



Republic of the Philippines

**Sandiganbayan**

Quezon City

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**SEVENTH DIVISION**

*MINUTES of the proceedings held on 5 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-16-CRM-1236 - People vs. VICENTE A. FERNANDEZ.***

This resolves the following:

1. Accused Vicente Fernandez's "MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE" dated 24 August 2018;<sup>1</sup> and
2. The prosecution's "COMMENT/OPPOSITION TO ACCUSED'S MOTION FOR LEAVE TO FILE DEMURRER TO EVIDENCE" dated 3 October 2018.<sup>2</sup>

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**TRESPESES, J.**

Submitted for resolution of the Court is accused Vicente Fernandez's ("accused") motion for leave of court to file demurrer to evidence, and the prosecution's comment thereon.

**ACCUSED'S MOTION**

In his Motion, accused alleges that the prosecution's testimonial evidence and pieces of documentary evidence admitted by the Court are insufficient to prove accused's guilt beyond reasonable doubt.

In particular, accused points out that the evidence for the prosecution failed to show that accused was legally and physically incapacitated to perform the functions of municipal mayor. Further, the prosecution's evidence showed that at the time of the commission of the alleged offense, accused was not yet turned over to the court for commitment. Also, the

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<sup>1</sup> *Rollo*, Vol. III, pp. 456-459.

<sup>2</sup> *Id.* at 485-488.

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prosecution's evidence showed that accused never violated the terms of his custody while faithfully discharging the functions of his office. Finally, accused avers that his motion was filed in good faith and without any intention to delay the case.

#### PROSECUTION'S COMMENT/OBJECTION

On the other hand, in its comment, the prosecution counters that accused's motion for leave to file demurrer to evidence should be denied outright for failure to comply with Section 23, Rule 119 of the Rules of Court. Contrary to the mandate of the said rule, accused made a general statement and a conclusion of law.

The prosecution lastly alleges that accused did not specify the grounds underpinning his motion. To be considered specific, the pieces of evidence and their corresponding purpose should be identified, together with a discussion of why these pieces of evidence failed to establish the specific elements they purport to establish.

#### OUR RULING

We **deny** accused's motion for leave to file demurrer to evidence for lack of merit.

Section 23, Rule 119 of the Rules of Court mandates:

Sec. 23. Demurrer to evidence. – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

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The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (Underscoring supplied.)

A demurrer to evidence is an objection by one of the parties in an action to the effect that the evidence which his adversary produced is insufficient in point of law to make out a case or sustain the issue. The party filing the demurrer challenges the sufficiency of the prosecution's evidence. For this reason, the Court is tasked to ascertain if there is competent or sufficient evidence to establish a *prima facie* case to sustain the indictment or support a verdict of guilt.<sup>3</sup>

Pursuant thereto, the accused, in his motion for leave of court to file a demurrer to evidence, is required by the Rules "to specifically state (the) grounds" for claiming that there is insufficient evidence presented to warrant his conviction.

In the instant case, accused's supposed grounds for his motion for leave to file demurrer to evidence are embodied in paragraphs 5 and 6 of his motion, to wit:

5. The testimonial evidence and the pieces of documentary evidence offered by the Prosecution which the Honorable Sandiganbayan admitted will show that the evidence against the Accused instead shows his innocence and that the said pieces of evidence are insufficient to prove beyond reasonable doubt that the Accused is guilty of the offense charged so as to warrant conviction.
6. Specifically, the testimonial evidence and documentary evidence of the Prosecution failed to prove that the Accused was legally and physically incapacitated to perform the functions of a Municipal Mayor. The evidence of the Prosecution will also show that at the time of the alleged commission of the offense the Accused was not yet turned over to the court for commitment, and that the Accused never violated the terms of his custody while in good faith discharging the functions of his office.<sup>4</sup>

Tested against the standard set by the Rules, accused's supposed grounds for seeking leave of court to file a demurrer lacks the specificity necessary to substantiate his position that the prosecution was not able to prove that he is guilty of the crime charged beyond reasonable doubt.

As correctly noted by the prosecution, accused's supposed grounds for his motion are mere legal conclusions. They do not point out which elements of the crime have not been sufficiently established or were belied by particular pieces of evidence presented by the prosecution.

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<sup>3</sup> *People v. Sandiganbayan (2nd Division)*, G.R. No. 197953, 5 August 2015.

<sup>4</sup> *Rollo*, Vol. III, pp. 457.

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As accused's motion fails to comply with the requirement of the Rules, it must be dismissed.

Under the circumstances, it is also preferable to proceed with the continuation of the trial for the reception of accused's evidence, where he may present countervailing evidence in his defense.

**WHEREFORE**, in view of the foregoing, accused Vicente Fernandez's Motion for Leave of Court to File Demurrer to Evidence is **DENIED** for lack of merit.

Nonetheless, accused is not precluded from filing his Demurrer to Evidence without leave of court, subject to the condition laid out in the second paragraph of Section 23, Rule 119 of the Rules of Court.

Let the presentation of evidence for the defense proceed as previously scheduled on **20 November 2018, all at 8:30 in the morning** at the Fourth Division Courtroom, Sandiganbayan, Quezon City.

SO ORDERED.

  
**ZALDY V. TRESPESES**  
Associate Justice

WE CONCUR:

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

  
**GEORGINA D. HIDALGO**  
Associate Justice