



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SPECIAL SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-14-CRM-0231
For: Violation of Article 218 of the
Revised Penal Code (R.P.C.)

-versus-

**HANAFI IBRAHIM y
ABDULLATIP**
Accused,

PRESENT:

FERNANDEZ, SJ¹, J., *Chairperson*
MIRANDA,
MUSNGI²,
CALDONA³, &
JACINTO⁴, JJ.

Promulgated:

OCT 13 2017 *[Signature]*

X-----X

- ¹ J. Ponferrada, Chairperson of the 6th Division when the present incident was submitted for resolution, retired on September 13, 2017. J. Fernandez, SJ will participate in the resolution of the present incident in view of her assumption as Chairperson of the 6th Division on the same date. (As per Administrative Order (A.O.) No. 314-2017 dated September 13, 2017; Revised Internal Rules of the Sandiganbayan, Rule XII, Section 3).
- ² At the time the present incident was submitted for resolution, J. Musngi was designated as a temporary member of the Sixth Division, in view of the vacancy therein (as per A.O. No. 124-2017 dated April 4, 2017; Revised Internal Rules of the Sandiganbayan, Rule XII, Section 3).
- ³ In the resolution of the incident subject of the present motion for reconsideration, J. Caldonga was designated as a special member of the Special 6th Division. (as per A.O. No. 9-C-2017 dated July 31, 2017; Revised Internal Rules of the Sandiganbayan, Rule XIII, Section 1).
- ⁴ In the resolution of the incident subject of the present motion for reconsideration J. Jacinto was designated as a special member of the Special 6th Division. (as per A.O. No. 9-C-2017 dated July 31, 2017; Revised Internal Rules of the Sandiganbayan, Rule XIII, Section 1).

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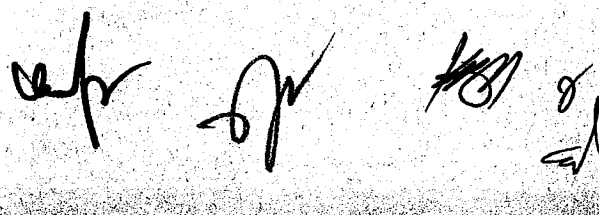
RESOLUTION

MIRANDA, J.:

This resolves: 1) accused Hanafi Ibrahim y Abdullatip's Motion for Reconsideration dated August 30, 2017; and 2) the Prosecution's Opposition to Motion for Reconsideration dated August 25, 2017.

In his motion for reconsideration, the accused assails the Resolution dated August 10, 2017 denying his Motion to Dismiss the Information with Motion to Defer Arraignment dated February 27, 2017. In particular, he claims that: 1) the termination of the preliminary investigation, and filing of the information in Court after *five (5) years, four (4) months and twenty-nine (29) days*, as computed by the Court, constitute inordinate delay; 2) the Prosecution failed to justify the alleged delay in the conduct of the preliminary investigation of this case; 3) the accused could not have waived his right to the speedy disposition of cases because it is not his duty to follow up the prosecution of this case with the Office of the Ombudsman; 4) the accused was prejudiced by the alleged delay because his witnesses could no longer be found at this time; and 5) the dismissal of cases for inordinate delay by the other divisions of this Court must be applied in this case.

In its opposition, the Prosecution, through the Office of the Special Prosecutor (OSP), seeks the denial of the motion for reconsideration filed by the accused for being a mere rehash of the arguments already raised in his Motion to Dismiss the Information with Motion to Defer Arraignment dated February 27, 2017. In particular, the OSP alleges that: 1) the fact-finding investigation is not part of the preliminary investigation; 2) the preliminary investigation of this case took more time because the case had to undergo extensive evaluation and review in the Office of the Ombudsman before its approval by Ombudsman Conchita Carpio-Morales; 3) the accused was not prejudiced because he was neither incarcerated nor preventively suspended before and during the fact-finding investigation, preliminary investigation, and trial of this case; and 4) the decisions of the other divisions of this Court are not applicable because of the peculiarity of the circumstances in this case.



