Republic of the Philippines
REGIONAL TRIAL COURT
National Capital Judicial Region
Branch 148, Makati City

PEOPLE OF THE PHILIPPINES

-versus- **CRIM CASE NO. 03-2784**

SEN. ANTONIO F. TRILLANES IV, ET AL.,

Accused.

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ORDER

Submitted to the Court is a Manifestation and Very Urgent and Ex Parte Motion to Cancel the Scheduled Promulgation of Judgment filed by Senator Antonio F. Trillanes IV, James Layug and Gary C. Alejano.

During the scheduled promulgation of judgment this morning, all the accused and their respective counsels appeared, together with the Panel of Prosecutors. The Court heard Atty. Reynaldo B. Robles, counsel for Senator Antonio F. Trillanes IV, James Layug and Gary C. Alejano, and reiterated the grounds relied upon by said movants of the cancellation of scheduled promulgation of judgment. Atty. Ernesto Francisco, Jr., counsel for accused Ltsg. Eugene Louie P. Gonzalez, Ltsg. Andy G. Torrato, Ltsg. Manuel G. Cabochan, Ltjg. Arturo S. Pascua, Jr., 2Lt. Jonnell P. Sangalang, Ens. Armand G. Pontejos, Mr. Julius J. Mesa and Mr. Cezari Yasser T. Gonzalez, manifested before the Court that he is giving his conformity to the motion of Senator Antonio F. Trillanes IV, et al. Atty. Theodore O. Te manifested before this Court that he has no comment to the Motion filed.

The substitute counsel for Atty. Rene V. Saguisag, who is representing 1Lt. Nataniel Rabonza, manifested before the Court that they are joining the motion of Senator Antonio F. Trillanes IV. The same is true with Atty. Maria Victoria Gilera and Atty. Rose Beatrix Cruz-Angels and the other counsels, except for Atty. Hortensio G. Domingo, counsel for 1Lt. Rex Bolo, who manifested before the Court that 1Lt. Rex Bolo is ready for promulgation of judgment and he is not joining the motion of Senator Antonio F. Trillanes IV.

The Panel of Prosecutors in the person of Assistant Chief State Pros. Richard Anthony Fadullon and Senior

State Prosecutor Juan Navera manifested before the Court that they do not have any comment.

The Court then called the attention of Atty. Reynaldo B. Robles in respect to the attachments in the Manifestation and Very Urgent and Ex Parte Motion to Cancel the Scheduled Promulgation of Judgment, but what was annexed in the said motion is the Senate and the House of Representatives No. 08 dated November 24, 2010. At this point, Atty. Reynaldo B. Robles, counsel for Senator Trillanes, immediately manifested before the Court that they have already in their possession the resolution of both houses giving concurrence to the Proclamation No. 75 of the President and that they be allowed to file the concurrent resolution dated December 13, 2010. In Open Court, Atty. Reynaldo Robles submitted a copy of the Joint Resolution of the Senate and House of Representatives in relation to the concurrence of both houses with respect to Proclamation No. 75 of the President of the Philippines.

With the submission of said concurrence of the Senate of the Philippines and House of Representatives to Proclamation No. 75, with a recommendation, the Court pointed out that in Section 1 of proclamation number 75, it provides:

> **SECTION** 1. *Grant of Amnesty* – Amnesty is hereby granted to all active and former personnel of the AFP and PNP as well as their supporters who have or may have committed crimes punishable under the Revised Penal Code, the Articles of War or other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel incident who shall apply therefore: Provided, That amnesty shall not cover rape, acts of torture, crimes against chastity and other crimes committed for personal ends.

All the accused in this case are members of Armed Forces of the Philippines who participated in the July 27, 2003 Oakwood incident, therefore, they are covered by the amnesty.

Under Section 6 of Proclamation No. 75, it provides:

> **SECTION** 6. Effectivity. – This Proclamation shall take effect upon concurrence of a majority of all the Members of the Congress.

In other words, upon the concurrence of Congress which was already obtained as of December 13, 2010, the promulgation giving amnesty to the military officers/personnel, who participated in the 2003 Oakwood incident are already granted amnesty. The rest of the

provisions regarding publication in two (2) newspapers of general circulation, procedures for application and processing of the applicants will still have to be complied with by all the accused.

