



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 16 November 2018.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice KEVIN NARCE B. VIVERO ----- Member¹

The following resolution was adopted:

Crim. Case No. SB-10-CRM-0144 to 0147 - People vs. GEORGE T. HOFER, et al.

This resolves the following:

1. Accused George T. Hofer's "MOTION FOR SUSPENSION OF PROCEEDINGS" dated 3 September 2018;²
2. Accused George T. Hofer's "COMPLIANCE" dated 3 October 2018 with attachments;³ and
3. The prosecution's "Comment/Opposition (to the Compliance dated October 3, 2018)" dated 23 October 2018.⁴

TRESPESES, J.

Submitted for the Court's resolution is the motion for suspension of the present proceedings filed on behalf of accused George T. Hofer ("accused Hofer") by his counsel.

ACCUSED HOFER'S MOTION

In his motion for suspension of proceedings, counsel for accused Hofer alleges that his client has been suffering from persisting dementia. Counsel argues that this seriously affects his client's ability to participate during trial and to put up a meaningful defense.

Counsel further alleges that in Criminal Case Mo. SB-12-CRM-216 entitled "*People of the Philippines v. George T. Hofer*", the Court issued an

¹ Per Administrative Order No. 549-2018 dated 16 November 2018.

² *Rollo*, Vol. VII, pp. 382-383.

³ *Id.* at 461-471.

⁴ *Id.* at 482-486.

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Order dated 4 July 2018 granting counsel's motion to suspend proceedings therein pending the submission of a medical examination report by a competent medical doctor from a government hospital. Counsel reported that accused Hofer had already been examined and that the resulting medical report shall be submitted before the Court prior to 4 October 2018.

Consistent with the said Court Order, counsel avers that he is filing the motion seeking the suspension of the present proceedings against accused, subject to the submission to the Court of the medical report prior to 4 October 2018, and its approval. He also seeks the approval of the said medical report.

COURT'S ORDER DATED 10 SEPTEMBER 2018

In its Order⁵ given in open court on 10 September 2018, the Court noted the prosecution's manifestation that it is adopting its comment in SB-12-CRM-0216, as a similar motion was filed therein on accused Hofer's behalf. The Court then gave the prosecution time to submit its comment thereon, after which the motion shall be deemed submitted for resolution.

ACCUSED HOFER'S COMPLIANCE

In his Compliance, accused Hofer's counsel attached as *Annex "A"* the medical report on accused Hofer, including his test results. Also included in the said annex is the Resume of accused Hofer's attending psychiatrist, Dr. Robert R. Cañete ("Dr. Cañete"), who appears to be a Training Officer/Medical Specialist III at the Department of Psychiatry of the government hospital, Vicente Sotto Memorial Medical Center ("VSMMC").

PROSECUTION'S COMMENT/OPPOSITION

In its opposition, the prosecution counters that Dr. Cañete's findings are not necessarily conclusive, even assuming that he is an expert in his field of work. Citing *People v. Deauna*,⁶ the prosecution claims that the court may place whatever weight it chooses upon an expert opinion and it may even reject them, if it finds that they are inconsistent with the facts of the case or are otherwise unreasonable.

The prosecution claims that Dr. Cañete's observation and diagnosis of accused Hofer having mild to moderate severity of dementia is a strong indication that the latter's perception is still normal.

⁵ *Rollo*, Vol. VII, pp. 442-444.

⁶ 435 Phil. 141-165 (2002).

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The prosecution also reasons that while there is no question that VSMMC is a government hospital, there is no proof that Dr. Cañete is a government doctor, as even his letterhead indicate that his clinic is in Room 205 Medical Arts Building I, Cebu Doctors' University Hospital.

Citing the Revised Guidelines for Continuous Trial of Criminal Cases, which echoes SC Administrative Circular No. 7-A-92 and OCA Circular No. 89-2004, the prosecution stresses that a criminal case may be archived when proceedings therein are ordered suspended for an indefinite period because the accused appears to be suffering from an unsound medical condition, which effectively renders him unable to fully understand the charge against him and to plead intelligently, or to undergo trial, and he has to be committed to a mental hospital.

Additionally, the prosecution quotes *People v. Estrada*,⁷ where the Court emphasized that not every aberration of the mind or exhibition of mental deficiency is sufficient to justify the suspension of proceedings against an accused on the ground of present insanity.

Finally, the prosecution insists that its right to due process includes the right to confront and cross-examine Dr. Cañete on his findings in order to clarify questionable statements in the latter's medical report, and even present another expert witness to contest such findings.

