



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

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**FIFTH DIVISION**

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

SB-18-CRM-0052 and 0053  
For: Violation of Section 3(e)  
R.A. No. 3019 as amended

- versus -

CRISOLOGO SABOD BITAS.,  
*Accused.*

*Present:*

Lagos, *J.*, *Chairperson,*  
Mendoza - Arcega and  
Corpus - Mañalac, *JJ.*

Promulgated:

August 16, 2018 *lal*

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**Resolution**

***CORPUS - MAÑALAC, J.:***

For resolution is the **Manifestation of Compliance with Omnibus Motion to Admit Updated Medical Certificate, for the Reconsideration of its Order dated May 4, 2018 and to Defer Arraignment** filed by the accused on July 19, 2018. The prosecution filed its **Opposition** thereto on August 1, 2018.

The Order dated May 4, 2018 states:

When this arraignment was called, accused and his counsel were not present. On record is a Notice of Appearance filed by Atty. Vispero Mayor with information that the accused cannot physically travel to the court for his arraignment. Prosecutor Melgar opposed any deferment of the arraignment considering that the accused does not appear to be mentally unfit to be arraigned and that although he was certified to be suffering from certain ailments, he is not physically handicapped to travel to this Court.

Upon motion of the prosecution, his cash bond is ordered confiscated for failure to appear at today's arraignment. Reset arraignment to June 1, 2018 at 8:30 in the morning.

The June 1, 2018 setting, however, was cancelled,<sup>1</sup> and the arraignment was reset to July 6, 2018.

<sup>1</sup> Minutes of the Proceedings dated May 30, 2018, Records, p. 126

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Owing to the same state of health of the accused, who is “not only disabled but also not anymore ambulant due to physical and medical complications that caused his paralysis,”<sup>2</sup> as attested to by the unsworn Medical Certificate submitted by his counsel, the accused again failed to appear during the July 6, 2018 scheduled arraignment. Thus, in the Order of said date, the arraignment was reset to July 19, 2018 in Cebu City to be presided over by the Seventh Division of this Court, with the directive for the counsel to submit an “updated notarized medical certificate attesting to the physical inability of the accused to attend today’s hearing” within five (5) days.

On July 18, 2018,<sup>3</sup> a day prior to the scheduled hearing in Cebu City, the instant **Manifestation of Compliance with Omnibus Motion to Admit Updated Medical Certificate, for the Reconsideration of its Order dated May 4, 2018 and to Defer Arraignment** was received by the Court.

Meanwhile, during the arraignment set in Cebu City, the accused and his counsel failed to appear. A Warrant of Arrest was issued against the accused, whereas his counsel, Atty. Vispero Mayor, was directed to show cause and explain within ten (10) days from notice why he should not be cited in contempt.

**The Manifestation of Compliance**  
**with Omnibus Motion**

At this juncture, in compliance to the directive of the Order dated July 6, 2018, Atty. Mayor submitted an “updated and duly notarized Medical Certificate of the Accused,” which indicated that:

Patient is chronically bedridden state with poor functional status pending physical rehabilitation. As a result, he is unable to ambulate/travel because of his underlying residual right hemiplegia with deformities as a sequence of his Cerebral Infraction (stroke) in 2015 and also because of his poor cardiac function from his previous heart attack in 2012.

The same Medical Certificate stated that the accused was medically advised “not to travel to distant places for now and the next six (6) months for it will not only be difficult but likewise will be risky for him medically.”

By reason thereof, the accused prayed for the following reliefs, *viz.*

1. Reconsideration of the confiscation of his cash bond as contained in the Order dated May 4, 2018;
2. Deferment of his arraignment scheduled on July 19, 2018 as contained in the Order dated July 6, 2018; and for its resetting until

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<sup>2</sup> Manifestation with Urgent Motion to Defer Arraignment filed on May 3, 2018, Records, p. 96  
<sup>3</sup> Order dated July 18, 2018, Record, p. 149



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after six (6) months from July 16, 2018 in view of the accused's medical condition.

The accused pleaded for the "kind consideration" and "sense of compassion" of this Court on his physical condition to merit a reconsideration of the Order confiscating his cash bond due to his failure to appear. Consequently, he prayed for the deferment of the July 19, 2018 arraignment and that it be set after six (6) months therefrom in consonance with the advice of his physician.

### The Opposition

The prosecution countered that the motion of accused "has no merit and suffers from procedural infirmities," considering that the period to file a reconsideration of the *May 4, 2018 Order* had already lapsed. Allegedly, the Revised Guidelines for Continuous Trial of Criminal Cases allows a non-extendible period of five (5) days for a party to file a motion for reconsideration of a meritorious motion. Here, it was only on July 18, 2018 or more than five (5) days from the accused's receipt of the Order when it filed the present motion. The motion was also not set for hearing and lacks the requisite notice in violation of Sections 4 and 5 of Rule 15 of the Rules of Court.

Moreover, it alleged that the ground cited by the accused is not among those allowed under Section 11 of Rule 116, Rules of Court, for the suspension of arraignment. The Medical Certificate submitted by the accused does not show that the accused is suffering from an unsound mental condition which would render him unable to fully understand the charges against him and enter his plea. It was alleged further that the accused is ambulant who can physically travel to Metro Manila because the Clinical Abstract/Summary he submitted prior to the July 16, 2018 Medical Certificate was one issued by the National Kidney Transplant Institute located at the East Avenue, hence, it bears doubt why he could not travel to the Court located in the same area. While the accused suffered stroke in 2012 and 2015, years had passed for him to recuperate from his ailments. It closed its argument by stating that the accused cannot indefinitely delay the proceedings, which is causing the government its time and resources.

### The Court's Ruling

Foremost, the accused's submission of an "updated and duly notarized Medical Certificate" is NOTED as a sufficient compliance to the Order of May 4, 2018.



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On his Omnibus Motion, the Court finds that while there may have been procedural infirmities as it failed to strictly comply with the requirements of Sections 4 and 5 of Rule 15, Rules of Court, the same can be brushed aside as the prosecution nonetheless was given the opportunity to comment thereto.<sup>4</sup> In fact, it filed its opposition to the Omnibus Motion. In *Marylou Cabrera v. Felix Ng*,<sup>5</sup> the Supreme Court held:

The general rule is that the three-day notice requirement in motions under Sections 4 and 5 of the Rules of Court is mandatory. It is an integral component of procedural due process. The purpose of the three-day notice requirement, which was established not for the benefit of the movant but rather for the adverse party, is to avoid surprises upon the latter and to grant it sufficient time to study the motion and to enable it to meet the arguments interposed therein.

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Nevertheless, the three-day notice requirement is not a hard and fast rule. When the adverse party had been afforded the opportunity to be heard, and has been indeed heard through the pleadings filed in opposition to the motion, the purpose behind the three-day notice requirement is deemed realized. In such case, the requirements of procedural due process are substantially complied with.

The Court cannot close its eyes to the predicament of the accused. Attached to the present Omnibus Motions is an updated Medical Certificate attesting to the physical condition of the accused that has subsisted long after his first scheduled arraignment of May 4, 2018. The record bears of a Medical Certificate issued by Dr. Mae Christine Agatha Bodo-Bernabe dated March 9, 2018<sup>6</sup> indicating that the accused is in a “*chronic bedridden state*” from his “cerebrovascular disease” and “myocardial infraction,” among others. This remained of the accused in the succeeding months as shown in the Medical Certificate dated May 31, 2018<sup>7</sup> up until the filing of this Omnibus Motion with attached updated Medical Certificate issued by Dr. Vicente Zeta dated July 16, 2018,<sup>8</sup> stating to accused’s medical condition as follows:

s/p<sup>9</sup> Cerebrovascular Disease, Infract, Left Middle Temporal and Left communicating artery with Residual Hemiplegia Right Extremities, 2015; Chronically Bedridden State; s/p Acute Myocardial Infraction and Coronary Angioplasty, 2012; Hypertensive Cardiovascular Disease with Decreases LV Systolic Function (37% EF); Diabetes Mellitus Type 2, Controlled; Depression.

