



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE**  
**PHILIPPINES,**  
Plaintiff,

SB-17-CRM-0130-142  
For: Violation of Section 3 (e) of  
Republic Act (R.A.) No. 3019

-versus-

SB-17-CRM-0143-0155  
For: Violation of Section 52 (g), in  
relation to Section 6 (b), of R.A. No.  
829T

**EDILBERTO M. PANCHO**  
Accused,

PRESENT:

FERNANDEZ, S.J.<sup>1</sup>, *J.*, Chairperson  
MIRANDA, &  
MUSNGI<sup>2</sup>, *JJ.*

Promulgated:

**OCT 04 2017** *[Signature]*

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<sup>1</sup> J. Ponferrada, Chairperson of the 6<sup>th</sup> 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 6<sup>th</sup> 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

## RESOLUTION

MIRANDA, J.:

This resolves: 1), accused Edilberto M. Pancho's Motion for Reconsideration dated August 16, 2017; 2), the Prosecution's Comment/Opposition dated August 25, 2017; and 3), accused Pancho's Supplemental Motion for Reconsideration dated August 22, 2017.

In his motion, the accused assails the Resolution dated August 4, 2017 denying his Motion to Quash/Dismiss Informations dated May 17, 2017. He alleges that the date of approval by Ombudsman Conchita Carpio-Morales (Carpio-Morales) of the draft resolution in these cases was erroneously indicated as "September 15, 2016" instead of "September 15, 2015" in the timeline of events. He claims that the period of *one (1) year and three (3) months*, more or less, from the approval of the draft resolution by Ombudsman Carpio-Morales on September 15, 2015 to the filing of the informations with this Court on January 31, 2017, violates his constitutional right to the speedy disposition of cases.

In its comment/opposition, the Prosecution, through the Office of the Special Prosecutor (OSP), claims that the assailed resolution must be appreciated in its entirety, and not on a piecemeal basis. The OSP explains that the filing of the twenty-six (26) informations in these cases entailed more time because the draft informations had to be reviewed carefully before the final approval of Ombudsman Carpio-Morales.

In his supplemental motion for reconsideration, the accused reiterates that the termination of the preliminary investigation of these cases for more than *three (3) years*, constitutes inordinate delay. In particular, he alleges that: 1) the preliminary investigation of these cases was terminated beyond the period allowed by the law and Rules of Court; 2) the alleged delay is not justified because the records of the cases are not voluminous and complicated; 3) the failure of the accused to invoke his right to speedy disposition of cases during the preliminary investigation is not tantamount to a waiver of said right; and 4) the facts charged in the informations do not constitute the crimes of Violation of Section 3 (e) of R.A. No. 3019, and Violation of Section 52 (g), in relation to Section 6 (b), of R.A. No. 8291.

The motion for reconsideration is denied for patent 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.<sup>3</sup> *Each case must be decided upon the facts peculiar to it.*<sup>4</sup> A mere mathematical reckoning of time involved would not be sufficient.<sup>5</sup> 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 is violated.

In these cases, the Court finds nothing new in the arguments raised by the accused in his motion. The grounds relied upon are a mere rehash or reiteration of the grounds and arguments already passed upon and resolved by the Court in the assailed resolution. The inadvertent mistake of indicating the date of approval by Ombudsman Carpio-Morales of the draft resolution in these cases as “September 15, 2016” instead of “September 15, 2015”, does not materially affect the discussion of the Court in the assailed resolution. The periods between the submission of the draft resolution to Ombudsman Carpio-Morales on July 1, 2015, its approval on September 15, 2015, and the filing of the informations with this Court on January 31, 2017, were all attributed to the Office of the Ombudsman. The total period spent by the Office of the Ombudsman to finish its preliminary investigation, and for the OSP to file the corresponding informations is still three (3) years and twenty-eight (28) days. As already discussed, said period is not unreasonable, arbitrary and oppressive because of the volume of records, the nature of cases, and the peculiar incidents involved. The Court therefore finds no cogent reasons to deviate from its original finding that there is no inordinate delay in the conduct of preliminary investigation of these cases.

As an additional ground for the quashal of the informations, the accused claims that the facts charged in the twenty-six (26) informations do not constitute the crimes charged against him. This belated attempt of the accused to insert this ground in his motion for reconsideration is a blatant disregard of procedural rules. The accused should have raised the said ground in his motion to quash/dismiss informations.

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<sup>3</sup> *Dela Pea v. Sandiganbayan*, G.R. No. 144542, June 29, 2001

Section 8, Rule 15 of the Rules of Court provides:


*Sec. 8. Omnibus motion.* – Subject to the provisions of Section 1 of Rule 9, a **motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.** (Emphasis and underscoring supplied)

As a general rule, the rule on omnibus motion applies to all defenses and objections alleged in a motion<sup>6</sup> except in the following: 1) lack of jurisdiction over the subject matter; 2) *litis pendencia*; 3) *res judicata*; and 4) prescription.<sup>7</sup> Here, the ground that the facts charged in the information do not constitute a crime is not an exception to the rule on omnibus motion. The accused cannot be allowed to assert the said ground in this motion for reconsideration.

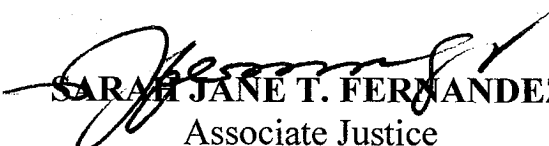
A motion for reconsideration is filed on the ground of errors of law or facts in the judgment, which requires no further proceedings.<sup>8</sup> The additional ground asserted by the accused was neither covered nor discussed by this Court in the assailed resolution. It is therefore not a proper subject of this motion for reconsideration.

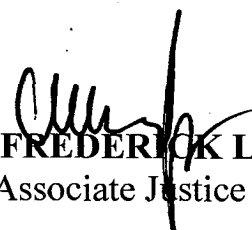
**WHEREFORE**, the Motion for Reconsideration dated August 16, 2017 of accused Edilberto M. Pancho is **DENIED**. The Resolution of the Court promulgated on August 4, 2017 is **AFFIRMED**.

**SO ORDERED.**

  
**KARL B. MIRANDA**  
Associate Justice

WE CONCUR:

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

  
**MICHAEL FREDERICK L. MUSNGI**  
Associate Justice

<sup>6</sup> Section 1, Rule 9 of the Rules of Court.

<sup>7</sup> Section 1, Rule 15 of the Rules of Court defines a "motion" as an application for relief other than by a