After a restudy, the Court finds nothing new in the arguments raised by the accused in his motion for reconsideration. Accordingly, the motion for reconsideration is **denied** for lack of merit.

The Supreme Court has consistently emphasized that the constitutional right to the speedy disposition of cases is a relative and flexible concept.⁵ To reiterate, *each case must be decided upon the facts peculiar to it.*⁶ A mere mathematical reckoning of time involved would not be sufficient.⁷ The conduct and interests of both the prosecution and the accused are considered and balanced in determining whether the right to the speedy disposition of cases has been violated.

Records show that the Office of the Ombudsman spent an aggregate period of *seven (7) years, one (1) month and nineteen (19) days* from the receipt of the anonymous complaint on April 3, 2007, until the filing of the information with this Court on May 22, 2014. However, the Court excludes the period of *one (1) year, six (6) months and twenty (20) days* from the computation because it was used by the Commission on Audit-Region XII in conducting its audit investigation without any control and intervention from the Office of the Ombudsman. The period of *one (1) month and twenty-four (24) days* is also excluded from the computation because it was spent by the accused in seeking an extension of time to submit his counter-affidavit, and filing his counter-affidavit afterwards. Therefore, the total period attributable to the Office of the Ombudsman is only *five (5) years, four (4) months and twenty-nine (29) days*. As discussed in the assailed resolution, this period is reasonable because of the following: 1) the heavy workload and insufficient number of Graft Investigation and Prosecution Officers in the Office of the Deputy Ombudsman for Mindanao from the year 2009 to 2013; 2) the transmission of the draft resolution and the records of the case from the Office of the Deputy Ombudsman for Mindanao to the Office of the Ombudsman's central office; and 3) the review conducted by the OSP before filing the information in Court. The other matters relied upon by the accused in his motion for reconsideration are mere rehash or reiteration of the grounds and arguments already passed upon and resolved by the Court in the assailed resolution. There being no new matters or issues raised to warrant a reversal thereof, the Court is not inclined to grant the accused's motion for reconsideration.

⁵ *Dela Pea v. Sandiganbayan*, G.R. No. 144542, June 29, 2001


⁶ *Benares v. Lim*, G.R. No. 173421, December 14, 2006.

⁷ *Ibid.*

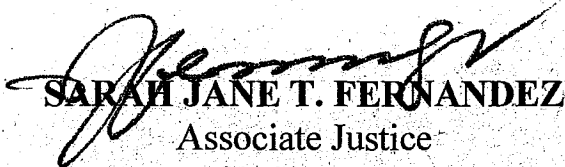
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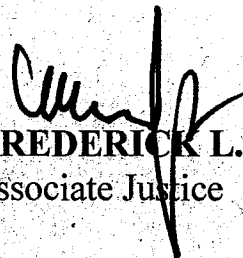
WHEREFORE, the Motion for Reconsideration dated August 30, 2017 of accused Hanafi Ibrahim y Abdullatip is **DENIED**. The Resolution of the Court promulgated on August 10, 2017 is **AFFIRMED**.

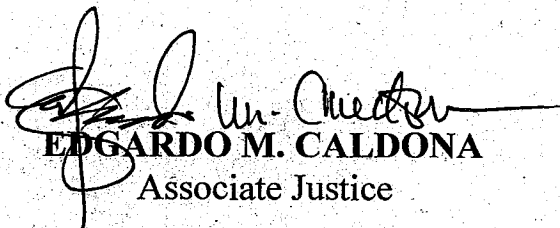
SO ORDERED.

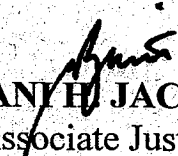

KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice


EDGARDO M. CALDONA
Associate Justice


BAYANI H. JACINTO
Associate Justice