Accordingly, the prosecution prays that it be allowed to cross-examine Dr. Cañete on the witness stand. If warranted, it also prays that it be allowed to seek another medical expert of its choosing who shall personally examine accused Hofer and submit his findings. It further prays that it be allowed to continue prosecuting the present case pending determination of accused Hofer's true mental state.

THE PROSECUTION'S SUBMISSION AND MANIFESTATION IN SB-12-CRM-0216

As earlier mentioned, accused Hofer is an accused and has filed a motion for suspension of proceedings on the ground of Alzheimer's dementia in both the present case and in SB-12-CRM-0216.

The Court takes judicial cognizance of the fact that on 12 November 2018, the prosecution filed a Submission and Manifestation dated 12 November 2018 in SB-12-CRM-0216.

Attached to the prosecution's pleading is a copy of the Service Record and Appointment Paper of Dr. Robert Cañete, as provided by VSMMC. It

⁷ 389 Phil. 216-243 (2000).

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shows that Dr. Cañete was appointed Medical Specialist III at the Department of Psychiatry on 13 June 2018 and has been in service therein in a permanent position since 2006.

The prosecution therein manifests that it withdraws its motion for reconsideration of the Court's 15 October 2018 Resolution because it is now convinced that Dr. Cañete has the expertise and capacity as a government doctor to render psychiatric diagnosis on the true mental state of accused.

OUR RULING

Considering the parties' respective pleadings, including the prosecution's Submission and Manifestation in SB-12-CRM-0216, we resolve to grant accused Hofer's motion for suspension of proceedings on the ground of his Alzheimer's dementia.

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. As expounded by the Court in *People v. Estrada*:⁸

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

⁸ *Supra*.

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In the instant case, counsel for accused Hofer moves for suspension of proceedings against him, claiming that his client is incompetent to stand trial because he is suffering from Alzheimer's dementia. This is based on the diagnosis of Dr. Robert R. Cañete, after examining and subjecting accused Hofer to several medical tests.⁹ Dr. Cañete's Resume¹⁰ indicates that he is a Training Officer/Medical Specialist III of the Department of Psychiatry at VSMC, a government hospital.¹¹

The prosecution initially objected to this motion, expressing doubts upon Dr. Cañete's findings. However, after confirming from the VSMC Dr. Cañete's credentials and record as a government doctor, the prosecution is apparently now convinced of the accuracy of Dr. Cañete's diagnosis.

Dr. Cañete diagnosed accused 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.¹²

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.¹³

Thus, 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.

⁹ Annexes "A" and "B" of accused's Compliance (*Rollo*, Vol. VII, pp.463-468).

¹⁰ Annex "C" of accused's Manifestation (Id. at 469-471).

¹¹ <https://www.doh.gov.ph/node/1609> last accessed on 13 November 2018.

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

¹³ *Supra* at note 7.

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In view of Dr. Robert Cañete's medical competence as shown by his Resume¹⁴ and his oath as a civil service official, and considering the prosecution's manifestation and submission, 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 as to accused Hofer.

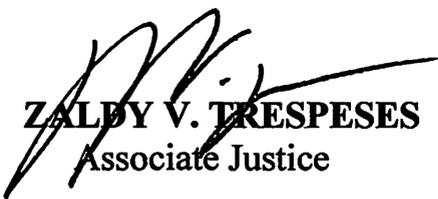
WHEREFORE, in view of the foregoing, counsel for accused George T. Hofer's "Compliance" with attachments dated 3 October 2018 is **NOTED** and the attachments thereto are **ADMITTED**. Moreover, his "Motion for Suspension of Proceedings" is **GRANTED**.

Finding accused George T. Hofer to be incompetent to stand trial, SB-10-CRM-0144 to 0147 is hereby **ARCHIVED** as to accused **George T. Hofer**, 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.

Dr. Robert R. Cañete, Training Officer/Medical Specialist III of the Department of Psychiatry at Vicente Sotto Memorial Medical Center, is hereby **DIRECTED** to conduct mental examination of accused George T. Hofer within the first ten days of June of every year, and to forthwith submit a copy of the resulting medical report to the Court.

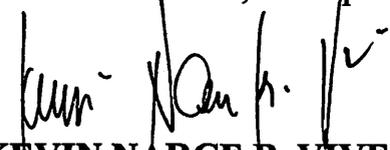
Let the hearing of the case as to the rest of the parties set on **27 November 2018 at 8:30 in the morning** proceed as scheduled.

SO ORDERED.


ZALBY V. TRESPESES
Associate Justice

WE CONCUR:


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


KEVIN NARCE B. VIVERO
Associate Justice

¹⁴ Annex "C" of accused's Manifestation (*Rollo*, Vol. III, pp. 335-337).