



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
QUEZON CITY

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**SEVENTH DIVISION**

*MINUTES of the proceedings held on May 22, 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 RECONSIDERATION (RESOLUTION DATED 27 APRIL 2018)" dated May 3, 2018; and
2. Accused Jaime K. Recio's "COMMENT/OPPOSITION" (To Prosecution's Motion for Reconsideration of the Resolution dated 27 April 2018) dated May 11, 2018.

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Before this Court is the Prosecution's *Motion for Reconsideration* of this Court's *Resolution* dated April 23, 2018 denying its *Motion for Leave of Court to Amend the Information* to reflect a different amount released as payment for the transaction subject of the *Information*.

In its *Motion for Reconsideration*,<sup>1</sup> the Prosecution reiterated that only formal amendment of the *Information* is necessary to conform to the evidence, *i.e.*, the disbursement vouchers, which were annexes to the complaint-affidavit, and are even common exhibits. This would not change the defense of accused Recio, since the change in the amount would not be a surprise to him. Moreover, since the *Information* charges accused Recio with giving unwarranted benefits, preference, or advantage to Variance Protective and Security Agency ("Variance"), the element of undue injury is not required to be specifically alleged in the *Information*.

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

<sup>1</sup> Records, Vol. 5, pp. 129-211

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In his *Comment/Opposition*,<sup>2</sup> accused Recio branded the Prosecution's arguments as a mere rehash; thus its *Motion* must be denied outright. He in turn reiterated that the gross invariance in the figures would make an amendment in the *Information* prejudicial to him. It behooved the Prosecution to proceed in this case based on the correct *Information*. The amount alleged refers to both the undue injury caused to the government and the unwarranted benefits granted to Variance. If the element of undue injury need not be specifically alleged, as submitted by the Prosecution, then there would be no reason for it to seek the amendment of the *Information*.

The *Motion* is bereft of merit.

The Prosecution's *Motion* raises arguments already passed upon by this Court in the assailed *Resolution*. The amount paid to Variance, whether constituting undue injury to the government or unwarranted benefit to Variance, remains to be a material element of the offense charged, and needs to be stated specifically. The belated amendment in the *Information* of an amount allegedly paid by accused Recio to Variance, which could spell a difference amounting to millions, would undoubtedly be prejudicial to accused Recio.

WHEREFORE, in view of the foregoing, the Prosecution's *Motion for Reconsideration* is **DENIED** for lack of merit.

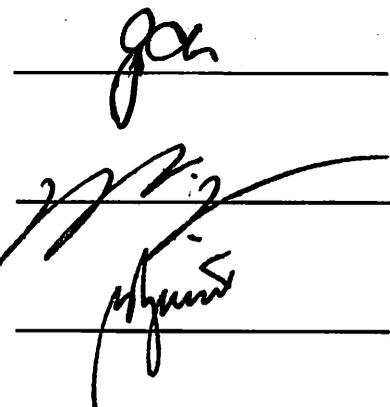
The parties are reminded of the setting for the initial presentation of defense evidence on August 2, 2018, at 8:30 in the morning.

SO ORDERED.

GOMEZ-ESTOESTA, J., *Chairperson*

TRESPESES, J.

JACINTO, J.



The block contains three horizontal lines, each with a handwritten signature above it. The first signature is 'Gomez', the second is 'Trespeses', and the third is 'Jacinto'.

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<sup>2</sup> *Id.*, pp. 220-225