



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-1407**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

**SB-17-CRM-1408**  
For: Falsification of Public Documents

*Present*

- versus -

**FERNANDEZ, SJ, J.,**  
Chairperson  
**MIRANDA, J. and**  
**VIVERO, J.**  
**VICENTE S. PARAGAS, ET AL.**  
Accused.

*Promulgated:*

**SEP 06 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the following:

1. The prosecution's *Motion to Amend Information*;<sup>1</sup>
2. *Opposition To The Motion To Amend Information And Amended Information*<sup>2</sup> filed by accused Vicente S. Paragas;
3. *Motion to Adopt Accused Vicente Paragas' Comment/Opposition to Motion to Amend Information*<sup>3</sup> filed by accused Nelson S. Sikat and Lorna O. Borlongan;
4. *Opposition to the Motion to Amend Information (With Manifestation)*<sup>4</sup> filed by accused Arnulfo Z. Hernandez; and

<sup>1</sup> Dated July 10, 2018; Record, Vol. 5, pp. 12-18

<sup>2</sup> Dated July 17, 2018; Record, Vol. 5, pp. 39-45

<sup>3</sup> Dated July 27, 2018; Record, Vol. 5, pp. 50-51

<sup>4</sup> Dated July 31, 2018; Record, Vol. 5, pp. 52-54

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5. *Manifestation*<sup>5</sup> filed by accused Elpidio E. Atienza.

In its Motion, the prosecution prays that this Court allow the amendment of the Information in the present cases, and that the attached Informations be admitted. It avers that proposed amendments, i.e. the proper descriptions of the respective positions held by accused Paragas and Hernandez, are formal amendments, made only for the purpose of stating with precision what is already contained in the Informations. Said proposed amendments do not charge another offense or alter its theory, and will not cause surprise to the accused or affect the defenses they may originally have.

In his Opposition, accused Paragas counters:

1. Amendments after arraignment and after plea cannot be allowed because it cannot be done without causing prejudice to the rights of the accused, and it will violate the constitutional proscription against double jeopardy.
2. He will be prejudiced by the amendments because he will no longer be able to use the defense that he did not commit the charges as "Regional Executive Director, Natural Water Resources Board."
3. The charges are in relation to the office, and to the accused' performance of their official functions. Allowing amendments pertaining to the positions held by the accused will change the basic theory of the prosecution.

Accused Sikat, Borlongan and Hernandez adopted the arguments in the Opposition of accused Paragas. Accused Atienza, for his part, manifested that he will not submit any comment/opposition to the prosecution's Motion.

THE COURT'S RULING

Rule 110, Sec. 14 of the Rules of Court provides for the amendment of an Information. The provision reads:

**Sec. 14. Amendment or substitution.** – A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the

<sup>5</sup> Dated and filed on August 20, 2018

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plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

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Here, the accused had already entered their plea. Hence, formal amendments may be made only if the same can be done without causing prejudice to the rights of the accused.

This Court finds that the proposed amendments are merely formal amendments which may be allowed if the rights of the accused are not prejudiced.

In *Mendez v. People*,<sup>6</sup> the Supreme Court explained the difference between formal and substantial amendments. To wit:

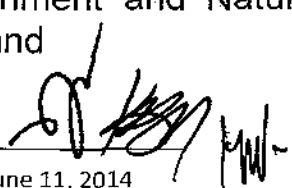
There is no precise definition of what constitutes a substantial amendment. According to jurisprudence, substantial matters in the complaint or information consist of the recital of facts constituting the offense charged and determinative of the jurisdiction of the court. Under Section 14, however, the prosecution is given the right to amend the information, regardless of the nature of the amendment, so long as the amendment is sought before the accused enters his plea, subject to the qualification under the second paragraph of Section 14.

x x x

In short, amendments that do not charge another offense different from that charged in the original one; or do not alter the prosecution's theory of the case so as to cause surprise to the accused and affect the form of defense he has or will assume are considered merely as formal amendments.

The amendments sought to be made in the Informations are as follows:

1. That the description of accused Paragas' position be changed from "Regional Executive Director, Natural Water Resources Board" to "Regional Executive Director (RED), Department of Environment and Natural Resources Regional Office (DENR RO); and

  
<sup>6</sup> G.R. o. 179962, June 11, 2014

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2. That the description of accused Hernandez's position be changed from "Regional Technical Director, Protected Areas, Wildlife and Coastal Zone Management Service" to "OIC-Provincial Environment and Natural Resources Office (PENRO), Department of Environment and Natural Resources Regional Office (DENR RO) – IV, Calapan City."

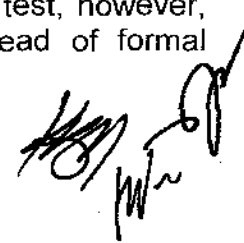
Changing the descriptions of the respective positions held by accused Paragas and Hernandez will not change the offenses charged. The accused are still charged with Violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019) in Crim. Case No. SB-17-CRM-1407, and with Falsification of Public Documents under Art. 171 of the Revised Penal Code (RPC) in Crim. Case No. SB-17-CRM-1408.

Neither will the proposed changes alter the theory of the prosecution. In Crim. Case No. SB-17-CRM-1407, the acts attributed to the accused remain to be, in the performance of their administrative and/or official functions, awarding the subject contract to A.M. Lacanienta Surveying Office without the conduct of public bidding, and causing the payment of ₱5,250,000.00 to accused Lacanienta despite non-accomplishment of the survey and mapping services. On the other hand, in Crim. Case No. SB-17-CRM-1408, the act allegedly committed by the accused will still be taking advantage of their official positions to falsify public documents to support the payment of the contract cost to accused Lacanienta.

Next, accused Paragas argues that the change in the description of the position he held will cause prejudice because he will no longer be able to use the defense that he did not commit the charges as "Regional Executive Director, Natural Water Resource Board." Such argument does not persuade.

In *Mendez*, the Supreme Court held that, indeed, a defendant may be prejudiced by an amendment if the same defense available under the original information will no longer be available after the amendment. However, this must be read together with the characteristic thread of formal amendments. *viz.:*

To be sure, the jurisprudential test on whether a defendant is prejudiced by the amendment of an information pertains to the availability of the same defense and evidence that the accused previously had under the original information. This test, however, must be read together with the characteristic thread of formal



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amendments, which is to maintain the nature of the crime or the essence of the offense charged.

As this Court found, the proposed amendments will not alter the nature or essence of the offenses charged. The defenses available to the accused under the original Informations will remain available to them under the amended Informations.

**WHEREFORE**, the prosecution's Motion is hereby **GRANTED**. Accordingly, the Amended Information in Crim. Cases No. SB-17-CRM-1407 and SB-17-CRM-1408 are hereby **ADMITTED**.

SO ORDERED.

  
SARAH JANE T. FERNANDEZ

Associate Justice  
Chairperson

**We Concur:**

  
KARL B. MIRANDA  
Associate Justice

  
KEVIN NARCE B. VIVERO  
Associate Justice