



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-0495

For: Violation of Section 3(e),
Republic Act No. 3019

- versus -

Present:

TERESITA R. MANZALA, ET AL,
Accused.

FERNANDEZ, SJ, J.
Chairperson
MIRANDA, J., and
VIVERO, J.

Promulgated:

NOV 22 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. *Motion for Leave to File Demurrer to Evidence* filed on October 1, 2018 by accused Teresita R. Manzala;¹
2. *Motion for Leave of Court to File Demurrer to Evidence*² filed on October 1, 2018 by accused Sarah Edna A. Tabije;
3. *Motion for Leave to File Demurrer to Evidence* filed on October 2, 2018 by accused Teofilo Gaius M. Sison, Jr.,³
4. *Motion for Leave to File Demurrer to Evidence* filed on October 2, 2018 by accused Alfredo Y. Po,⁴ and,

¹ Dated October 1, 2018
² Dated October 1, 2018
³ Dated September 30, 2018
⁴ Dated October 2, 2018

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5. Motion for Leave of Court to File Demurrer to Evidence filed on October 2, 2018 by accused Tricia D. Camara;⁵

together with the Consolidated Comment/Opposition (Re: Motion for Leave of Court to File Demurrer to Evidence) filed on October 8, 2018 by the prosecution.

Accused Manzala, Tabije, Sison, Po, and, Camara, similarly contend that the evidence presented by the prosecution is not sufficient to warrant their conviction for violation of Section 3(e) of Republic Act No. 3019.⁶ The accused argue:

Accused Manzala

- a. The instant Information is defective because it charges accused Manzala of violation of Section 3(e), R.A. No. 3019 mainly on the ground that the accused failed to conduct a competitive public bidding. Pursuant to GPPB Resolution No. 08-2009, the applicable mode of procurement is negotiated procurement.⁷
- b. The prosecution's evidence failed to prove the elements of violation of Section 3(e), R.A. No. 3019.
- c. The evidence for the prosecution only supports the allegation that accused Manzala was a public officer during the period material to the case, and this fact was stipulated by the parties.⁸

Second Element

- d. All her acts were within her power as Chairperson of Professional Regulation Commission and/or the Head of the Procuring Entity. There is no showing that she specifically favored Delos Santos to the exclusion, disfavor or detriment of any other individual, when she issued the Letter of Intent (LOI), co-signed the Disbursement Vouchers (DV) and checks, and, authorized the rental fees.
- e. The accusation of bad faith or impartiality on the part of accused Manzala was negated. The *Cost Benefit Analysis (CBA)*, *Market Analysis (MA)* and *Post Ocular Inspection* by the Bids and Awards Committee, which confirm that CTLL Building offered the lowest rent, showed that no individual lessor was favored. The impartiality of the independent third persons who conducted the comparisons on available venues was never questioned by the prosecution.

⁵ Dated October 2, 2018
⁶ Manzala's Motion for Leave dated October 1, 2018, p. 11; Tabije's Motion for Leave dated October 1, 2018, p. 1; Sison's Motion for Leave dated September 30, 2018, p. 2; Po's Motion for Leave dated October 2, 2018, p. 3; Camara's Motion for Leave dated October 2, 2018, p. 1.
⁷ Manzala's Motion for Leave Dated October 1, 2018, p. 2.
⁸ Manzala's Motion for Leave Dated October 1, 2018, pp. 3-4.

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- f. There is no gross negligence on her part. The prosecution's testimonial and documentary evidence confirm that the procurement of lease for PRC Baguio Regional Office (PRC Baguio) was properly undertaken pursuant to GPPB Resolution No. 08-2009 providing for the *Guidelines for Lease of Privately-Owned Real Estate and Venue*; lease is not subject to competitive or public bidding. It was not disputed that office procedures for the necessary review of documents by the Legal Department, BAC, Accounting Division, Office of the Financial and Administrative Services, were followed before the documents were finally signed by accused Manzala.
- g. The urgent need to transfer to another location was established. The Commission Proper deliberated on the objections made by complaining witness former Commissioner Jennifer Jardin-Manalili regarding the rental rate of CTLL Building.
- h. PRC Baguio continued to occupy and lease CTLL Building and paid the rentals due until the last quarter of 2017, or 3 years after she was dismissed on September 24, 2014, and even during the pendency of the complaint before the Office of the Ombudsman. Moreover, there is no Commission on Audit disallowance on any or all of the rental payments to Delos Santos. PRC Baguio transferred to Pine Lake View Building for a rental (PhP470.00/m²) higher than the CTLL Building (PhP400.00/m²).⁹

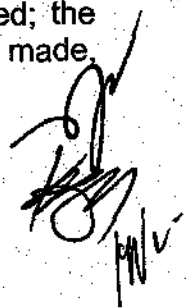
Third Element

- i. She exercised prudence and due diligence in issuing the LOI, co-signing the DVs and checks for the payment of rental fees to Delos Santos.
- j. The facts negate any claim that she willfully, unlawfully, and criminally caused undue injury to the Government. There is no undue injury to speak of. Since PRC Baguio occupied the CTLL Building, under the principle of *solutio indebiti*, the PRC should pay the lease rentals.

The signing of the LOI was taken up during the Commission meeting. She signed the same after it went through the review process, as seen by the initials of the Legal Department and Physical Infrastructure and Building Advisory Committee (PIBAC) Head, accused Po.

Accused Manzala only signed the DVs and the checks for the payment of rent after the processing of payment in accordance with the standard legal and accounting procedures of the PRC. She signed the DVs because of the representations and hard facts which show that the procurement procedure was followed; the Contract of Lease was reviewed, initialed and signed; the requirements were completed; and, no objections were made.

⁹ Manzala's Motion for Leave Dated October 1, 2018, pp. 5-6.



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apart from the objection of Commissioner Jardin-Manalili on rental rates.

- k. The prosecution failed to present any kind of evidence that the rentals charged by Delos Santos were excessive, unreasonable or unconscionable.¹⁰
- l. The evidence failed to show any grant of unwarranted benefit to Delos Santos by accused Manzala, on her own or in conspiracy with the other accused. The CTLL Building was examined and assessed by conducting a CBA, MA and Post-Ocular Inspection.¹¹
- m. She carried out the functions required of her position. Official acts enjoy the presumption of regularity, and the presumption may be overthrown only by evidence to the contrary.¹²
- n. Complainant Commissioner Jardin-Manalili did not show up and ignored the subpoenas for her to appear in court; thus, violating accused Manzala's right to confront her pursuant to Section 14(2), Article III of the Constitution.¹³
- o. The Ombudsman was selective in the filing of the complaint. The other signatories, *i.e.*, PRC Assistant Commissioner Aristogerson T. Gesmundo, PRC Disbursement Officer Josephine R. Bonto, OIC, Cash Division Jesusa DL. Mendoza, and, Jane R. Seveses, who certified "Allotment available and obligated for the purpose indicated above," in the DVs and the checks were not included in the complaint.¹⁴

Accused Tabije

- a. The prosecution failed to establish her participation in the preparation, execution and implementation of Contract of Lease CL1-2012-07 dated November 12, 2012, signed by Atty. Ernesto Delos Santos and the PRC, represented by accused Manzala.

Prosecution witness Alfonso C. Vioria testified that there was no BAC Resolution on the lease of space for PRC Baguio Regional Office since the Secretariat did not prepare any contract, and only initial steps were undertaken by the BAC. The Contract of Lease did not pass through and was not reviewed by the BAC.

- b. The prosecution failed to establish her countersignature in the Contract of Lease. The prosecution failed to establish that she prepared the Obligation Request. Its own witness, Ms. Seveses, testified on cross examination that it is the Budget and

¹⁰ Manzala's Motion for Leave Dated October 1, 2018, pp. 7-8.

¹¹ Manzala's Motion for Leave Dated October 1, 2018, pp. 9 & 11.

¹² Manzala's Motion for Leave Dated October 1, 2018, p. 11.

¹³ Manzala's Motion for Leave Dated October 1, 2018, p. 10.

¹⁴ Manzala's Motion for Leave Dated October 1, 2018, p. 12.

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Management Division who facilitated the preparation of the Obligation Request and forwarded it to the Officer-in-Charge of the Office of the Financial Administrative Services (OFAS) for signature.

Ms. Seveses further testified that she also signed the Obligation Request because there was an urgency at that time; there was an approved budget available for obligation; and there was already a signed contract.

She signed the Obligation Request in her capacity as OIC of the OFAS. On September 10, 2012, the PRC Baguio started renting CTLL Building; on November 12, 2012, the parties entered into a Contract of Lease; and, on November 21, 2012, accused Tabije signed Obligation Request No. 12-11-2844. Said Obligation Request was already *fait accompli*.

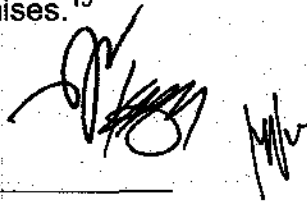
The signing of the Obligation Request was obligatory since an obligation necessary for the agency's operation was incurred; and, there is an existing allotment for the rent in the agency's general appropriation. By signing the Obligation Request, she merely reserved or charged an amount which the agency is committed to pay.

- c. The prosecution failed to establish gross inexcusable negligence, evident bad faith or manifest partiality of accused Tabije.

There is evidence to show that the BAC proceeded with the ocular inspection on July 27, 2012 notwithstanding the opposition of Commissioner Po. After the ocular inspection, the BAC Secretariat prepared the Post-Report Ocular Inspection and the Comparative Analysis of the Proposed Building for the PRC Baguio Transfer. The BAC did not proceed with the procurement activities relative to the lease of office space, since PRC Baguio had already transferred to the CTLL Building.

- d. The prosecution failed to establish the damage or injury suffered by the Government. PRC Baguio continued to stay in the CTLL Building beyond the 15-month contract executed on November 12, 2012.

Ms. Seveses testified that PRC Baguio occupied the CTLL Building until 2017. Ms. Seveses further testified that there was no Notice of Disallowance from the COA on the rentals for the lease of CTLL Building. There was no COA Report to show that the government suffered undue injury. Evidently, the government benefitted by its actual occupancy of the leased premises.¹⁵



¹⁵ Tabije's Motion for Leave dated October 1, 2018, pp. 2-3.

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Accused Sison

- a. While the Information alleges that the lease of CTLL Building "did not undergo competitive public bidding," the prosecution evidence points to supposed non-compliance with the requirements of negotiated procurement under Section 53 of the Revised Implementing Rules and Regulations of R.A. No. 9184. Negotiated procurement is separate and distinct from competitive public bidding.

Even if the prosecution was able to prove that the lease was awarded to CTLL in violation of rules on negotiated procurement, accused cannot be convicted thereof. An accused cannot be convicted xxx of any offense, unless it is charged in the xxx information on which he is tried xxx."

- b. The prosecution evidence effectively disproves the four (4) acts imputed against him in the Information.
- c. While the Information alleged that "Sison xxx repeatedly wrote letters/memoranda to Manzala and Po reiterating the PRC Baguio's urgent need to transfer to another location," the prosecution only presented Exhibit "A" informing the Commission that the Court of Appeals already needed the space that PRC Baguio was occupying and requesting "transfer to another location." It was his duty, as Regional Director, to report to his superiors the personal visit of the Court of Appeals Presiding Justice to express a need to repossess the building space. This act of Sison cannot be evidence of manifest partiality or evident bad faith; neither can his formal request for transfer – transmitted and received through regular communication channels to the PRC Chairperson and Commissioners – be deemed proof of pre-selection in conspiracy with his co-accused. The Ombudsman ruled that this is "not per se improper or illegal."¹⁶
- d. While the Information alleged that he "prepared a cost benefit analysis in which he stated that CTLL Building was the best site for PRC Baguio's relocation," there is no such statement in the CBA; what he recommended in the CBA is that "the Commission may consider lease/rental of a privately-owned building xxx."

