



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-17-CRM-1424 - 1425

For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019

-versus-

ALFREDO G. GERMAR,
Accused,

PRESENT:

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, J., &
VIVERO, J.

Promulgated:

AUG 16 2018 *[Signature]*

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RESOLUTION

MIRANDA, J.:

For resolution are the: 1) Motion for Leave of Court to File Demurrer to Evidence dated July 16, 2018 filed by accused Alfredo G. Germar (Germar) on the same day; and 2) Comment/Opposition (Re: Motion for Leave of Court to File Demurrer to Evidence) dated July 20, 2018 filed by the Prosecution on July 24, 2018.

Accused Germar moves for leave to file demurrer to evidence on the ground that the Prosecution's evidence is insufficient to establish his guilt beyond reasonable doubt for violation of Section 3(e) of R.A. No. 3019. Accused Germar argues that: 1) The prior authorization of the *Sangguniang Bayan* is no longer needed because Appropriation Ordinance No. 2012-11-10

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RESOLUTION

People v. Alfredo G. Germar
SB-17-CRM-1424 – 1425

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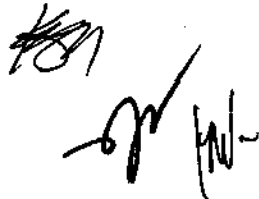
already includes an appropriation for consultancy services; 2) He did not act in bad faith because it is his prerogative to choose consultants for barangay affairs, municipal administration and governance, business investments, calamities and disasters, and security relations, even without the approval of the *Sangguniang Bayan*; 3) The consultancy contracts were impliedly ratified because the *Sangguniang Bayan* did not disown, disavow, or disapprove the consultancy contracts; 4) The Commission on Audit (COA) did not disallow payment of the consultancy contracts; and 5) The consultants rendered actual services, and their fees were not exorbitant.

On the other hand, the Prosecution contends that: 1) There is no *Sangguniang Bayan* resolution or ordinance authorizing accused Germar to engage the services of consultants for Calendar Year 2013; 2) The authority granted in Appropriation Ordinance No. 2012-11-10 is different from the authority to enter contracts under Section 22(c) of the Local Government Code; 3) The lack of authority from the *Sangguniang Bayan* caused undue injury to the government and gave unwarranted benefits to the private consultants in the amount of One Hundred Ten Thousand Three Hundred Fifty-Seven Pesos (Php110,357.00); and 4) The authority of the *Sangguniang Bayan* is needed because Appropriation Ordinance No. 2012-11-10 did not sufficiently detail the consultancy projects and the corresponding costs.

After a thorough review of the records of these cases and the evidence formally offered by the Prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for violation of Section 3(e) of R.A. No. 3019. Accordingly, the Court hereby **DENIES** the Motion for Leave of Court to File Demurrer to Evidence dated July 16, 2018 of accused Germar.


This is without prejudice to the filing by the accused of a Demurrer to Evidence without prior leave of court, but subject to the legal consequence provided under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, that he shall waive his right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the Prosecution.

WHEREFORE, the Motion for Leave of Court to File Demurrer to Evidence dated July 16, 2018 of accused Germar is **DENIED**. Accused Germar, through counsel, is given a non-extendible period of five (5) days from receipt of this Resolution within which to file his Demurrer to Evidence without prior leave of court, if he so desires, or file a Manifestation informing the Court that he will no longer file a Demurrer to Evidence.


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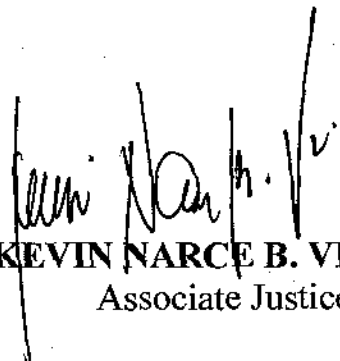
The hearings set for accused Germar to present his evidence on August 16 and 30, 2018, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the Demurrer to Evidence of the accused.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice