



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

Seventh Division

MINUTES of the proceedings held on August 24, 2018

Present:

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

The following resolution was adopted:

Crim Case Nos. SB-18-CRM-0344 and 0345 – People of the Philippines vs. Danilo Reyes Crisologo, et al.

This resolves the following:

1. Accused Danilo R. Crisologo's "MANIFESTATION AND MOTION" dated July 27, 2018¹; and
2. The prosecution's "COMMENT/OPPOSITION" dated August 6, 2018.²

HIDALGO, J.:

Before this Court for resolution are:

- (1) "Manifestation and Motion" dated July 27, 2018, filed by accused Danilo R. Crisologo; and
- (2) "Comment/Opposition" dated August 6, 2018, filed by the prosecution.

¹ Record, Vol. 2, pp. 412-414.

² Id. at 438-441.

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The “Manifestation and Motion” relates to two Informations both dated March 8, 2018 filed by the Office of the Ombudsman charging accused Danilo Reyes Crisologo (“accused Crisologo” for brevity), Roberto Loleng Manlavi (“accused Manlavi”), Louise Espulgar Cabahug (“accused Cabahug”) and Generoso R. Quilatan (“accused Quilatan”) for violation of Section 3(e) of RA 3019 and Malversation of Public Property in relation to Article 222 of the Revised Penal Code.

After the two Informations were filed with this Court on April 27, 2018,³ Warrants of Arrest⁴ dated May 9, 2018 were issued against all accused.

Accused Crisologo voluntarily surrendered and posted a cash bond for his provisional liberty in the amount of Fifty Thousand Pesos (₱50,000.00).⁵ Accused Manlavi likewise voluntarily surrendered and posted cash bond for his provisional liberty in the amount of Fifty Thousand Pesos (₱50,000.00).⁶ Consequently, their arraignment was scheduled on June 21, 2018 at 8:30 in the morning. During their arraignment on said date, both accused pleaded “NOT GUILTY” to the crimes charged.

On the other hand, accused Quilatan voluntarily surrendered before the Regional Trial Court of Bacoor, Cavite, Branch 89 and posted a bail bond for his provisional liberty which was approved by this Court on June 29, 2018. His arraignment was initially set on July 27, 2018 at 8:30 in the morning,⁷ but was subsequently reset to September 21, 2018 at 8:30 in the morning.⁸ Accused Cabahug, to date, remains at large. Preliminary Conference for the present cases was scheduled on August 10, 2018.

Accused Crisologo, on July 27, 2018, filed with this Court the present “Manifestation and Motion”. The same was set for hearing on August 3, 2018 at 8:30 in the morning. On the said date of hearing, Prosecutor Joshua A. Tan verbally made his opposition to the said “Manifestation and Motion.” The Court, however, gave him five (5) days from the said date to file his written Comment. On August 8, 2018, the prosecution filed its “Comment/Opposition.”

In his “Manifestation and Motion,” accused Crisologo, in essence, argued that the present criminal charges filed against him must be dismissed since the Office of the Ombudsman on April 30, 2018 issued a Resolution,⁹ dismissing a case filed against him for Violation of Section 3(e) and (g) of

³ Record, Vol. 1, p. 1 and Vol. 2, p. 1.

⁴ Record, Vol. 2, pp. 284-285.

⁵ Id. at 289.

⁶ Id. at 306.

⁷ Id. at 399.

⁸ Id. at 430.

⁹ Id. at 414-427.

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Republic Act No. 3019, as amended, and Article 217 of the Revised Penal Code.

Specifically, accused Crisologo argued that on July 12, 2018, he received a copy of the Resolution of the Office of the Ombudsman which relates to a Complaint docketed as OMB-C-C-16-0013. In said Resolution, the said Office dismissed said Complaint against him and his co-respondents (co-accused herein) Roberto L. Manlavi, Louise Cabahug and Generoso Quilatan for violation of Section 3 (e) and (g) of Republic Act No. 3019, as amended and Article 217 of the Revised Penal Code because the third element for the prosecution of Section 3 (e) of RA 3019, *i.e.*, “his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions,” is lacking.¹⁰

Accused Crisologo insisted that since the above-mentioned third element is lacking, the Office of the Ombudsman found no probable cause to indict him of the crime charge and thus, ultimately, the prosecution will be having a hard time in meeting the required quantum of proof in criminal cases which is “proof beyond reasonable doubt.”