Considering that one of the accused 1Lt. Rex Bolo, wants the promulgation to be held, the Court inquired from all the accused whether they are intending to avail the amnesty, considering that one of the requirements is for them to apply for amnesty. Atty. Hortencio G. Domingo, at first, manifested before the Court that accused 1Lt Rex Bolo will only apply for amnesty, after the promulgation. It only follows that said accused will only apply for amnesty if the decision is against him.

If the Court promulgates the decision, it could affect all the accused or some of them, so all the accused should make up their minds whether they want the promulgation of judgment or not, or whether they are applying for amnesty. The Court told all the accused that the Court will be in recess for fifteen (15) minutes and they have to decide if all of them will apply for amnesty, and if they are, the Court will defer the promulgation. Otherwise, even if only one of them will ask that the decision be promulgated, then the Court will proceed with the promulgation.

After fifteen (15) minutes, the Court resumed session and Atty. Hortencio G. Domingo informed the Court that his client, 1Lt. Rex Bolo, has changed his mind and will apply for amnesty and will not wait for the promulgation of the decision.

With said manifestation, the Court informed all the accused that the Court will defer the promulgation and resolve the motion of Sen. Antonio F. Trillanes IV, James Layug and Gary C. Alejano, not only to defer the promulgation of the decision and cancellation of the same, but also to consider the promulgation of decision as mooted by Proclamation No. 75. Hence, the Court adjourned the session but informed all the accused that in ten (10) days, the Court will issue an appropriate Order considering that under Section 6 of Proclamation No. 75, the Proclamation of the President of the Philippines No. 75 has already been concurred by the House of Senate and House of Representatives on December 13, 2010 with a recommendation. Definitely, Proclamation No. 75 will render moot and academic the promulgation of the decision to those who will apply for amnesty and will be considered qualified to benefit from the same by the Committee/Commission under the Department of National Defense.

The Court made it clear and showed to all those present in Court, the counsels of all the accused, all the accused, the panel of prosecution and the general public, the Decision of the Court consisting of 260 pages, which will remain not promulgated because of the recent events which has overtaken the promulgation of the Decision of the Court. Said Decision is dated October 28, 2010 and will remain in the files of the Presiding Judge.

WHEREFORE, premises considered, the Motion to Cancel the Promulgation and to render the same moot and academic by reason of Proclamation No. 75 by the President of the Philippines, which took effect by the concurrence of the House of Senate and House of Representatives, the aforesaid motion is hereby GRANTED, only with respect to the cancellation of the promulgation of the decision, but the Court cannot render the promulgation moot and academic by reason of Proclamation No. 75 as all the accused has to avail of the Amnesty and that they must qualify per decision of the Commission under the Department of National Defense.

All accused therefore are hereby required to immediately, upon receipt of this order inform and submit to this Court a copy of their written applications for amnesty submitted to the Commission under the Department of National Defense on or before January 22, 2010 or earlier. This Order of the Court is based on the reason that the Presiding Judge has already given the Executive and Legislative Departments the judicial courtesy to finish all that is necessary to finalize and make effective the amnesty. It is now for all the accused to finish what is required of them to avail of the amnesty and have it processed by the Commission.

However, considering that the Presiding judge of this Court will retire on January 25, 2010, and the processing and approval of the applications of Amnesty with the Commission might take some time, and there is a possibility that the applications for Amnesty and the approval of the same would not be made or finalized before the aforesaid date of the Judge's retirement, the Court deems it best to cancel and suspend the promulgation of the Judgment of the instant case indefinitely until such time that the processing and approval of the Amnesty applications of all the accused be finalized and put into conclusion and a new Judge be appointed to this Court or an Acting Judge be designated to this Court.

If however, the processing and approval of the applications of Amnesty of the accused be finalized before January 25, 2010, then the Court will issue an order

declaring the Promulgation of Judgment moot and academic and the case closed.

Further, if some of the accused would not be able to finish and finalize their applications for Amnesty on or before January 22, 2010, then the promulgation of Judgment would as stated above be suspended until a new Judge would be appointed to take charge of this Court.

But if some of the accused or even one of them will not apply for Amnesty or that his or their Application is denied with finality, then the New Judge will have to prepare his decision in the case pursuant to the Rules of Court, unless the Presiding Judge of this Court is ordered by the Honorable Supreme Court to attach to the records his decision consisting of two hundred sixty (260) pages dated October 28, 2010 and that said decision be promulgated.

SO ORDERED.
City of Makati, December 16, 2010.

OSCAR B. PIMENTEL
Judge