their political belief) per Memorandum dated May 25, 1995 and approved by the President on December 29, 1995. The Conditional Pardon paper was signed by the President on January 19, 1996 and the subject prisoners (accused-appellants) were released by the Bureau of Corrections on January 25, 1996.

8. Prior to their release, subject prisoners filed an "Urgent Motion to Withdraw Appeal" which was received by the Supreme Court on January

11, 1996. Unfortunately, the Committee failed to verify first whether the counsel of the accused had also withdrawn their appeal or that the NGO lawyers had filed in their behalf a motion to Withdraw their Appeal. It was upon the honest belief of the Secretariat that the NGO lawyers would perform their agreed undertaking, that the Secretariat indorsed the applications for conditional pardon of subject prisoners for favorable action by the Committee, and thereafter by the President.

9. There was no intention on the part of the Secretariat and the Presidential Committee to violate Section 19, Article VII, of the Constitution, but that what happened was a clear misappreciation of fact.

10. The Secretariat/Committee was only prompted to act, as they did, in their sincere and zealous effort to take part in the government's confidence building measure geared towards achieving peace and national reconciliation. To avoid repetition of grant of presidential clemency under similar circumstances, the Secretariat/Committee will require applicants for any executive relief to show proof that their appeal, if any, has been withdrawn and the withdrawal thereof has been also approved before acting on their applications as directed by President Fidel V. Ramos in his handwritten instructions to the Presidential Committee, thru the Executive Secretary, and upon recommendation of Chief Presidential Legal Counsel Rene Cayetano, for the Presidential Committee" to exercise better diligence." (See Annex "1", and its attachments).

11. The undersigned most respectfully pray for the kind indulgence and understanding of this Honorable Court on the matter.

On 18 September 1996, the Court required Hon. Nilo C. Mariano and Hon. Nestor J. Ballacillo to submit to this Court a list of the members of the Secretariat who participated in the deliberations on the accused-appellants' application for pardon and recommended the grant thereof, together with a certified true copy of the agreement between the Secretariat and the counsel for the applicants for pardon regarding the filing with the appropriate courts of motions for the withdrawal of appeals pending therein. Their Compliance, dated 23 October 1996, stated as follows:

2. A review of the records of the Secretariat indicates that initially or as of January, 1993, the members of the Secretariat were:

Undersecretary Ramon S. Esquerra - DOJ

Assistant Chief State Nilo C. Mariano - DOJ

Executive Director Artemio C. Aspiras - DOJ

State Counsel Teresita L. de Castro - DOJ

Director Eriberto Misa, Jr. -Bureau of Pardon Corrections

Edgardo Dayao - JAGO