



Republic of the Philippines  
Sandiganbayan  
Quezon City

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**FIFTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**Crim. Case No. SB-18-CRM-0122**  
**For: Violation of Section 3(a)**  
**R.A. No. 3019, as amended**

- versus -

**RICHARD RAFAL ENOJO,**  
*Accused.*

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

**Promulgated:**

September 04, 2018 *Jal*

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**RESOLUTION**

***CORPUS – MAÑALAC, J.***

For resolution is accused Richard Enojo's Motion for Reconsideration of this Court's Resolution dated July 9, 2018 ordering his preventive suspension from his incumbent position as Provincial Administrator and from any other public office which he may now or hereafter be holding, for a period of ninety (90) days.

The motion was filed on August 7, 2016 or fifteen (15) days from accused's receipt of a copy thereof on July 23, 2018.

The accused reiterates that he is being charged of an *impossible crime*, since the complained act of abusing his position as the Provincial Administrator of the Province of Negros Oriental was allegedly committed on February 7, 2013 whereas he was appointed as such only on February 5, 2014. Additionally, he argues that the purpose of preventive suspension is "to prevent the accused from hampering the normal course of the investigation," or "to keep the accused off the records and other evidence, which are not applicable to his case, considering that: (1) he cannot possibly intimidate most of the prosecution witnesses who are high ranking police officers; (2) he has no reason to intimidate the private complainant or the prosecution witness who will authenticate accused's service record which the accused will adopt as his own exhibit; and (3) prosecution witness Rosabelle Sanchez was disallowed to testify as her intended testimony is irrelevant. He cannot likewise tamper or

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destroy documentary evidence against him because these documents are records of the PNP Station of Dauin, Negros Occidental. Thusly, accused claims that there is no basis in substance to his preventive suspension.

Opposing the move, the prosecution asserts that the motion was filed out of time, which was beyond the five (5) day period allowed under the *Revised Guidelines for Continuous Trial of Criminal Cases* [AM No. 15-06-10-SC]. The claim of *impossible crime* is a rehash of his position in the Comments/Opposition to the Motion to Suspend Pendente Lite, and that the matters raised by the accused are matters of defense which should be threshed out during trial. It was added that the purpose of a preventive suspension is not limited to preventing the intimidation of witnesses or destruction of evidence, but also to prevent the accused from committing further acts of malfeasance while in office.

### Ruling

At this point, the Court notes that the motion is procedurally infirm as it was filed by registered mail on August 7, 2018 which is beyond the non-extendible five (5) day period prescribed under AM No. 15-06-10-SC. Such being the case, it deserves a scant consideration from this Court, more so as nothing new in substance was raised in the motion. The argument on the alleged *impossible crime* has been raised in accused's Comment/Opposition to the Motion to Suspend Pendente Lite, but the Court had ruled that "the arguments of accused on the merits of the Ombudsman resolution finding probable cause against him are evidentiary." While duly noting the accused's urgings on the alleged non-applicability of the purposes of preventive suspension to the instant case, however, they do not suffice to overcome what is mandated in Section 13 of RA 3019. Reiterating, Court had ruled that:

X x x

Undoubtedly, a preventive suspension is prescribed against an incumbent public officer who is charged under a valid *Information* for: (a) violation of Republic Act No. 3019; (b) violation of Title 7, Book II of the Revised Penal Code; (c) any offense involving fraud upon a government; or (d) any offense involving fraud upon public funds or property. It is mandatory while the criminal prosecution is pending in court. There is no *ifs* and *buts* about it. The Supreme Court reinforced the mandatory character of this provision of law in the case of *Villaseor vs. Sandiganbayan* citing the cases of *Luciano vs. Provincial Governor*, *Luciano vs. Mariano*, *People vs. Albano*, *Gonzaga vs. Sandiganbayan*. In *Bunye vs. Escareal*, it was stated that x x x x


X x x

Here, the application of Section 13 of Republic Act No. 3019 is called for, considering the presence of the following conditions, viz: [1] the accused is an incumbent public officer, i.e. Provincial Administrator as attested to by his *Service Record*; [2] the accused is indicted for violation of R.A. No. 3019, Section 3(a) thereof; and that [3] he was duly arraigned on May 25, 2018 without raising the issue of the validity of the *Information* charging him of herein offense.


