



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on November 5, 2018 in Iloilo City.

Present:

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

The following resolution was adopted:

CRIMINAL CASE NO. SB-17-CRM-006 -

PEOPLE v. JAIME K. RECIO

Before the Court are the following:

1. Accused Jaime Recio's "MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE" dated September 15, 2018; and
2. The prosecution's "COMMENT/OPPOSITION (Re: Motion for Leave of Court to File Demurrer to Evidence dated 15 September 2018)" dated October 23, 2018.

GOMEZ-ESTOESTA, J.:

For resolution is accused Jaime K. Recio's *Motion for Leave of Court to File Demurrer to Evidence*.¹

In his *Motion*, accused Recio submits that the charge against him, as alleged in the *Information*, is limited to the second mode of violation of R.A. 3019, *i.e.*, by giving unwarranted benefits, preference or advantage to Variance Protective and Security Agency Corp. by extending the contract for security services without the benefit of a public bidding. He surmises that the supposed amount constituting undue injury is irrelevant to the offense charged. He argues that in this context, the prosecution evidence failed to establish that unwarranted benefits, preference or advantage were granted. The Contract for Security Services for 2003² itself provided for an extension

¹ Records, Vol. 6, pp. 50-56

² Annex "G" of the Complaint dated October 7, 2013

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57

clause which formed the contractual relationship between the parties. The prosecution's own witnesses even testified on the urgency of extending the contract. Moreover, as even testified to by prosecution witness Heherson Martinez, the budget for 2004 was re-enacted from 2003, and although there was no budget for security services prior to said re-enactment until the second quarter of 2004 when the budget circular came, security services must continue. While not done through public bidding, the extensions were made in good faith. Lack of public bidding alone does not constitute graft.

In its *Comment/Opposition*,³ the prosecution counters that accused Recio merely made a sweeping statement that the prosecution failed to adduce sufficient evidence to prove the charge against him, and raised his defenses to the charge, which are proper during trial. The alleged Contract of Services for 2003 was not even identified by prosecution witness Eduardo Villalon, who is incompetent to testify on it, not being a party thereto. R.A. 9184, on the other hand, does not allow contract extensions, except for procurement of infrastructure, upon recommendation of the Bids and Awards Committee. The re-enactment of budget did not preclude the conduct of public bidding; in fact, NPDC was able to pay Variance on renewed contract.

The *Motion* is bereft of merit.

As properly put by the prosecution, accused Recio is ventilating his defenses in his *Motion for Leave*, instead of alleging why the Prosecution evidence is insufficient to sustain the indictment against him. It is best that he presents his own evidence for the Court to properly assess and weigh, together with the evidence presented against him, in the ultimate disposition of the charge.

For now, the Court need only evaluate the sufficiency of evidence presented by the Prosecution. After a circumspect examination thereof, sufficient evidence is found, *if unrebutted*, to sustain the charge against accused Recio for violation of Sec. 3(e) of R.A. 3019, as follows:

| Elements | Evidence Presented |
|---|--|
| (1) the offender is a public officer; | That accused Recio was a public officer holding the position of Executive Director of the National Parks and Development Committee at the time material to this case is subject of stipulation. ⁴ |
| (2) the act was done in the discharge of the public officer's official, administrative or judicial functions; | |
| (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and | |
| (4) the public officer caused any undue injury to any party, including the | |

³ Records, Vol. 6, pp. 57-62


⁴ Pre-Trial Order dated January 17, 2018, Records, Vol. 2, p. 351

| | |
|---|--|
| Government, or gave any unwarranted benefits, advantage or preference. ⁵ | “VV”, “YY”, “BBB”, “EEE”, “FFF”, “III”, “LLL”, “OOO”, “RRR”, “UUU”, “XXX”, “A4”, “D4”, “G4”, and “J4” (Disbursement Vouchers) “M”, “P”, “S”, “V”, “Y”, “BB”, “EE”, “HH”, “KK”, “NN”, “QQ”, “TT”, “WW”, “ZZ”, “CCC”, “GGG”, “JJJ”, “MMM”, “PPP”, “SSS”, “VVV”, “YYY”, “B ⁴ ”, “E ⁴ ”, “H ⁴ ”, “K ⁴ ”, and “O ⁴ ” (Checks issued to Variance) Exhibits “N”, “Q”, “T”, “W”, “Z”, “CC”, “FF”, “II”, “LL”, “OO”, “RR”, “UU”, “XX”, “AAA”, “DDD”, “HHH”, “KKK”, “NNN”, “QQQ”, “TTT”, “WWW”, “ZZZ”, “C ⁴ ”, “F ⁴ ”, “I ⁴ ”, “L ⁴ ”, and “P ⁴ ” (Official Receipts issued by Variance) |
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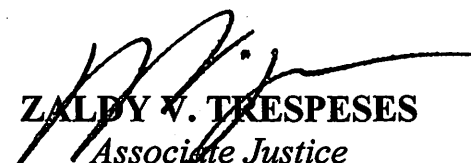
WHEREFORE, in view of the foregoing, accused Recio’s *Motion for Leave of Court to File Demurrer to Evidence* is **DENIED** for lack of merit.


The parties are reminded of the setting for the presentation of defense evidence on *January 21, 2019, at 8:30 in the morning*.

SO ORDERED.


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

WE CONCUR:


ZALBY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

⁵ *Sison v. People*, G.R. Nos. 170339, 170398-403, March 9, 2010.