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<sup>4</sup> Minutes of the Proceedings dated July 20, 2018, Records, p. 150

<sup>5</sup> GR No. 201601, March 12, 2014

<sup>6</sup> Record, p. 113

<sup>7</sup> Records, p. 132

<sup>8</sup> Records, p. 144

<sup>9</sup> s/p stands for status/post

*adjective* Medtalk Clinical shorthand referring to a state that follows an intervention;  
<https://medical-dictionary.thefreedictionary.com/status%2Fpost>, visited August 3, 2018



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Verily, the same Medical Certificate of Dr. Zeta proved he was advised “not to travel to distant places for now and the next six (6) months x x x for it will be risky for him medically” and that it was advised “not to put him in a situation which will expose him to severe discomfort and physical stress while recuperating.”

True, the ground invoked by the accused is literally not one of the grounds for suspension of arraignment as provided for under Section 11, Rule 116 of the Rules of Court, *viz.*

SEC. 11. *Suspension of Arraignment.* Upon motion by the proper party, the arraignment shall be suspended in the following cases:

- (a) The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto. In such case, the court shall order his mental examination and, if necessary, his confinement for such purpose;
- (b) There exists a prejudicial question; and
- (c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; *Provided*, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office.

However, his medical state as afore-stated effectively inhibited him from showing up in Court on May 4, 2018. It was not shown that his absence during the May 4, 2018 arraignment was only to evade the process of this Court. For humanitarian consideration, thus, the Court is persuaded to reconsider, and rules to reinstate his cash bond that was ordered forfeited in the Order of May 4, 2018.

As to accused’s prayer for deferment of arraignment scheduled on July 19, 2018 in Cebu City, the same has become academic in view of the Order of the Seventh Division on said date, which had directed the issuance of a Warrant of Arrest against the accused for his failure to appear. For the reason that this Court now rules for the reinstatement of the accused’s cash bond to secure his temporary liberty, the Order dated July 19, 2018, as far as the issuance of an arrest warrant, is necessarily lifted.

Anent the move for deferment of the accused’s arraignment to a date after six (6) months from July 9, 2018, however, the Court is not inclined to grant. The prosecution is correct in stating that the medical condition of the accused cannot be used to “indefinitely delay the proceedings” in this case. A six (6) month period of delay is too long that cannot be sweepingly tolerated

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at this point. An earlier schedule of arraignment in the next three (3) months would rather be reasonable, as may it may be sufficient time for the accused to somehow improve his medical state and be prepared for his arraignment.

**WHEREFORE**, in view of the foregoing, the Court resolves to:


1. **NOTE** the accused's compliance to the Order of May 4, 2018 with respect to the submission of an updated and notarized Medical Certificate;
2. **RECONSIDER** the Order dated May 4, 2018 and **REINSTATE** the cash bond posted by the accused in the instant cases;
3. **RECALL** the Warrant of Arrest issued against the accused Bitas in the Order dated July 19, 2018 in these cases;
4. **DENY** the requested deferment of accused's arraignment to a period of six (6) months from July 19, 2018.

For humanitarian consideration, in order that the accused may recuperate from his present medical state, his arraignment is set on October 19, 2018 at 8:30 in the morning. Should the accused again fail to appear without any valid justification, his bond will be confiscated and an arrest warrant shall necessarily issue against him.

**SO ORDERED.**

  
**MARYANN E. CORPUS – MAÑALAC**  
Associate Justice

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
*Chairperson*  
Associate Justice

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice