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.

|  |  |
| --- | --- |
| (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* |

**MOTION FOR PROVISIONAL DISMISSAL**

Accused       moves for the provisional dismissal of this case/these cases due to the repeated failure of the prosecution to present evidence in support of the charge/s, pursuant to Rule 117, Section 8 of the Rules of Criminal Procedure, with the accused's express conformity as manifested by his/her signature below.  Specifically, the prosecution has failed to present evidence during the following settings:       *(enumerate dates)* as evidenced by the records of this case.

WITH MY CONSENT TO PROVISIONAL DISMISSAL:

Accused Defense Counsel

PROOF OF SERVICE

A copy of this Motion was served upon parties and/or their counsel(s) on       via

Personal Service

Facsimile or other Electronic Means

and received by the parties and/or their counsel(s) on      .

Proof of such service is attached to this Motion as Annex      .

Date Party/Party’s Counsel’s Signature

NOTICE OF HEARING

Public Prosecutor

Address

Private Complainant

Address

GREETINGS: Please take notice that the foregoing Motion for Provisional Dismissal shall be submitted for the consideration and approval of the Honorable Court on       at      .

Counsel for Accused

ORDER

Upon the accused’s motion without objection from the public prosecutor, pursuant to Rule 117, Section 8 of the Rules of Criminal Procedure, due to the repeated failure of the prosecution to present evidence in support of the charge/s, Criminal Case No/s.       is/are provisionally dismissed with the express conformity of the accused, assisted by counsel. The accused is put on notice that the case/s may be revived within  one (1) year  two (2) years from date.

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

The cash bond posted by the accused under O.R. No.       dated       in the amount of PhP       is ordered released to him or his duly-authorized representative, pursuant to the rules of the Office of the Clerk of Court.

The surety bond of the accused under       No.       dated       in the amount of PhP       is ordered canceled.

The property bond of the accused is released from liability, the Register of Deeds of       is ordered to cancel the annotation of the property bond on OCT/TCT no.       in the name of      .

The custodian of the accused released on recognizance is relieved of further liability.

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

*Consent of the Accused*

A case shall not be provisionally dismissed except with the express consent of the accused and with notice to the offended party. (Rule 117, Section 8, ROC)

*When Dismissal Becomes Permanent*

The provisional dismissal of offenses punishable by imprisonment not exceeding six (6) years or a fine of any amount, or both, shall become permanent one (1) year after issuance of the order without the case having been revived. With respect to offenses punishable by imprisonment of more than six (6) years, their provisional dismissal shall become permanent two (2) years after issuance of the order without the case having been revived. (Rule 117, Section 8, ROC)

*Issuance of Order of Permanent Dismissal*

Upon lapse of one (1) year or two (2) years, as the case may be, after issuance of the Order of Provisional Dismissal, the court shall issue the Order of Permanent Dismissal (CF 5B).