

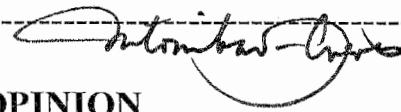
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**G.R. No. 259094 – RODULFO FERRAREN AQUINO, Petitioner, v.  
People of the Philippines, Respondent.**

**Promulgated:**

January, 28, 2025

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**CONCURRING OPINION**

**INTING, J.:**

I concur with the *ponencia*.

Refining the plea bargaining guidelines laid down in *People v. Montierro*<sup>1</sup> as to the requirement of remanding cases to the lower courts is consistent with the goals of a plea bargaining system aimed at achieving an efficient, speedy, and inexpensive disposition of cases.

However, while I am in agreement with the decision reached in the *ponencia*, I take this opportunity to provide additional clarification on the matter of the requirement for a drug dependency assessment in the approval of plea bargaining proposals.

*The Montierro Guidelines*

*Montierro* issued the following guidelines to be observed in plea bargaining in drugs cases:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.
2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.
3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.
4. As a rule, plea bargaining requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties, the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter

<sup>1</sup> 926 Phil. 430 (2022).



of right but is a matter addressed entirely to the sound discretion of the court.

- a. Though the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in granting or denying plea bargaining, taking into account the relevant circumstances, including the character of the accused.
5. The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:
  - a. the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or
  - b. when the evidence of guilt is strong.
6. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea Bargaining Framework in Drugs Cases.
7. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, though in accordance with the plea bargaining framework issued by the Court, if any.
8. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in item no. 5, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial court finds the objection meritorious, it shall order the continuation of the criminal proceedings.
9. If an accused applies for probation in offenses punishable under RA No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply.<sup>2</sup>

The guidelines in *Montierro* establish that a trial court exercises a duty-bound discretion in approving or denying plea bargaining proposals. This discretion to act on a plea bargaining proposal is independent from the requirement of mutual agreement of the parties.

#### *The Bason Guidelines*

As pointed out in *Bason v. People*,<sup>3</sup> an essential issue was raised before the Court in *Montierro* on the matter of whether a drug dependency test is a pre-requisite for the approval of a plea bargaining proposal. The subject of the clarification was the following guideline in the *Montierro* guidelines:

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<sup>2</sup> *Id.* at 468–469.

<sup>3</sup> G.R. No. 262664, October 3, 2023.



3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.<sup>4</sup> (Emphasis supplied)

To address the issue, the Court categorically ruled that a drug dependency test is not a requirement for the approval of a plea bargaining proposal. A drug dependency test is required for the trial courts to ensure that, after the approval of the plea bargaining proposal, an assessment is made to determine if treatment and rehabilitation or counselling, as the case may be, is required as provided in A.M. No. 18-03-16-SC.<sup>5</sup>

This categorical ruling of the Court in *Bason* is also consistent with the recognition that a plea bargaining mechanism in criminal procedure is geared towards achieving an efficient, speedy, and inexpensive disposition of a case. A prompt disposal of drugs cases thereby guarantees that the mechanism's benefits as to the accused, insofar as early rehabilitation, redemption, and reintegration to society is concerned, and to the State, insofar as to the minimal use of resources, are achieved.<sup>6</sup>

Accordingly, *Bason* issued further clarificatory guidelines to guide the trial courts in the implementation of the Court's plea bargaining framework, to wit:

1. A drug dependency test is not a precondition for the approval of a plea bargaining proposal. The test is to be conducted only after the trial court approves the plea bargaining proposal of the accused to determine whether he/she needs to be subjected to treatment and rehabilitation or undergo a counselling program at a rehabilitation center.
2. After approval of the plea bargaining proposal, trial courts shall be guided by the following:
  - a. In cases where the trial court approves a plea to the lesser offense of violation of paragraph 3 of Section 11 or Section 12 of RA 9165:
    - i. If the accused admits drug use or denies it but is found positive after a drug dependency test, then he/she shall be ordered to undergo treatment and rehabilitation for a period of not less than six (6) months, and counselling, if necessary.

