



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on April 27, 2018

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
ZALDY V. TRESPESES ----- Associate Justice
BAYANI H. JACINTO ----- Associate Justice*

The following resolution was adopted:

SB-17-CRM-0063 – People v. Jaime K. Recio

Before this Court are:

1. The Prosecution’s “MOTION FOR LEAVE OF COURT TO FILE AMENDED INFORMATION” dated March 27, 2018; and
2. Accused Jaime K. Recio’s “COMMENT/OPPOSITION” (*To Prosecution’s Motion for Leave of Court to File Amended Information*) dated April 15, 2018.

The Prosecution seeks leave of court to amend the *Information*¹ in Criminal Case No. SB-17-CRM-0063 filed against accused Recio to allege the amount released as amounting to P7,842,941.60, instead of P7,843,54.33. It explained that this was a mere typographical error, thus, a formal amendment, and in order to conform to the evidence.

Accused Recio opposes² the amendment of the *Information*, arguing that it was not a formal, but substantial amendment, which would be prejudicial to his right to be informed of the charges against him, as well as serve to delay the case. The difference in the amounts is too substantial to constitute only a formal amendment. The Prosecution had numerous opportunities to seek the amendment of the *Information*, which was filed early

* Per A.O. No. 284-2017 dated August 18, 2017

¹ *Motion for Leave of Court to file Amended Information, Records, Vol. 5, pp. 94-97*

² *Comment/Opposition (To Prosecution’s Motion for Lave of Court to File Amended Information), Id., pp. 119-124*

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in 2017, but failed to do so; and instead deliberately filed the Motion after it was done presenting its evidence.

The *Motion* is bereft of merit.

Section 14, Rule 110 of the Rules of Court provides:

SEC. 14. *Amendment or substitution.* A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. **After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.**

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Undue injury is an essential element of violation of Sec. 3(e) of R.A. 3019, and must be alleged specifically. The main purpose of requiring the various elements of a crime to be set out in the information is to enable the accused to suitably prepare his defense because he is presumed to have no independent knowledge of the facts that constitute the offense.³ A mistake in the amount alleged in an *Information* for violation of Sec. 3(e) of R.A. 3019 is too substantial to be left uncorrected for more than a year, during which evidence to prove the allegations in the *Information* has already been presented. By *Order* dated April 4, 2018,⁴ the last witness for the prosecution against accused Recio was already presented.

The nature of the amendment sought by the Prosecution could have been more clear-cut had the *Information* spelled out the amount alleged in words. However, the amount involved was only alleged numerically, and this Court is not inclined to attribute the purported mistake to mere typographical error and rule out a variance amounting to millions, which one digit could signify.

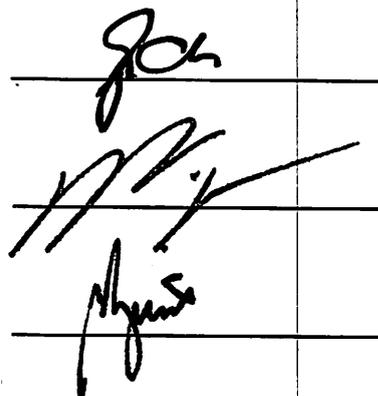
WHEREFORE, in view of the foregoing, the Prosecution's *Motion for Leave of Court to File Amended Information* is **DENIED** for lack of merit.

SO ORDERED.

GOMEZ-ESTOESTA, J., *Chairperson*

TRESPESES, J.

JACINTO, J.



The block contains three horizontal lines, each with a handwritten signature written over it. The signatures are in black ink and appear to be 'Joh', 'Trespeses', and 'Jacinto'.

³ *Andaya v. People*, G.R. No. 168486, June 27, 2006

⁴ *Records*, Vol. 5, pp. 90-91