



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-18-CRM-0408**
Plaintiff, For: Falsification of Public
Document (Art. 171, par. 4, RPC)

SB-18-CRM-0409 to 0411
For: Violation of Section 8 of
of R.A. 6713

Present

- versus -

PRUDENCIO M. REYES, JR.,
Accused.

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

Promulgated:

NOV 23 2018 

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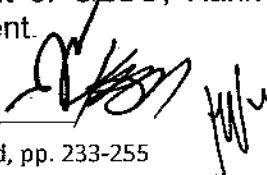
RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Prudencio M. Reyes, Jr.'s *Motion to Quash Information and Motion to Dismiss*.¹

The accused seeks the quashal of the Informations and/or the dismissal of the cases on the ground of inordinate delay. He avers:

1. The facts charged in the Information in SB-18-CRM-0408 do not constitute the offense of Falsification of Public Document under Art. 171 (4) of the Revised Penal Code.
2. The denial of the recording and notation of a presidential conferment of CESO, Rank 1 cannot legally invalidate such appointment.


¹ Dated July 10, 2018; Record, pp. 233-255

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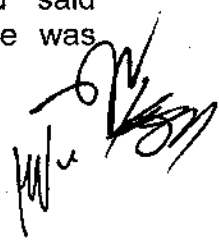
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- a. The factual basis of the charge of Falsification against him is the CESB's denial of his request for noting and recording his CESO 1 appointment.
 - b. Said denial by the CESB cannot invalidate, revoke or annul the appointment made by the President of the Philippines.
 - c. He was of the honest belief that only a competent judicial authority can revoke, cancel or invalidate an appointment made by the President of the Philippines.
3. The element of absolute falsity of the statement is not present.
- a. His act of indicating "CESO, Rank 1" is not a falsehood.
 - b. The conferment of "CESO, Rank I" made by former Pres. Joseph Estrada was subsisting at the time he accomplished the subject PDS prior to his entry in the Bureau of Customs.
 - c. When he wrote "CESO, Rank I" in the subject PDS, it was not an assertion of a falsehood, but of a vested right and a *bona fide* belief in the truth of such statement.
 - d. He relied on such presidential conferment, knowing fully well that there had been no legal challenge to the same.
4. Similarly, the facts charged in the Information in SB-18-CRM-309 to 311 do not constitute an offense because it lacks the allegation of the concealment of ill-gotten wealth, and the allegation that his assets were disproportionate to his lawful income.
- a. The omissions from his SALNs are miniscule, and could not be described as "ill-gotten wealth."
 - b. There was no deliberate effort to hide or misdeclare the subject assets. Said assets were actually declared, albeit under the wrong section of his SALN, and/or rectified in his SALNs for the subsequent years.
 - c. While Prudence Group of Companies, Inc. was organized in 2006, it became operational only in August 2012. He believed in good faith that there was no need to include the same because it was not yet operational.
 - d. He could not have included the TMX 125 motorcycle in his 2010 SALNs because he already sold said motorcycle to his employee at the time. He was



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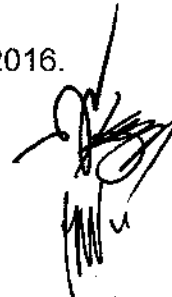
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- completely unaware that said motorcycle was registered in his name.
- e. Prior to 2011, public officers and employees were required only to make a general statement of their assets and liabilities. There was no obligation to state the same in detail.
 - f. It was only on July 8, 2011 when the CSC, in CSC Resolution No. 1100902, prescribed the guidelines in filling out the Revised SALN form for the year 2011. The implementation of said resolution was deferred because the majority of government workers were unequipped with the sufficient knowledge on how to properly accomplish such form.
 - g. Mere misdeclaration in the SALN does not automatically amount to dishonesty. The accumulated wealth must be manifestly disproportionate to the public officer or employee's lawful sources of income.
 - h. He fully explained the discrepancies in his SALN.
 - i. If he cannot even be held administratively liable for dishonesty and grave misconduct, he cannot be successfully prosecuted criminally for the deficiencies in his SALN.
5. His right to speedy disposition of cases was violated.
 6. The Informations were filed only on June 18, 2018, or around eight (8) years from the alleged commission of the offenses; around six (6) years from the commencement of the investigation conducted by the Department of Finance-Revenue Integrity Protection Service (DOF-RIPS); and around three (3) and a half years from the filing of the Complaint of the DOF-RIPS with the Office of the Ombudsman.
 7. The following is a timeline of the events that led to the filing of the Informations:
 - a. DOF-RIPS filed a Complaint with the Office of the Ombudsman on December 16, 2015.
 - b. He was directed to file his counter-affidavit in the Order dated February 15, 2016.
 - c. He filed his Counter-Affidavit on March 9, 2016.



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- d. The Ombudsman approved the Resolution finding probable cause to indict him in court on August 10, 2017.
- e. The Informations were filed on June 18, 2018.
8. Including the time allowed for him to file his counter-affidavit and for his motion for reconsideration, the issuance of the Office of the Ombudsman's Resolution should have taken no more than six (6) months.
9. In *Torres v. Sandiganbayan*,² it was held that speedy disposition of cases covers not only the period within which the preliminary investigation was conducted, but also all stages to which the accused is subjected, including the fact-finding investigation conducted prior to the preliminary investigation proper.
10. In *Coscolluela v. Sandiganbayan*,³ the Supreme Court noted the Office of the Ombudsman's mandate to act promptly on the complaints filed with it.
11. It is not his duty to follow-up on the investigation of his case. It was the Office of the Ombudsman which had the responsibility to expedite the preliminary investigation proceedings.
12. He did not employ or use any dilatory tactic to unreasonably delay the resolution of the preliminary investigation.
13. The filing of the cases caused personal, psychological and emotional toll on him and his family.
14. The vexatious and oppressive cases weakened his constitution.

In its *Opposition (Re: Motion to Quash Information and Motion to Dismiss)*,⁴ the prosecution counters:

1. Between the date the accused filed his counter-affidavit on March 9, 2016 and the approval of the Resolution dated August 10, 2017 on November 9, 2017, the Office of the Ombudsman received several pleadings from the complainant and the accused. The last pleading it received prior to the issuance of said Resolution was the accused' Reply to the complainant's Comment (to accused's Counter Manifestation), on November 11, 2016.
2. At no point was the case made to slumber.

² G.R. Nos. 221562-69, October 5, 2016

³ G.R. No. 191411 and 191871, July 15, 2013

⁴ Dated August 3, 2018; Record, pp. 266-277

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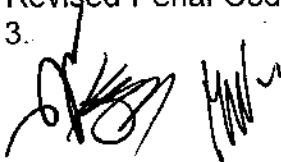
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3. The length of time for the preliminary investigation was reasonable, considering that the Office of the Ombudsman had to properly evaluate and resolve the matter of the existence of probable cause.
4. The right to speedy disposition of cases is violated only when the proceedings are attended by vexatious, capricious and oppressive delays. The concept of speedy disposition is relative or flexible. A mere mathematical reckoning of the time involved is not sufficient.
5. Contrary to the accused' assertion, the preliminary investigation was concluded in two (2) years and one (1) month.
6. The Supreme Court had taken judicial notice of the fact that a steady stream of cases reaches the Office of the Ombudsman, and as a result, the disposition of those cases would take some time.
7. There is nothing in the records that would show that the Office of the Ombudsman acted arbitrarily in resolving the case of the accused.
8. The accused did not assert his right to a speedy disposition of cases during the preliminary investigation. This would show that he was not prejudiced by the delay. He complained only when the Resolution was unfavorable to him. The failure to timely assert the right to speedy disposition of cases amounts to a waiver of such right.
9. The right to speedy disposition of cases should not operate to deprive the government of its inherent prerogative in prosecuting criminal cases.
10. The fundamental test in determining the sufficiency of the material averments of an Information is whether or not the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime as defined by the law. Matters *aliunde* are not considered.
11. The Information need only to state the ultimate facts. Evidentiary and other details can be provided during the trial.
12. If the allegations in the Informations are hypothetically admitted, they would establish the elements of Falsification under Art. 171, par. 4 of the Revised Penal Code, and of violation of Sec. 8 of R.A. No. 6713.



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- 13: The issues raised in the accused' Motion are evidentiary matters which could only be threshed out in a full blown trial.

THE COURT'S RULING

The accused' Motion is bereft of merit and should be denied.

A. Sufficiency of the Informations

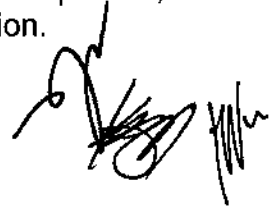
A motion to quash on the ground that the facts charged do not constitute an offense⁵ is resolved only on the basis of the allegations in the Information. The Court need not go beyond the four corners of the Information. In *People v. Sandiganbayan*,⁶ the Supreme Court laid down the three (3) matters that the Court must look into in resolving a motion to quash on the ground that the facts charged do not constitute an offense. To wit:

A motion to quash an Information on the ground that the facts charged do not constitute an offense should be resolved on the basis of the allegations in the Information whose truth and veracity are hypothetically admitted. The question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters *aliunde*. In proceeding to resolve this issue, courts must look into three matters: (1) what must be alleged in a valid Information; (2) what the elements of the crime charged are; and (3) whether these elements are sufficiently stated in the Information.

Rule 110, Sec. 6 of the Rules of Court provides for the contents of a sufficient Information. To wit:

Sec. 6. Sufficiency of complaint or information. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.



⁵ Rules of Court, Rule 117, Sec. 3(a)

⁶ G.R. No. 160619, September 9, 2015

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The elements of Falsification under Art. 171, par. 4 of the Revised Penal Code are as follows:⁷

1. The offender makes in a public document untruthful statements in a narration of facts;
2. The offender has a legal obligation to disclose the truth of the facts narrated; and
3. The facts narrated are absolutely false.

On the other hand, Sec. 8 of R.A. No. 6713 requires all public officials and employees to file under oath their Statement of Assets, Liabilities and Net Worth containing the information enumerated in paragraphs (a) to (e) of sub-section (A). The provision reads:

Sec. 8. Statements and Disclosure. – Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, the assets, liabilities, net worth and financial and business interests including those of their spouses and unmarried children under eighteen (18) years of age living in their households.

(A) *Statement of Assets and Liabilities and Financial Disclosure.* – All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

The two documents shall contain information on the following:

- (a) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal property and acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like;
- (d) liabilities; and
- (e) all business interests and financial connections.

x x x

The Information in SB-18-CRM-0408 reads:

⁷ Galeos v. People, G.R. Nos. 174730-37 and 174845-52, February 9, 2011

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x x x, the above-named accused, PRUDENCIO MELENDEZ REYES, JR., a high-ranking public official, being Deputy Commissioner assigned at the Bureau of Customs (BOC), Port Area, Manila, committing the offense in relation to office and being required by law to make truthful declarations in is Personal Data Sheet (PDS), did then and there willfully, unlawfully and criminally make false statements in a narration of facts, the truth of which he is legally bound to disclose, by stating in said PDS, under the section Civil Service Eligibility, that he is "CESO [Career Executive Service Officer], RANK I," when he knew for a fact that he is not a Career Executive Service eligible, since his request with the Career Executive Service Board (CESB) to note and record his CESO I appointment was denied x x x.

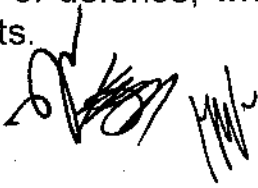
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The Information in SB-18-CRM-0409 reads:

x x x, the above-named accused, PRUDENCIO MELENDEZ REYES, JR., a high-ranking public official, being Deputy Commissioner assigned at the Bureau of Customs (BOC), Port Area, Manila, committing the offense in relation to office and being required by law to make truthful declarations of his assets, among other things, in his Statement of Assets, Liabilities and Networth (SALN), did then and there willfully, unlawfully and criminally fail to disclose in his SALN of February 23, 2010 (entry SALN), the following: 1) his business interests and financial connections in All in One Entertainment Corp.; 2) his business interests in Prudence Group of Companies, Inc.; and 3) his 2005 Honda TMX125 motorcycle with Plate No. TO7291.

The Information in SB-18-CRM-0410 and 0411 are similarly worded, except for (1) the date of the alleged commission of the offense; (2) the date of the subject SALN; and (3) the information the accused allegedly failed to disclose.

A cursory examination of the Information in the present cases would show that the facts constituting the elements of the offenses charged are sufficiently alleged therein. For the charges of violation of Sec. 8 of R.A. No. 6713, there is no need to allege the concealment of ill-gotten wealth, or that the accused' assets were disproportionate to his or her lawful income. The accused' arguments with respect to this ground are matters of defense, which are better threshed out during the trial on the merits.



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B. *The right to speedy disposition of cases*

Sec. 16 of Art. III of the Constitution guarantees the right to speedy disposition of cases. The provision reads:

Sec. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

The right to speedy disposition of cases, like the right to speedy trial, is violated only when the proceedings are attended by vexatious, capricious and oppressive delays.⁸ Speedy disposition, being a relative term and a flexible concept, a mere mathematical reckoning of the time involved will not suffice. Thus, in determining whether such right was violated, the Supreme Court adopted the balancing test, in which the conduct of both the prosecution and defendant are weighed. This test considers the four factors, namely, (a) the length of delay; (b) the reasons for the delay; (c) the assertion or failure to assert such right by the accused; and (d) the prejudice caused by the delay, together with the peculiar circumstances surrounding each case.⁹

Considering said factors together with the circumstances surrounding the present cases, this Court finds that there was no violation of the accused' right to speedy disposition of cases.

The records would show that the *Joint Complaint-Affidavit*¹⁰ of the Department of Finance – Revenue Integrity Protection Service (DOF-RIPS) was filed with the Office of the Ombudsman on December 16, 2015. In the Order dated February 15, 2016,¹¹ the Office of the Ombudsman directed the accused to file his counter-affidavit. Thereafter, the accused filed his *Counter-Affidavit*¹² on March 9, 2016.

In the Resolution dated August 10, 2017 and approved on November 9, 2017,¹³ the Office of the Ombudsman found probable cause to indict the accused for one (1) count of Falsification under Art. 171, par. 4 of the Revised Penal Code, and three (3) counts of Violation of Sec. 8 in relation to Sec. 11 of R.A. No. 6713. The DOF-RIPS filed its Motion for Partial Reconsideration, and the accused, his Motion for

⁸ *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 11, 2004

⁹ Please see *Perez v. People*, G.R. No. 164763, February 12, 2008

¹⁰ Dated December 16, 2015; Record, pp. 16-36

¹¹ It appears that the year was erroneously indicated as "2015," instead of "2016."

¹² Dated March 8, 2016; Record, pp. 173-184

¹³ Record, pp. 205-221

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Reconsideration, both on November 27, 2017.¹⁴ Both motions were denied in the Consolidated Order¹⁵ dated January 22, 2018. Said Consolidated Order was approved on February 23, 2018. Finally, the Information in the present cases were filed on June 18, 2018.

The Information in the present cases were filed around two (2) years and six (6) months from the filing of the Joint Complaint-Affidavit of the DOF-RIPS. This period is broken down as follows:

Date of filing of the accused' Counter-Affidavit to date of approval of the Resolution dated August 10, 2017	One (1) year and eight (8) months
Date of filing of the accused' Reply to complainant's Comment (to accused' Counter Manifestation) ¹⁶ to date of approval of the Resolution dated August 10, 2017	Almost one (1) year
Date of filing of the complainant's Motion for Partial Reconsideration, and the accused' Motion for Reconsideration, to date of approval of the Consolidated Order dated January 22, 2018	Almost three (3) months
Date of approval of the Consolidated Order dated January 22, 2018 to date of filing of the Informations	Almost four (4) months

The prosecution argues that considering the numerous pleadings, memoranda and motions file by both the complainant and the accused, as well as the fact that the Office of the Ombudsman also handles other cases, the time it took to conduct the preliminary investigation was reasonable. This Court is inclined to agree.

Rule II, Sec. 4¹⁷ of the Rules of Procedure of the Office of the Ombudsman and Rule 112, Sec. 3¹⁸ provide for the periods within

¹⁴ Record, p. 11

¹⁵ Record, pp. 11-15

¹⁶ Prosecution's Opposition dated August 3, 2018, p. 2; Record, p. 267

¹⁷ Sec. 4. Procedure. – The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court, subject to the following provisions: x x x

¹⁸ Sec. 3. Procedure. – The preliminary investigation shall be conducted in the following manner:



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which the preliminary investigation should be completed. Without doubt, the Office of the Ombudsman failed to strictly comply with such periods. However, it bears stressing that such procedural periods are not absolute.

In *Mendoza-Ong v. Sandiganbayan*,¹⁹ the Supreme Court recognized that a steady stream of cases reaches the Office of the Ombudsman, and that delay in the disposition of such cases is a natural result thereof. To wit:

x x x. "Speedy disposition of cases" is consistent with reasonable delays. The Court takes judicial notice of the fact that the nature of the Office of the Ombudsman encourages individuals who clamor for efficient government service to lodge freely their complaints against alleged wrongdoing of government personnel. A steady stream of cases reaching the Ombudsman inevitably results. Naturally, disposition of those cases would take some time. x x x

(underscoring supplied)

This was reiterated in the more recent case of *People v. Sandiganbayan*.²⁰ viz.:

At this juncture, this Court takes judicial notice of the fact that these cases are not the only ones pending before the OMB. As can be gleaned from the assailed resolutions, these circumstances were not considered by the court *a quo* as it, evidently, merely ventured into a mathematical computation of the period from the filing of the First Complaint to the filing of the Informations before it.