<sup>4</sup> *People v. Montierro*, *supra* note 1, at 468.

<sup>5</sup> *Bason v. People*, *supra* note 3.

<sup>6</sup> *Id.*

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- ii. If the accused is found negative for drug use or drug dependency, then he/she shall undergo a counselling program at a rehabilitation center.
- iii. In both cases, the time spent at the rehabilitation center shall be credited as time served and shall be deducted from the period of imprisonment.
- iv. If the period of imprisonment has already been served, the accused shall still be ordered to undergo treatment and rehabilitation and/or counselling, as the case may be, as part of the rehabilitation and after-care/follow-up program.

b. In cases where the trial court approves a plea to a lesser offense of violation of Section 15 of RA 9165:

- i. If the accused admits drug use or denies it but is found positive after a drug dependency test, then he/she shall be ordered to undergo treatment and rehabilitation for a period of not less than six (6) months, and counselling, if necessary.
- ii. If the accused is found negative for drug use/dependency, then he/she shall be released immediately but shall be ordered to undergo a counselling program at a rehabilitation center.

c. The accused shall be subjected to the terms of rehabilitation provided under Article VIII of RA 9165, as applicable.<sup>7</sup>

In fine, after approval of a plea bargaining proposal, trial courts shall then require the conduct of a drug dependency assessment of the accused, not as a condition *sine qua non* for the plea bargaining but instead to ensure that the applicant undergoes treatment and rehabilitation or counselling, if needed.<sup>8</sup>

In cases where the *Aquino* guidelines have been applied and a remand to the trial courts is warranted, the trial courts are still required to conduct a drug dependency assessment pursuant to A.M. No. 18-03-16-SC and the guidelines set forth herein.

#### *The Aquino Guidelines*

With the recognition that the requirement of remanding cases involving dangerous drugs to the lower courts has been observed to result in the delay of the disposition of these cases, the Court refined the *Montiero* guidelines and issued additional guidelines and policies to be observed in plea bargaining in drugs cases.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*



As previously stated, the *Aquino* guidelines take into consideration the intended efficiency of a bargaining mechanism and allow reinstatement of the ruling of the trial courts as to the approval of plea bargaining proposals, if warranted.

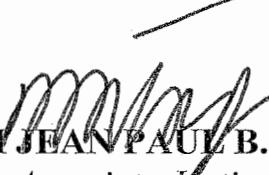
However, *Aquino* refined the *Montierro* guidelines without incorporating the *Bason* guidelines. Without the Court's categorical ruling in *Bason*, guideline three of the *Montierro* guidelines may still cause confusion as to the requirement of a drug dependency assessment in the approval of plea bargaining proposals.

*The Montierro, Bason, and Aquino  
Guidelines taken as a whole*

The issuance of the Court of the *Montierro* guidelines remains a landmark ruling in the development of the Court's plea bargaining legal framework. The *Bason* and *Aquino* guidelines emerged through different legal developments which required a clarification, as in the case of *Bason*, and refinement, as in the case of *Aquino*, of the *Montierro* guidelines.

The foregoing emphasizes the need to underscore the importance of the *Bason* and *Aquino* guidelines in ensuring that a complete and comprehensive appreciation is arrived at when discussing the Court's plea bargaining guidelines in drugs cases.

Thus, in the interest of guiding the Bench, the Bar, and the public, it must be settled therefore that the *Bason* guidelines remain an important part of the plea bargaining guidelines. *Bason* holds substantial relevance in the plea bargaining framework as it remains vital in the interpretation of guideline three of the *Montierro* guidelines, particularly in clearly stating that a drug dependency assessment is not a condition *sine qua non* in the approval of plea bargaining proposals.



**HENRI JEAN PAUL B. INTING**  
Associate Justice