In entering a plea to the *Information*, the accused is deemed to have recognized the validity of the same, which plainly defeats his belated claim of alleged erroneous *Information*. X x x [citations omitted]

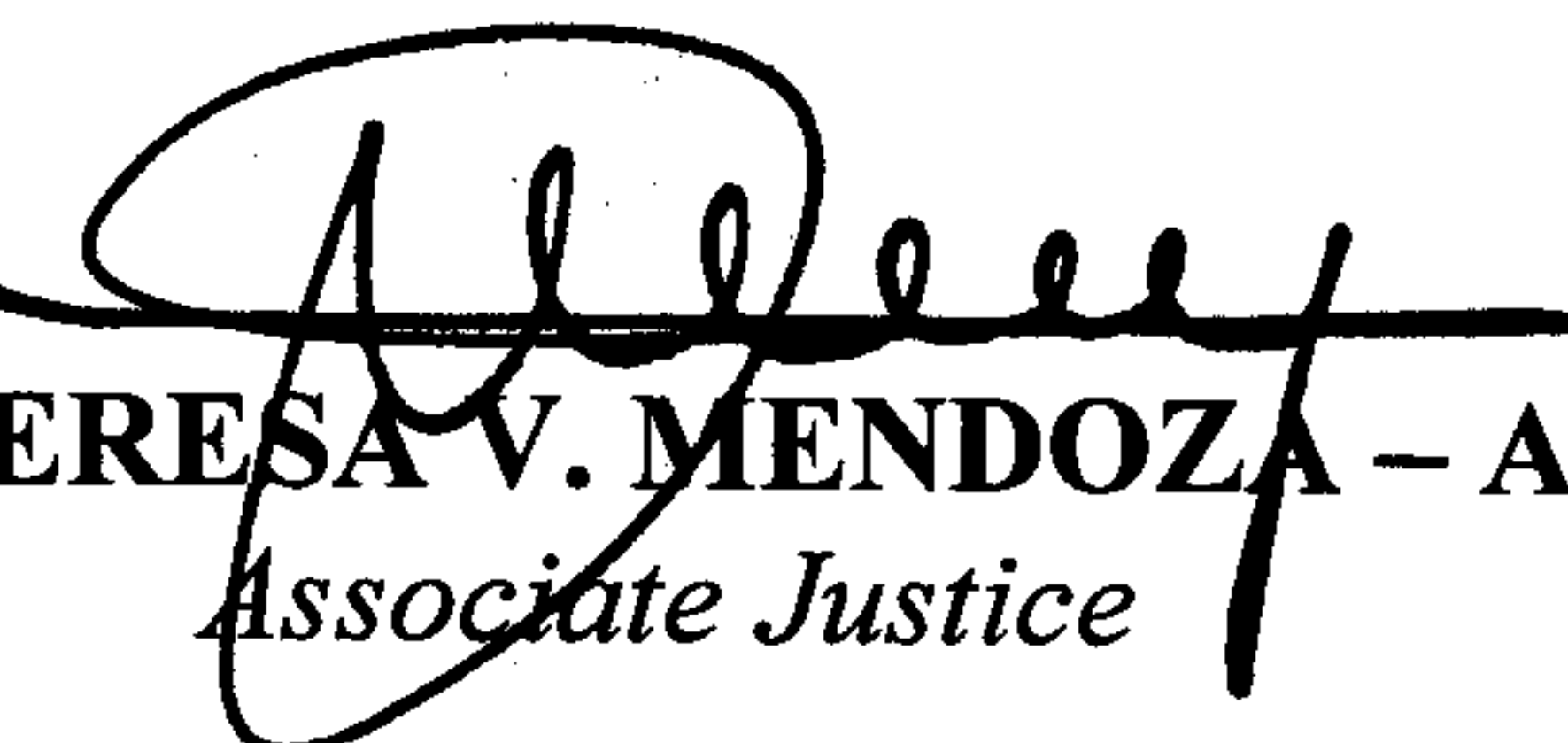
**IN VIEW THEREOF**, the Court resolves to DENY the accused's Motion for Reconsideration of the Resolution dated July 9, 2018.

**SO ORDERED.**

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

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

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