



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 15 October 2018.

Present:

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

The following resolution was adopted:

Crim. Case No. SB-12-CRM-0216 - People vs. GEORGE T. HOFER

This resolves the following:

1. Accused George T. Hofer's "MANIFESTATION" dated 3 October 2018, with attachments.¹

TRESPESES, J.

Before the Court is the Manifestation dated 3 October 2018 filed by counsel for accused George T. Hofer.

In his Manifestation, counsel narrates that he had earlier filed a motion for suspension of proceedings² on the ground of accused's inability to defend himself due to his Alzheimer's dementia, with supporting medical documents attached thereto. As further support for his motion, counsel now submits:

- a. Result of the Examination for Cognitive Function dated 15 August 2018 conducted on accused George Hofer (Annex "A");
- b. Result of the Montreal Cognitive Assessment (MOCA) on accused George T. Hofer (Annex "B"); and
- c. Resume of the examining government doctor, Robert R. Cañete, MD, FPPA, FPCAM, and presently a Training Officer/Medical Specialist III of the Department of Psychiatry at the Vicente Sotto Memorial Medical Center in Cebu City (Annex "C").

¹ *Rollo*, Vol. III, pp. 326-337.

² *Id.* at 268-274.

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Counsel for accused emphasizes that, on page three of Dr. Cañete's report, he concluded:

xxx Therefore, at the risk of being redundant, I am of the opinion that George Toca Hofer is suffering from Alzheimer's Dementia.

Counsel prays for the documents attached to his Manifestation to be admitted in support of the motion for suspension of proceedings.

OUR RULING

In our 4 July 2018 Resolution³ addressing accused's motion for suspension of proceedings, this Court ordered accused, through counsel, to submit to a medical examination by a competent medical doctor from a government hospital to evaluate his mental competence to stand trial, and to submit the resulting medical report to the Court.

There are various reasons why putting a legally incompetent person on trial or convicting and sentencing him is a violation of his constitutional rights to fair trial and due process of law. In *People v. Estrada*, the Court explained:

For one, the accuracy of the proceedings may not be assured, as an incompetent defendant who cannot comprehend the proceedings may not appreciate what information is relevant to the proof of his innocence. Moreover, he is not in a position to exercise many of the rights afforded a defendant in a criminal case, e.g., the right to effectively consult with counsel, the right to testify in his own behalf, and the right to confront opposing witnesses, which rights are safeguards for the accuracy of the trial result. Second, the fairness of the proceedings may be questioned, as there are certain basic decisions in the course of a criminal proceeding which a defendant is expected to make for himself, and one of these is his plea. Third, the dignity of the proceedings may be disrupted, for an incompetent defendant is likely to conduct himself in the courtroom in a manner which may destroy the decorum of the court. Even if the defendant remains passive, his lack of comprehension fundamentally impairs the functioning of the trial process. A criminal proceeding is essentially an adversarial proceeding. If the defendant is not a conscious and intelligent participant, the adjudication loses its character as a reasoned interaction between an individual and his community and becomes an invective against an insensible object. Fourth, it is important that the defendant knows why he is being punished, a comprehension which is greatly dependent upon his understanding of what occurs at trial. An incompetent defendant may not realize the moral reprehensibility of his conduct. The societal goal of institutionalized retribution may be frustrated when the force of the state is

³ *Rollo*, Vol. III, pp. 318-323.

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Minute Resolution

People vs. George T. Hofer

SB-12-CRM-0216

Page 3 of 4

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brought to bear against one who cannot comprehend its significance.⁴
(Underscoring supplied.)

Meanwhile, the test for determining a defendant's competency to stand trial is whether he has the capacity to comprehend his position, understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate, communicate with, and assist his counsel to the end that any available defense may be interposed.⁵

In the present case, accused is found to be suffering from Alzheimer's dementia, which, according to the National Institute of Neurological Disorders and Stroke, is defined as follows:

Alzheimer's disease (AD) is an age-related, non-reversible brain disorder that develops over a period of years. Initially, people experience memory loss and confusion, which may be mistaken for the kinds of memory changes that are sometimes associated with normal aging. However, the symptoms of AD gradually lead to behavior and personality changes, a decline in cognitive abilities such as decision-making and language skills, and problems recognizing family and friends. AD ultimately leads to a severe loss of mental function. These losses are related to the worsening breakdown of the connections between certain neurons in the brain and their eventual death. AD is one of a group of disorders called *dementias* that are characterized by cognitive and behavioral problems. It is the most common cause of dementia among people age 65 and older.⁶

If accused Hofer is, indeed, suffering from Alzheimer's dementia, his memory loss, confusion, decline in cognitive abilities such as decision-making and language skills, and difficulty recognizing people makes him incompetent to stand trial.

It was Dr. Robert R. Cañete who examined the accused and, after several medical tests⁷ found him to be suffering from Alzheimer's dementia. We note that Dr. Cañete is a government doctor. Specifically, he is a Training Officer/Medical Specialist III of the Department of Psychiatry at the Vicente Sotto Memorial Medical Center, a government hospital.⁸

In view of his medical competence as shown by his Resume,⁹ and his oath as a civil service official, we accept Dr. Cañete's opinion as sufficient basis for finding accused George T. Hofer as incompetent to stand trial. Accordingly, the instant case may now be archived.

⁴ 389 Phil. 216-243 (2000).

⁵ *Supra* at note 4.

⁶ <https://www.ninds.nih.gov/Disorders/All-Disorders/Alzheimers-Disease-Information-Page> last accessed on 12 October 2018.

⁷ Annexes "A" and "B" of accused's Manifestation (*Rollo*, Vol. III, pp.329-334).

⁸ <https://www.doh.gov.ph/node/1609> last accessed on 12 October 2018.

⁹ Annex "C" of accused's Manifestation (*Rollo*, Vol. III, pp. 335-337).

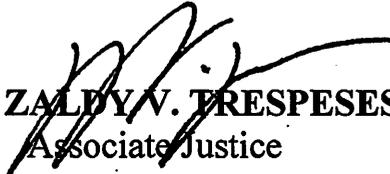
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WHEREFORE, in view of the foregoing, the Manifestation of counsel for accused George T. Hofer is duly **NOTED**, and the attachments thereto **ADMITTED**.

Finding accused George T. Hofer to be incompetent to stand trial, SB-12-CRM-0216 is hereby **ARCHIVED**, to be revived upon showing that accused's mental condition shall have adequately improved for the purpose of proceeding with the trial of the case.

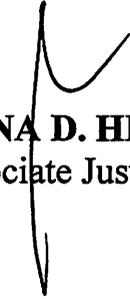
The counsel for accused George T. Hofer is **DIRECTED** to submit to Court a periodic medical report to be rendered by any government hospital and/or government physician on the mental condition of said accused, within the first ten days of June of every year, to apprise the Court of his fitness to stand trial.

SO ORDERED.


ZALBY V. TRESPESES
Associate Justice

WE CONCUR:


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


GEORGINA D. HIDALGO
Associate Justice