



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 4 July 2018.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice GEORGINA D. HIDALGO ----- Member

The following resolution was adopted:

Crim. Case No. SB-12-CRM-0216 - People vs. GEORGE T. HOFER, et al.,

This resolves the following:

1. Accused George T. Hofer's MOTION FOR SUSPENSION OF PROCEEDINGS and FOR POSTPONEMENT of the HEARING SCHEDULED ON JUNE 7, 2018" dated 28 May 2018;¹ and
2. The prosecution's "COMMENT/OPPOSITION (*to Motion for Suspension of Proceedings filed by accused George T. Hofer*)" dated 18 June 2018.²

Submitted for the Court's resolution is the motion for suspension of proceedings with prayer that a medical doctor from the National Bureau of Investigation, Cebu City (NBI-Cebu) be directed to conduct a mental examination of accused George T. Hofer (accused).

ACCUSED'S MOTION

Accused, through counsel, requests for the suspension of proceedings based on the former's alleged dementia, which causes serious impairment on his ability to comprehend the significance of the proceedings against him, thus, depriving him of his right to substantive due process of law. Accused seeks the suspension of proceedings until such time that he recovers from his present mental predicament.

¹ *Rollo*, Vol. III, pp. 268-273.

² *Id.* at 308-310.

7.
8
v

X-----X

In support of the motion, accused's counsel attached as Annex "A" thereof a report from a certain Dr. Robert R. Cañete of Counseling and Care Center on the examination of the cognitive function of accused. Also attached were supporting test results of the Mini-Mental State Examination and Clock Drawing Test apparently conducted on accused. Based thereon, Dr. Cañete provisionally diagnosed accused to be suffering from "Dementia, probably Alzheimer's type, of mild to moderate severity."³

Accordingly, accused prays that the Court direct a medical doctor of the NBI-Cebu (as accused now resides in Cebu City) to conduct an unbiased examination to verify accused's mental health.

Accused further prays that the hearing of the case be suspended indefinitely until the said doctor submits his written findings to the Court.

PROSECUTION'S OPPOSITION

In its comment, the prosecution raises the following objections to the motion:

1. The prosecution claims that there is no legal basis cited to support accused's argument in his motion;
2. The attached report of Dr. Cañete was dated 31 August 2017. Hence, it does not reflect accused's present state of mind;
3. Dr. Cañete was not presented in court during the hearing on the motion to substantiate his findings so his finding deserves scant consideration;
4. The motion is a mere afterthought because it is only now that the issue of accused's mental state is being raised, notwithstanding that the alleged diagnosis was made last year and many hearings have been conducted since;
5. The motion is intended only to delay the proceedings in his case and, if granted, will impair the State's right to prosecute accused for violating its penal laws; and
6. There is no basis for the prayer to direct a medical doctor from NBI-Cebu to mentally examine accused, and it will only result in unnecessary delay and expense for the Court and State.

³ Rollo, Vol. III, p. 272.

7.

7

OUR RULING

We partially grant the motion.

Sanity being the normal condition of the human mind, the presumption is always in favor of sanity and the burden of proof of insanity is on the defense.⁴

Thus, in the present case, accused's counsel adduced preliminary evidence of his client's impaired mental condition via the report of Dr. Cañete attached to his motion. He moreover moved for accused to be examined by a medical doctor from NBI-Cebu to confirm the said findings.

In fine, defense counsel is seeking a determination of accused's competency to stand trial. This relates to the appropriateness of conducting the criminal proceeding in light of the accused's present inability to participate meaningfully and effectively. If he is found incompetent to stand trial, his trial is simply postponed until such time as he may be found competent.⁵

While the prosecution counters that Dr. Cañete's findings do not deserve credence because he was not presented in court during the hearing on the motion to substantiate his findings, the Court now is *not* ruling on accused's mental competence based on Dr. Cañete's findings. The Court merely considers Dr. Cañete's report as sufficient basis to direct a sanity investigation or hearing. This is in line with *People v. Estrada*,⁶ where the Supreme Court held:

The determination of whether a sanity investigation or hearing should be ordered rests generally in the discretion of the trial court. Mere allegation of insanity is insufficient. There must be evidence or circumstances that raise a "reasonable doubt" or a "bona fide doubt" as to defendant's competence to stand trial. Among the factors a judge may consider is evidence of the defendant's irrational behavior, history of mental illness or behavioral abnormalities, previous confinement for mental disturbance, demeanor of the defendant, and psychiatric or even lay testimony bearing on the issue of competency in a particular case. (Underscoring supplied.)

The prosecution doubts that Dr. Cañete's report reflect accused's present state of mind because it was issued almost a year earlier. However, Dr. Cañete's report indicates that the provisional diagnosis, dementia, is a brain disease "that cause a long term and often gradual decrease in the ability to think and remember."⁷ Hence, it is likely that accused's mental condition is persisting, if not worsening, with the passage of time.

⁴ *People v. Aquino*, G.R. No. 87084, 27 June 1990.

⁵ *People v. Estrada*, 389 Phil. 216-243 (2000).

⁶ *Supra*.

⁷ *Rollo*, Vol. III, p. 272.

