Original – Court, 1st Copy – Prosecutor, 2nd Copy – Accused, Other copies as needed

Enter information in block letters in all parts of the Form except when reserved for Court use, which shall be completed by the Clerk.

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| --- | --- |
| (Judicial Region)  METC/MTCC/MTC/MCTC Case No.  RTC         (Municipality/City/Province)  BRANCH | For Court Use Only |
| People of the Philippines , v.  ,  *Accused.* |
| ATTORNEY OR PARTY WITHOUT ATTORNEY  *Name* ­­­  *Firm Name*  *Address*  *Email Address*  *Tel./Cel./Fax Nos.*  *PTR No.*       *Date/Place of Issuance*  *Roll No.*       *Date/Place of Issuance*  *IBP No.*       *Lifetime* *Date/Chapter*  *MCLE* *Compliance* *Exemption No.*  *Other Compliances* ­­­­­­­­­  *Attorney for*  *Prosecution:* *Public Prosecutor* *Private Prosecutor*  *Defense:* *Public Attorney* *Private Counsel*  *Other* |

**ORDER**

On motion of accused       through counsel,

without objection from the Public Prosecutor and the private complainant,

without objection from the Public Prosecutor,

over the objection of the Public Prosecutor,

this/these case/s is/are provisionally dismissed due to delay caused by the absence of an essential witness       (*name)*:

whose whereabouts are unknown or cannot be determined.

whose presence cannot be obtained by due diligence though his whereabouts are known, and the hearing in the case has been twice postponed. Both the witness and the offended party have been duly notified and warned that the case would be dismissed if the essential witness continues to be absent.

The delay is not due to the fault of the movant-accused.

Let the accused be immediately released from custody unless he is being held for other lawful cause.

The bail bond posted by the accused       Bond No.       is canceled.

The cash bond of the accused under O.R. No.       dated       in the amount of P      is ordered released to him or his duly authorized representative upon presentation of the O.R..

The lien on the property offered as bond and the corresponding annotation is ordered canceled is lifted.

The person to whom the accused has been released on recognizance is relieved of his duties.

Let a copy of this Order be sent to the last known address of complainant.

SO ORDERED.

     

Judge Date

COPY FURNISHED

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| --- | --- | --- | --- |
| Person’s Name | Method | Place Served | Date Served |
| Trial Prosecutor | Personal Service  Courier Service  Facsimile, Email, SMS |  |  |
| Counsel for Accused | Personal Service  Courier Service  Facsimile, Email, SMS |  |  |
| Private Complainant | Personal Service  Courier Service  Facsimile, Email, SMS |  |  |
| Accused | Personal Service  Courier Service  Facsimile, Email, SMS |  |  |
|  | Personal Service  Courier Service  Facsimile, Email, SMS |  |  |
|  | Personal Service  Courier Service  Facsimile, Email, SMS |  |  |

SPECIAL INSTRUCTIONS

*Provisional dismissal*

1. When the delays are due to the absence of an essential witness whose whereabouts are unknown or cannot be determined and, therefore, are subject to exclusion in determining compliance with the prescribed time limits which caused the trial to exceed one hundred eighty (180) days, the court shall provisionally dismiss the action with the express consent of the detained accused.
2. When the delays are due to the absence of an essential witness whose presence cannot be obtained by due diligence though his whereabouts are known, the court shall provisionally dismiss the action with the express consent of the detained accused provided:
   1. the hearing in the case has been previously twice postponed due to the non-appearance of the essential witness and both the witness and the offended party, if they are two different persons, have been given notice of the setting of the case for third hearing, which notice contains a warning that the case would be dismissed if the essential witness continues to be absent; and
   2. there is proof of service of the pertinent notices of hearings or subpoenas upon the essential witness and the offended party at their last known postal or e-mail addresses or mobile phone numbers.
3. For the above purpose, the public or private prosecutor shall first present during the trial the essential witness or witnesses to the case before anyone else. An essential witness is one whose testimony dwells on the presence of some or all of the elements of the crime and whose testimony is indispensable to the conviction of the accused.

(Section 10, A.M. No. 12-11-2-SC, Guidelines for Decongesting Holding Jails by Enforcing the Rights of Accused Persons to Bail and to Speedy Trial***)***