Lastly, to convince this Court to give due course to his “Manifestation and Motion,” he cited the case of *People vs. Roldan Morales (Morales case)*,¹¹ where the Supreme Court ruled that due process clause protects the accused against conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged.

In its “Comment/Opposition,” the Office of Special Prosecutor (“OSP”) ultimately prayed that the “Manifestation and Motion” be denied for lack of merit.¹²

The OSP advanced that accused Crisologo has an erroneous interpretation of the Resolution dated April 30, 2018. Clearly, said Resolution did not, in any way, dismiss the complaint docketed as OMB-C-C-13-0310. The OSP explained that the complaint docketed as OMB-C-C-16-0013, which pertains to violations of Sections 3(e) and 3(g), RA 3019 and Violation of Article 217 of the Revised Penal Code, was the one dismissed by the Office of the Ombudsman as contained in a Resolution dated April 30, 2018. The OSP further clarified that in the complaint docketed as OMB-C-C-13-0310, the Office of the Ombudsman issued a Resolution dated June 30, 2016, finding probable cause to indict them of the charges for Violation of Section 3(e) and 3(g), RA 3019 and Violation of Article 222 of the Revised Penal Code.

¹⁰ Id. at 422.

¹¹ G.R. No. 172873, March 19, 2010.

¹² Record, Vol. 2, p. 439.

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Lastly, the OSP maintained that it would be improbable for the Office of the Ombudsman to issue a Resolution in a case dismissing a complaint pertaining to another case.

After the filing of the “Comment/Opposition,” the “Manifestation and Motion” was deemed submitted for resolution as per Order of this Court dated August 3, 2018.¹³

Hence, this Resolution.

Without being repetitive, accused Crisologo argued that the present criminal charges filed against him must be dismissed since the Office of the Ombudsman on April 30, 2018 issued a Resolution¹⁴ dismissing cases filed against him for violation of Section 3(e) and (g) of Republic Act No. 3019, as amended, and Article 217 of the Revised Penal Code.

Accused Crisologo’s arguments do not persuade this Court.

FIRST, an examination of the Resolutions dated June 30, 2016 and April 30, 2018 will reveal that these two Resolutions pertain to different cases, albeit, involving all the same accused.

To set the record straight, the present cases docketed as SB-CRM-0344 and SB-18-CRM-0345 arose from the Resolution dated June 30, 2016 of the Office of the Ombudsman docketed as OMB-C-C-13-0310, where the Office of the Ombudsman found probable cause against all accused for violation of Section 3(e) of RA 3019 and Malversation in relation to Article 222 of the Revised Penal Code.

On the other hand, what the Office of the Ombudsman dismissed in its Resolution dated April 30, 2018 are the charges for violation of Section 3(e) and (g) of RA 3019 and Article 217 of the Revised Penal Code.

Thus, while it may be true that there appears to be an appearance of similarity with respect to charges for violation of RA 3019, as correctly pointed out by the OSP, the subject matter in the Resolution dated April 30, 2018 and Resolution dated June 30, 2016 is **different**. The subject matter in the former is connected with the charges of sale of certain aviation spare parts made by Philippine Aerospace Development Corporation (“PADC”) at substantially reduced prices as determined by the Commission on Audit.

To be precise, the finding of dismissal as contained in the Resolution dated April 30, 2018 is grounded on the absence of undue injury to any party including the government.¹⁵ The OSP explained that it found no reasonable

¹³ Id. at 437.

¹⁴ Id. at 414-427.

¹⁵ Id. at 423.

