

**EN BANC**

**[ G.R. No. 154569, September 23, 2002 ]**

**ROLANDO PAGDAYAWON, EDDIE SERNADILLA, FILEMON SERRANO, ALFREDO NARDO, JIMMY JACOB, RAMIL RAYOS, RODERICK LICAYAN, ROBERTO LARA, ROMEO NAVARETTE, ROLLY ABULENCIA, SANDY HINTO, CARLITO OLIVA, REYNALDO REBATO, ALEJANDRO GUNTANG, BLESSIE VELASCO, JUAN MANALO, FIDEL ALBORIDA, NONILITO ABINON, PABLO SANTOS, IRENEO PADILLA, ALEJO MIASCO, CASTRO GERABAN, LEONARDO MORIAL, RAMSHAND THAMSEY, OSCAR IBAO, WARLITO IBAO, ROCHIE IBAO, JAIME CARPO, NOEL QUIMSOM, PETITIONERS, VS. THE SECRETARY OF JUSTICE, THE DIRECTOR OF THE BUREAU OF CORRECTIONS, THE SUPERINTENDENT OF THE NEW BILIBID PRISONS, THE PRESIDING JUDGES OF THE REGIONAL TRIAL COURTS OF:**

**[1]**

**DAVAO CITY (BRANCH 33),**

**[2]**

**PASIG CITY (BRANCH 256,**

**[3]**

**MARIKINA CITY (BRANCH 272),**

**[4]) LEGAZPI CITY, ALBAY (BRANCH 3),**

**[5]**

**NASUGBU, BATANGAS (BRANCH 14),**

**[6]**

**SAN CARLOS CITY, PAGANSINAN,**

**[7]**

**BAYOMBONG, NUEVA ECIJA (BRANCH 29),**

**[8]**

**URDANETA CITY (BRANCH 46),**

**[9]**

**MALABON (BRANCH 170,**

**[10]**

**PARAÑAQUE CITY (BRANCH 259),**

**[11]**

**CAGAYAN DE ORO CITY (BRANCH 19,**

**[12]**

**MALOLOS, BULACAN (BRANCH 78),**

**[13]**

**ILOILO CITY (BRANCH 25),**

**[14]**

**CALAMBA CITY, LAGUNA (BRANCH 34),**

**[15]**

**MASSIN, LEYTE (BRANCH 24),**

**[16]**

**PAYALAN CITY, NUEVA ECIJA (BRANCH 40),**

**[17]**

**PASIG CITY (BRANCH 166),**

**[18]**

**DAVAO CITY (BRANCH 17),**

**[19]**

**BULAN, SORSOGON (BRANCH 65),**

**[20]**

**BATANGAS CITY (BRANCH 84),**

**[21]**

**TAYUG, PANGASINAN (BRANCH 51),**

**LIGAO, ALBAY (BRANCH 11) AND ALL OTHERS ACTING UNDER THEIR CONTROL, SUPERVISION AND INSTRUCTION RELATIVE TO THE ISSUANCE OF THE DEATH WARRANTS AND THE EXECUTION OF THE DEATH SENTENCES AGAINST PETITIONERS, RESPONDENTS.**

**R E S O L U T I O N**

**PER CURIAM:**

At bar is the petition filed by thirty (30)<sup>[1]</sup> death row inmates which seeks (1) to enjoin the execution of their respective death sentences in view of the possible repeal of laws authorizing the imposition of the death penalty by Congress and (2) a re-examination of RA 76592<sup>[2]</sup> and RA 81773<sup>[3]</sup> with the end in view of declaring them unconstitutional.

It is well-settled that the Supreme Court has the power to control the enforcement of its decisions, including the issuance of a temporary restraining order (TRO) to stay the execution of a death sentence which is already final. In the case of *Echegaray vs. Secretary of Justice*<sup>[4]</sup> this Court, quoting from an early case<sup>[5]</sup> held that:

"This Supreme Court has repeatedly declared in various decisions, which constitute jurisprudence on the subject, that in criminal cases, after the sentence has been pronounced and the period for reopening the same has elapsed, the court cannot change or alter its judgment, as its jurisdiction has terminated. When in cases of appeal or review the case has been returned thereto for execution, in the event that the judgment has been affirmed, it performs a ministerial duty in issuing the proper order. But *it does* not follow from this cessation of functions on the part of the court with reference to the ending of the cause that the judicial authority terminates by having then passed completely to the Executive. The particulars of the execution itself, which are certainly not always included in the judgment and writ of execution, in any event are absolutely under the control of the judicial authority, while the executive has no power over the person of the convict except to provide for carrying out of the penalty and to pardon.

Getting down to the solution of the question in the case at bar, which is that of execution of a capital sentence, *it must be accepted as a hypothesis that postponement of the date can be requested. There can be no dispute on this point. It is a well-known principle that notwithstanding the order of execution and the executory nature thereof on the date set or at the proper time*, the date therefore can be postponed, even in sentences of death. Under the common law this postponement can be ordered in three ways: (1) by command of the King; (2) by discretion (*arbitrio*) of the court; and (3) by mandate of the law. It is sufficient to state this principle of the common law to render impossible that assertion in absolute terms that after the convict has once been placed in jail the trial court can not reopen the case to