We also agree with the prosecution that counsel for accused's timing in accused's mental competency to stand trial leaves much to be desired. However, we emphasize that suspending the trial of an insane person is meant for the protection of the accused, rather than the public, to wit:

The rule barring trial or sentence of an insane person is for the protection of the accused, rather than of the public. It has been held that it is inhuman to require an accused, disabled by act of God to make a just defense for his life or liberty. To put a legally incompetent person on trial or to convict and sentence him is a violation of the constitutional rights to a fair trial and due process of law; and this has several reasons underlying it. For one, the accuracy of the proceedings may not be assured, as an incompetent defendant who cannot comprehend the proceedings may not appreciate what information is relevant to the proof of his innocence. Moreover, he is not in a position to exercise many of the rights afforded a defendant in a criminal case, e.g., the right to effectively consult with counsel, the right to testify in his own behalf, and the right to confront opposing witnesses, which rights are safeguards for the accuracy of the trial result. Second, the fairness of the proceedings may be questioned, as there are certain basic decisions in the course of a criminal proceeding which a defendant is expected to make for himself, and one of these is his plea. Third, the dignity of the proceedings may be disrupted, for an incompetent defendant is likely to conduct himself in the courtroom in a manner which may destroy the decorum of the court. Even if the defendant remains passive, his lack of comprehension fundamentally impairs the functioning of the trial process. A criminal proceeding is essentially an adversarial proceeding. If the defendant is not a conscious and intelligent participant, the adjudication loses its character as a reasoned interaction between an individual and his community and becomes an invective against an insensible object. Fourth, it is important that the defendant knows why he is being punished, a comprehension which is greatly dependent upon his understanding of what occurs at trial. An incompetent defendant may not realize the moral reprehensibility of his conduct. The societal goal of institutionalized retribution may be frustrated when the force of the state is brought to bear against one who cannot comprehend its significance.⁸ (Underscoring supplied.)

Because it is for accused's protection that a trial may be suspended on the ground of accused's mental incompetence, accused's belated invocation thereof mainly prejudices him.

We understand the prosecution's concern regarding possible further delays in the prosecution of the case that might result from granting the motion. However, the right of the State to punish people who violate its penal laws must be balanced with the rights of the accused,⁹ which, as explained in the preceding quote, includes the suspension of trial due to accused's incompetence to stand trial. In order to balance the interests of the parties, the Court therefore resolves to limit the period within which the

⁸ *Supra* at note 7.

⁹ *People v. Tampal*, 314 Phil. 35-45 (1995).

X-----X

accused must submit it the report of a competent medical doctor from NBI-Cebu on the mental competency of the accused to stand trial.

Regarding the prayer that a medical doctor from NBI-Cebu examine the accused's mental condition, we note that not only NBI physicians, but government physicians in general, are competent to examine persons and issue medical certificates which will be used by the government by virtue of their oaths as civil service officials.¹⁰

Finally, for the parties' guidance, we quote the Supreme Court's discussion on the test to determine mental competency to stand trial:

In determining a defendant's competency to stand trial, the test is whether he has the capacity to comprehend his position, understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate, communicate with, and assist his counsel to the end that any available defense may be interposed. This test is prescribed by state law but it exists generally as a statutory recognition of the rule at common law. Thus:

"[I]t is not enough for the . . . judge to find that the defendant [is] oriented to time and place, and [has] some recollection of events, but that the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding-and whether he has a rational as well as factual understanding of the proceedings against him."

There are two distinct matters to be determined under this test: (1) whether the defendant is sufficiently coherent to provide his counsel with information necessary or relevant to constructing a defense; and (2) whether he is able to comprehend the significance of the trial and his relation to it. The first requisite is the relation between the defendant and his counsel such that the defendant must be able to confer coherently with his counsel. The second is the relation of the defendant vis-a-vis the court proceedings, i.e., that he must have a rational as well as a factual understanding of the proceedings.¹¹ (Footnotes omitted. Underscoring supplied.)

WHEREFORE, premises considered, accused George T. Hofer's motion is **PARTIALLY GRANTED**. The motion for indefinite suspension of the proceedings is **DENIED**, but the prayer for the mental examination of the accused is **GRANTED**, with accused, through counsel being directed to:

1. **SUBMIT** to a medical examination by a competent medical doctor from a government hospital to evaluate his mental competence to stand trial; and

¹⁰ *Tarapen y Chongoy v. People*, 585 Phil. 568-598 (2008).

¹¹ *Supra* at note 7.

7.
JK

2. **SUBMIT** the resulting medical report of the said doctor to the Court within ninety (90) calendar days from receipt of this Resolution.

Meanwhile, the hearings set on 15 and 16 August 2018 are cancelled and no hearings of the case are set until further notice from the Court.

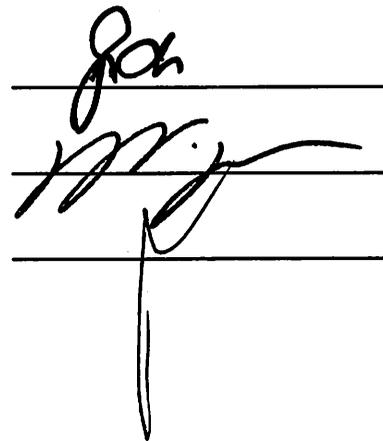
SO ORDERED.

Approved:

GOMEZ-ESTOESTA, J., Chairperson

TRESPESES, J.

HIDALGO, J.



Three horizontal lines with handwritten signatures written over them. The first signature is 'JGH', the second is 'J.T.', and the third is 'J.H.'.