The prosecution evidence, i.e., Market Analysis and the Comparative Benefit Analysis, show a canvass of five (5) prospective locations, including the Development Bank of the Philippines, a government-owned building. This disproves partiality to private lessors or to CTLL.

- e. The prosecution's evidence shows that he did not favor CTLL Building. The CBA was offered "to prove that as early as August 2010, several meetings were held between accused

¹⁶ Sison's Motion for Leave dated September, 2018, pp. 2-3.

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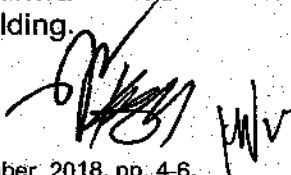
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Sison and officials of the city government of Baguio to discuss the possibility of leasing/renting a city government-owned building or lot for the use of PRC-Baguio Regional Office." These prior meetings with Baguio City government officials for possible government office space and his deference to the procurement authorities clearly negate the allegation of manifest partiality or evident bad faith by pre-selection on his part.

- f. Alfonso Vilorio and Atty. Maningas testified that the CBA and the MA were part of the negotiated procurement process under GPPB Resolution No. 08-2009 and which he, as the head of the end-used unit complied with. By their own admission of Sison's compliance with the procurement process, the prosecution witnesses themselves disprove the element of partiality or bad faith on his part.
- g. To prove the allegation that he "facilitated the transfer of PRC Baguio to the CTLL Building even before the execution of the [lease] contract," the prosecution presented Sison's letter dated October 8, 2012 (Exhibit "H"; Annex M of the complaint-affidavit). Atty. Maningas admitted that the letter does not show that he made the decision to transfer.

His letter was only a request for the payment of security services rendered. Such act is mere performance of official duty by a head of regional office requesting settlement of a financial obligation arising from office operations.

- h. The letter dated October 8, 2012 was submitted long after PRC Baguio transferred to CTLL Building on August 31, 2012, and after the issuance of the LOI and the ocular inspection by the BAC in July 2012. The transfer was effected more than four (4) months after he submitted the CBA and MA in compliance with GPPB Resolution 08-2009.¹⁷
- i. Although PRC's transfer to CTLL happened even before the lease contract, the prosecution failed to offer any evidence that he "facilitated the transfer." The LOI dated July 20, 2012 does not bear the signature or counter-signature of accused Sison.
- j. Sison's participation "in his capacity as head of PRC Baguio, as a witness during the execution of the Contract," cannot be considered as part of a devious scheme to violate Section 3(e) of R.A. No. 3019. It is a mere ministerial and ceremonial act signifying that he was among those present when the document was signed.¹⁸
- k. The prosecution failed to prove, with moral certainty, undue injury to the government, or unwarranted benefit and advantage to the owner of the CTLL Building.



¹⁷ Sison's Motion for Leave dated September, 2018, pp. 4-6.
¹⁸ Sison's Motion for Leave dated September, 2018, p. 6.



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The prosecution evidence show that PRC Baguio actually occupied CTLL Building and the amount of PhP6,696,511.98 was paid to CTLL for monthly rentals.

- l. Based on the MA and CBA, there is no undue damage or unwarranted benefit. Both pieces of evidence show that the CTLL Building was most advantageous to the government in terms of rental rates and technical specifications compared to the other buildings found "suitable for client transactions." CTLL offered PhP400/m², DBP, PhP1,000/m², and Juniper, PhP500/m². In office space, CTLL offered 1,014 m²- which met PRC's requirement of "at least 1,000 m²" – DBP, 508.5m² and Juniper offered 345m².
- m. The Memorandum dated June 6, 2012 of Commissioner Manalili was based on the CTLL rental rate in comparison to the rental rates of PRC-Cebu and PRC-Davao. Per GPPB Resolution, a market analysis of rental compares "prevailing lease rates within the vicinity of the selected location," in this case the City of Baguio. Based on the MA at the time, the prevailing lease rates were PhP600.00 to PhP800.00/m².