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basis in the computation of undue injury suffered by PADC. The OSP explained further that, and to which we also agree, considering that the spare parts were claimed to be nearing obsolescence or do not have any tags or records of traceability, their acquisition cost cannot be the basis in determining the losses incurred.¹⁶ It also observed that there were no unwarranted benefit granted to Wingtips Parts Corp. (“WPC”) or even to two other customers, who purchased the spare parts from PADC at reduced prices.

Meanwhile, in the Resolution dated June 30, 2016, where the Office of the Ombudsman found probable cause to indict all accused for violation of Section 3(e) of RA 3019 and Article 222 of the Revised Penal Code, the subject matter is the loss of the subject aircraft fuel pressure indicator which came to the possession of the WPC and then sold to the Navy.¹⁷ The Office of the Ombudsman’s rationale is that accused Crisologo committed gross inexcusable negligence in the discharge of his official function as PADC Head while accused Manlavi, among others, recommended an extreme reduction of the selling prices of inventories without technical study and appraisal of property.

In sum, there is an array of differences in the subject matter of the two cases in which accused Crisologo is involved.

SECOND, accused Crisologo now asserts that the *Morales* case¹⁸ where the Supreme Court said that “the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged” applies in these cases.

We do not see any reason to apply the doctrine laid down in the *Morales* case in the present cases because *Morales*’ subject matter is possession and sale of methylamphetamine hydrochloride while the present cases are for violation of RA 3019 and Article 222 of the Revised Penal Code.

In *Carmelo F. Lazatin, et al. vs. Hon. Aniano A. Desierto as Ombudsman and Sandiganbayan (Third Division)*,¹⁹ the Supreme Court explained the concept of doctrine of *stare decisis non quieta movere* (to adhere to precedents and not to unsettle things which are established), embodied in Article 8 of the Civil Code of the Philippines which provides, thus:

¹⁶ Id.

¹⁷ Id. at 19.

¹⁸ Supra note 11.

¹⁹ G.R. No. 147097, June 5, 2009.

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“ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.”

In the same case, the Supreme Court explained that the said doctrine enjoins adherence to judicial precedents. It requires courts in a country to follow the rule established in a decision of the Supreme Court thereof. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.²⁰

Stare decisis simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.²¹

In these cases, accused Crisologo has not shown any strong, compelling reason to convince the Court that the doctrine of *stare decisis* should be applied. To repeat, the *Morales* case pertains to RA 9165 while the present case is for RA 3019 and Article 222 of the Revised Penal Code.

THIRD, accused likewise argued that since the Office of the Ombudsman overturned its previous position in finding probable cause to indict him, necessarily, the present case must also be dismissed since the reasonable doubt standard rule cannot be reached.

This Court disagrees.

The determination of probable cause does not require certainty of guilt for a crime. A finding of probable cause needs only to rest on evidence showing that more likely than not a crime has been committed and there is enough reason to believe that it was committed by the accused. It need not be based on clear and convincing evidence of guilt, neither on evidence establishing absolute certainty of guilt.²²

²⁰ Id.

²¹ Id.

²² *Oscar R. Ampil vs. Honorable Office of Ombudsman, et al.*, G.R. No. 192685, July 31, 2013.

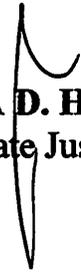
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WHEREFORE, the “Manifestation and Motion” dated July 27, 2018 is **DENIED** for lack of merit.

Consequently, set the continuation of preliminary conference on September 21, 2018 at 2:00 in the afternoon at the Sandiganbayan Library. Further, as agreed upon by the parties, set the signing of the Joint Stipulations of Facts and Issues on October 22, 2018 at 2:00 in the afternoon.

Lastly, set the Pre-Trial of these cases on November 15, 2018 at 8:30 in the morning.

SO ORDERED.

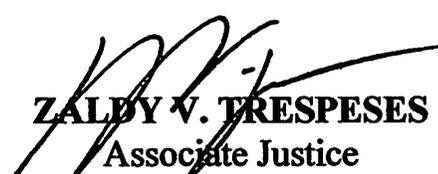


GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:



MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Chairperson/Associate Justice



ZALBY V. TRESPESES
Associate Justice