It is relevant to note that while procedural periods to act upon complaints and motions are set by the rules, these may not be absolute. The law and jurisprudence allow certain exceptions

- (a) x x x.
- (b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation, or issue a subpoena to the respondent attaching to it a copy of the complaint and its supporting affidavits and documents. x x x
- (c) Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense. x x x
- (d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall resolve the complaint based on the evidence presented by the complainant.
- (e) x x x
- (f) Within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

¹⁹ G.R. Nos. 146368-69, October 18, 2004

²⁰ G.R. Nos. 232197-98, April 16, 2018

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thereto, as this Court and the law recognizes the fact that judicial, as well as investigatory, proceedings do not exist in a vacuum and must contend with the realities of everyday life. It bears stressing that in spite of the prescribed periods, jurisprudence continues to adopt the view that the fundamentally recognized principle is that the concept of speedy trial, or speedy disposition of cases for that matter, is a relative term and must necessarily be a flexible concept.

(underscoring supplied)

As shown in the broken-down timeline, it does not appear that the case before the Office of the Ombudsman lingered in any particular stage for an unreasonably long period. Furthermore, the Office of the Ombudsman upheld the parties' right to due process by giving both the complainant and the accused ample opportunity to file their respective pleadings and memoranda, all of which the Office of the Ombudsman had to consider and evaluate. Indeed, the Office of the Ombudsman could have immediately resolved the case after receiving the accused' counter-affidavit. However, the accused cannot complain of the Office of the Ombudsman's failure to do so, considering that he also took advantage of the delay by filing several pleadings and memoranda. Finally, as to this point, there is nothing in the records or in the accused' Motion that would indicate that the cases were brought against the accused for the purpose of harassing him, or anything that would make the delay vexatious, capricious or oppressive.

Equally important is the accused' timely assertion of the right to speedy disposition of cases. In *People v. Sandiganbayan*,²¹ it was held:

Another essential matter disregarded by the court a quo is the fact that there is nothing on record that would show that respondents asserted this right to speedy disposition during the OMB proceedings when they alleged that the delay occurred. In fact, it took respondents one year and eight months after the Informations were filed before the court a quo on March 30, 2015 before they finally asserted such right in their Motion to Dismiss filed on November 22, 2016.

(underscoring supplied)

Nowhere in the records or in the accused' Motion does it appear that he made a timely assertion of his right to speedy disposition of cases. Even in the accused' motion for reconsideration of the Office

²¹ *Ibid.*

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of the Ombudsman's Resolution finding probable cause to indict him in court, and in his comment to the complainant's opposition, there was nary a mention of such right.²²

This Court is not blind to the fact that the accused suffered some form of prejudice in connection with the present cases. Here, the accused claims that the delay in the proceedings before the Office of the Ombudsman caused personal, psychological and emotional toll on him and his family, and that said delay weakened his constitution.

However, it bears stressing that it is not only the accused who suffers prejudice by reason of inordinate delay in the proceedings. The government, which has the burden of proving its case beyond reasonable doubt, may also suffer prejudice. Moreover, such prejudice must be within the context of the right to speedy disposition of cases, *i.e.* serious prejudice caused by inordinate delay in the proceedings. This prejudice was explained in *Corpuz v. Sandiganbayan*²³ as follows:

Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.

The prejudice the accused claims to have suffered is not that which is contemplated in the right to speedy disposition of cases. First, it does not appear that the prejudice was caused by inordinate delay in the proceedings. As this Court discussed earlier, the time it took the Office of the Ombudsman to conduct the preliminary investigation was not unreasonable. More important, such prejudice appears to have been caused by the fact that cases were instituted against the accused, regardless of delay in the proceedings. Second, the claimed prejudice

²² Summary of therein respondent's arguments, *Consolidated Order* dated January 22, 2018, p. 2; Record, p. 12

²³ *Supra*. Note 8



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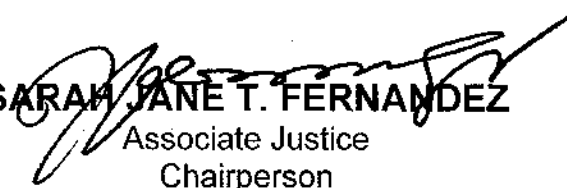
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does not appear to be serious, such claim being a mere general statement of prejudice that the accused allegedly suffered.

To reiterate, this Court finds that there was no violation of the accused' right to speedy disposition of cases.

WHEREFORE, the Motion of the accused is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice