

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **October 16, 2019** which reads as follows:

“G.R. No. 245332 (*Meriam Felomino y Garcia v. People of the Philippines*)

After review of the records, the Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in its October 29, 2018 Decision¹ and February 19, 2019 Resolution,² as to warrant the exercise of the Court’s appellate jurisdiction.

As correctly ruled by the Regional Trial Court (RTC) and CA, all the elements for the offense of Illegal Possession of Dangerous Drugs and Illegal Possession of Drug Paraphernalia under Sections 11(3)³ and 12,⁴ Article II of Republic Act No. 9165 were proven by

¹ *Rollo*, pp. 32-48; penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Victoria Isabel A. Paredes and Maria Filomena D. Singh, concurring.

² *Id.* at 50-50-A.

³ **SECTION 11. *Possession of Dangerous Drugs.*** — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

⁴ **SECTION 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.*** — The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall

the prosecution's evidence warranting affirmance of the judgment of the courts *a quo* convicting petitioner.

However, this Court finds it necessary to modify the penalties imposed by the RTC, as affirmed by the CA, for being contrary to Section 1⁵ of the Indeterminate Sentence Law. Considering that neither the offenses committed nor the imposable penalties were expressly exempt from the coverage of the Indeterminate Sentence Law pursuant to Section 2⁶ thereof, the imposition of the indeterminate sentence is mandatory.⁷

WHEREFORE, the findings of fact and conclusions of law in the October 29, 2018 Decision and February 19, 2019 Resolution of the Court of Appeals in CA-G.R. CR No. 40174 are **AFFIRMED with MODIFICATION**. In Criminal Case No. 14869, petitioner Meriam Felomino y Garcia is **GUILTY** beyond reasonable doubt of Illegal Possession of Dangerous Drugs and is hereby **SENTENCED** to suffer the penalty of twelve (12) years and one (1) day of imprisonment, as minimum, to fourteen (14) years, as maximum, and to pay a fine of ₱300,000.00. In Criminal Case No. 14856, petitioner is **GUILTY** beyond reasonable doubt of Illegal Possession of Drug Paraphernalia and is hereby **SENTENCED** to suffer the penalty of six

possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

⁵ **SECTION 1.** Hereafter, in imposing a prison sentence for an offense punished by acts of the Philippine Legislature, otherwise than by the Revised Penal Code, the court shall order the accused to be imprisoned for a minimum term, which shall not be less than the minimum term of imprisonment provided by law for the offense, and for a maximum term which shall not exceed the maximum fixed law; and where the offense is punished by the Revised Penal Code, or amendments thereto, the court shall sentence the accused to such maximum as may, in view of the attending circumstances, be properly imposed under the present rules of the said Code, and to a minimum which shall not be less than the minimum imprisonment period of the penalty next lower to that prescribed by said Code for the offense. Except as provided in section two hereof, any person who shall have been so convicted and sentenced and shall have served the minimum sentenced imposed hereunder, may be released on parole in accordance with the provisions of this Act.

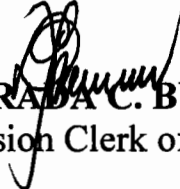
⁶ **SECTION 2.** This Act shall not apply to persons convicted of offenses punished with death penalty or life imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who shall have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year; nor to those already sentenced by final judgment at the time of approval of this Act, except as provided in section five hereof.

⁷ See *Luy v. People of the Philippines*, 797 Phil. 201, 212-213 (2016).

(6) months and one (1) day, as minimum, to two (2) years, as maximum, and to pay a fine of ₱10,000.00.

SO ORDERED. *Perlas-Bernabe, J., on Official Business; Gesmundo, J., designated as Acting Working Chairperson per Special Order No. 2717 dated October 10, 2019; Zalameda, J., designated as Additional Member per Special Order No. 2712 dated September 27, 2019.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court ²⁰¹⁹

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(CA-G.R. CR No. 40174)

The Solicitor General
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The Presiding Judge
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(Criminal Case Nos. 14856 & 14869)



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