



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on July 31, 2017.

Present:

ALEXANDER G. GESMUNDO ----- Chairperson
MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Associate Justice
ZALDY V. TRESPESES ----- Associate Justice

The following resolution was adopted:

Criminal Case No. SB-16-CRM-0433 – People v. John Rey Dadvivas Tabujara

This resolves the following:

1. Prosecution's "MOTION TO SUSPEND PENDENTE LITE" dated July 10, 2017; and
2. Accused John Rey Dadvivas Tabujara's "COMMENT-OPPOSITION (TO THE PROSECUTION'S MOTION TO SUSPEND PENDENTE LITE DATED 10 JULY 2017)" dated July 24, 2017.

The Prosecution moves for the suspension *pendente lite* for ninety (90) days of accused John Rey Dadvivas Tabujara ["**accused**"], who is the incumbent Municipal Mayor of Cauayan, Negros Occidental, citing Section 13 of *Republic Act No. 3019 (R.A. 3019)* which provides:

SEC. 13. Suspension and loss of benefits. – Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as a complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office.

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It is argued by the Prosecution that the grounds for accused's suspension *pendente lite* concur, which are: (1) accused's indictment for violation of Section 3 (f) of *R.A. 3019* under a valid information;¹ and (2) his

¹ Records, pp. 1-3

arraignment held on February 27, 2017.² The Prosecution cites jurisprudence³ to the effect that preventive suspension under Section 13 of *R.A. 3019* is *mandatory* in character upon a proper determination of the validity of the information. In consonance with the principle that a public office is a public trust, the *raison d'être* of preventive suspension is to obviate a situation in which the accused public officer abuses his or her position by hampering the prosecution of the case by intimidating or influencing witnesses, tampering with evidence, or committing further acts of malfeasance while in office.

Accused, for his part, contends that the subject of preventive suspension under Section 13 of *R.A. 3019* involves the misuse of public funds or property resulting in damage to the government and the public, or acts which led to or enabled the same. In fact, since the offense of which accused was indicted pertains to the violation of Section 3 (f) of *R.A. 3019*, the jurisprudence cited by the Prosecution is *inapropos* as they involve charges of violations of Section 3 (e) and (h) of said law.⁴ Furthermore, accused opines that the evil sought to be prevented by the law is not likely to arise because, at this stage in the proceedings, the Prosecution has already completed gathering its documentary evidence without incident, and the witnesses it intends to present belong to other offices over which accused does not exercise any authority or influence.⁵ Hence, accused prays for the denial of the Motion.

The Motion should be granted. It is not for this Court to decide otherwise.

Accused was arraigned and pleaded not guilty⁶ under a valid information for violation of Section 3 (f) of *R.A. 3019*. Section 13 of *R.A. 3019* makes it mandatory for this Court to suspend any public officer against whom a valid information is filed charging a violation of said law, Title 7, Book II of the *Revised Penal Code*, or for any offense involving fraud upon government or public funds or property.⁷ Once the information is found to be sufficient in form and substance, then the Court must issue the order of suspension as a matter of course.⁸ There are no ifs and buts about it.⁹

The Court possesses no discretion to determine whether a preventive suspension is necessary to forestall the possibility that the accused may use his or her office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance. The presumption is that unless the accused is suspended, he or she may frustrate the prosecution of the case, commit further acts of malfeasance, or do both.¹⁰

² *Id.* at 199

³ *Socrates v. Sandiganbayan*, G.R. Nos. 116259-60, February 29, 1996; *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004; *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998

⁴ Records, p. 295

⁵ *Id.* at 296

⁶ *Id.* at 199

⁷ *Flores v. Layosa*, G.R. No. 154714, August 12, 2004

⁸ *Ibid*

⁹ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004

¹⁰ *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009 citing *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996)

As to the issue of the duration of suspension, it is settled that the preventive suspension may not be of indefinite duration or for an unreasonable length of time; it would be constitutionally proscribed otherwise as it raises, at the very least, questions of denial of due process and equal protection of the laws. The Court has thus laid down the rule that preventive suspension may not exceed the maximum period of ninety (90) days in consonance with *Presidential Decree No. 807 (the Civil Service Decree)*, now Section 52 of the *Administrative Code of 1987*.¹¹

In fine, no doubt can assail the verity that the preventive suspension of accused is warranted under the circumstances.

WHEREFORE, the Prosecution's *Motion to Suspend Pendente Lite* dated July 10, 2017 is **GRANTED**.

Pursuant to Section 13 of *Republic Act No. 3019*, accused John Rey Dadivas Tabujara is hereby suspended from his position as Municipal Mayor of Cauayan, Negros Occidental, and from any public office which he may now or hereafter be holding for a period of ninety (90) days.

Let a copy of this Resolution be furnished the Secretary of the Department of Interior and Local Government for the implementation of the order of suspension on said accused. Said office is further requested to inform this Court of the date the accused started serving his suspension *pendente lite* and the date of its termination.

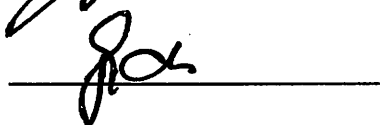
The suspension of the accused shall be automatically lifted upon expiration of the ninety-day period from the implementation of this Resolution.

SO ORDERED.

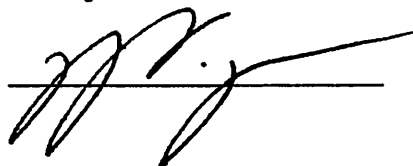
GESMUNDO, J., Chairperson



GOMEZ-ESTOESTA, J.



TRESPESES, J.



¹¹ *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998