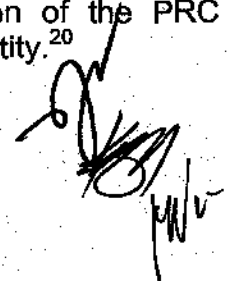
The testimonies of Mr. Vloria, Atty. Maningas and Ms. Domogen all support accused Sison's claim that PRC Baguio did not suffer any damage and no unwarranted benefit was given to the lessor because the government was able to get the best bargain in terms of price and amenities.¹⁹

Accused Po

- a. Accused Po did not commit any illegal or prohibited act during the performance of his official duties or in relation to his public positions.
- b. He was not a member of the PRC BAC which recommended the award of the lease contract to Delos Santos, the owner of the CTLL building. He had no participation in the selection of CTLL Building as PRC Baguio's Regional Office.
- c. He was a commissioner of the PRC and Chairman of its PIBAC, whose only function was to provide technical assistance in the infrastructure activities of the PRC. It had no power to select or recommend the CTLL Building as PRC's Regional Office. The PIBAC was not asked to, nor did it provide any technical assistance in the PIBAC's selection of a building for the transfer of PRC's Regional Office. He did not participate in or took an active role in the negotiations of the lease contract. Apart from being a witness thereto, he had no participation in the execution of the lease contract. Such was the function of the PRC Chairperson, being the Head of the Procuring Entity.²⁰

¹⁹ Sison's Motion for Leave dated September, 2018, pp. 7-8.

²⁰ Po's Motion for Leave dated October 2, 2018, p. 1.



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- d. The element of undue injury to the government or to any private party was not established. It was established that the CTLL Building had the lowest price with the most amenities, hence, most advantageous for the PRC.

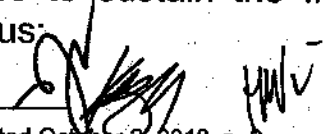
No disallowance was made by COA during the five (5) years that PRC Baguio leased the property.

- e. No unwarranted benefit, advantage or preference was given anyone. The evidence of the prosecution, instead, show the urgent need for PRC Baguio to transfer.
- f. Manifest partiality, evident bad faith, and/or gross inexcusable negligence, was not proved.²¹
- g. There is no evidence of conspiracy. There is no proof of any overt act committed by the accused to indicate a common intention, plan or design to commit a violation of Section 3(e), R.A. No. 3019. Instead, the evidence show that the accused acted according to their respective positions, with accused Po not having any part in the selection of CTLL Building.²²

Accused Camara

- a. Exhibits A to H; I-4; J-1; M-1; P-1; S-1; V-1; Y-1; BB-1; EE-1; QQ; BBB; and, CCC, are self-serving, immaterial and irrelevant in relation to the elements of the crime charged.
- b. Exhibits A to H prove that the necessary and preparatory procedures for the lease of an office building where the PRC Baguio Office will relocate were followed. Accused Camara was not a signatory in any of said documents. She was not part of the team which negotiated for the lease of Baguio PRC Office.
- c. She signed the Contract of Lease as part of her ministerial duty to certify that funds are available for the payment of the Contract of Lease.
- d. She signed the Disbursement Vouchers (Exhibits J-1; M-1; P-1; S-1; V-1; Y-1; BB-1; EE-1; QQ; BBB; and, CCC) because it was her ministerial duty to certify that cash was available for the payment of the Contract of Lease. It is not her duty to look beyond the documents presented to her to ascertain compliance with the guidelines set forth by R.A. No. 9184.²³

On the other hand, the prosecution contends that it presented competent evidence to sustain the Information and to support a guilty verdict.²⁴ Thus:


²¹ Po's Motion for Leave dated October 2, 2018, p. 2.
²² Po's Motion for Leave dated October 2, 2018, p. 3.
²³ Camara's Motion for Leave dated October 2, 2018, pp. 1-2.
²⁴ Consolidated Comment/Opposition dated October 3, 2018, p. 4.

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- a. The first element of violation of Section 3(e), R.A. No. 3019, is not disputed in view of the admission made by the accused that they were public officers at the PRC during the period material to the instant case, as follows: Tabije (OIC, Office of Financial and Administrative Services), Manzala (Chairperson, PRC), Sison (Regional Director, PRC Baguio), Po (Commissioner, PRC; In-charge of PIBAC) and Camara (OIC, Accounting Division, PRC).
- b. The second element was established by the prosecution. Accused Manzala, Po, Sison, Tabije, and Camara exhibited manifest partiality and acted with evident bad faith when they allowed the transfer of PRC Baguio Regional Office to CTLL Building knowing that the guidelines set forth in R.A. No. 9184 have not been complied with.

The actions of all the accused indicate their obvious preference for CTLL Building. The LOI signed by accused Manzala and countersigned by accused Po prove the blatant disregard of the procurement process. The LOI cannot be reconciled with the belated Post-Report Ocular Inspection by the Baguio Regional Office and Rosales Satellite Office of the BAC (Exhibit "G").

- c. Prosecution witness Mr. Vilorio, then Head of the BAC Secretariat, confirmed the non-compliance of the lease of CTLL Building with the procurement guidelines. He testified that aside from the ocular inspection of the proposed site for the PRC Baguio Regional Office on July 27-28, 2012, PRC BAC did not conduct any other activities.²⁵
- d. The concerted efforts of accused Manzala, Po, Sison, Tabije and Camara showed that they acted with manifest partiality and evident bad faith to ensure the transfer of PRC Baguio Regional Office to CTLL Building. As a result, the PRC suffered undue injury in the total amount of Six Million Six Hundred Ninety Six Thousand Five Hundred Eleven Pesos and Ninety Eight Centavos (PhP6,696,511.98). The payments made by PRC to Delos Santos were released through an irregular transaction facilitated by accused Manzala, Po, Sison, Tabije and Camara.
- e. CTLL was given unwarranted benefits as it was awarded the contract of lease even in the absence of a BAC Resolution. It was not chosen through legal channels.²⁶

RULING

After a careful study of the documentary and testimonial evidence presented by the prosecution, the Court finds that, if

²⁵ Consolidated Comment/Opposition dated October 3, 2018, pp. 2-3.

²⁶ Consolidated Comment/Opposition dated October 3, 2018, p. 4.

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unrebutted, the same is sufficient to support a verdict of guilt against accused Teresita R. Manzala, Sarah Edna A. Tabije, Teofilo Gaius M. Sison, Alfredo Po, and Tricia D. Camara, for violation of Section 3(e) of Republic Act No. 3019. The Court hereby **DENIES** the *Motions for Leave of Court to File Demurrer to Evidence* separately filed by accused Manzala, Tabije, Sison, Po and Camara.

This is without prejudice to the filing by the accused of a *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, they shall waive their right to present evidence and are submitting this case for judgment on the basis of the evidence adduced by the prosecution.

The accused are given a period of five (5) days from receipt of this Resolution within which to file, by personal filing and service, or through courier, their Manifestation to inform this Court whether they will file a *Demurrer to Evidence*, without leave of court.

The hearings set for the accused to present their evidence on January 23 and 24, 2019, both at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of the accused.²⁷

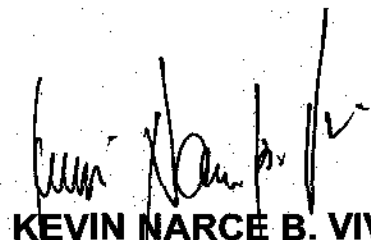
The *Reply* filed by accused Po is merely **NOTED**, considering that the Court did not require the filing thereof.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

²⁷ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases