



Republic of the Philippines  
*Sandiganbayan*  
 Quezon City

\*\*\*

SEVENTH DIVISION

*MINUTES of the proceedings held on January 30, 2019.*

*Present:*

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

*The following resolution was adopted:*

***SB-12-CRM-0173 – People v. Eleno U. Colinares, Jr.***

Before the Court is an “OMNIBUS MOTION” dated January 29, 2019 filed by accused Eleno U. Colinares, Jr., through Attys. Patrick M. Velez and Michelle F. Limjap, informing the Court of his health condition (stage 2 prostate cancer) which requires immediate medical attention. By reason thereof, accused beseeches the Court, on humanitarian grounds, to allow him provisional liberty under his original bail so that he may undergo medical confinement pending the filing of an appeal or any other appropriate remedy or, in the alternative, for him to be confined in a medical facility which could provide for his special medical needs. The prosecution opposed the motion and argued that accused has not demonstrated the urgency of the motion and that the medical reports he appended thereto are not current and were issued by private physicians only. For his part, accused, through Atty. Limjap, invoked the residual jurisdiction of the Court as basis for the grant of the motion.

While the Court fully commiserates with the plight of the accused and acknowledges the urgency of the situation, he must, unfortunately, look elsewhere for relief. As it stands, considering the finality of the judgment of conviction, the Court is without recourse but to order his commitment at the National Penitentiary, Muntinlupa City.<sup>1</sup>

In a similar vein, the so-called “residual jurisdiction” of a court does not find any application herein considering that accused already lost the

<sup>1</sup> The transfer of national prisoners to the National Penitentiary at Muntinlupa City is provided for in Circular No. 4-92-A (*Obugan v. People*, G.R. No. 116506-07, May 22, 1995, 244 SCRA 263) which provides in relevant part:  
 “In order to decongest provincial, city and municipal jails, and to effect better control and supervision over national prisoners, all trial judges concerned are hereby directed to issue the corresponding mittimus or commitment orders of national prisoners immediately after their conviction so that they may be remitted or transferred to the Bureau of Corrections in Muntinlupa, Metro Manila” (underscoring and emphasis supplied). See also A.M. No. 13-11-07-SC approving OCA Circular No. 163-2013.

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remedies available in the Rules of Court including the right to appeal the judgment of conviction. Verily, per Section 9, Rule 41 of the Rules of Court, the residual jurisdiction of the Court is available only during that small window of time when a party has filed an appeal and before transmittal of the original record of the case to the appellate court.

The foregoing considered, the Court is constrained to **DENY** accused's "OMNIBUS MOTION" dated January 29, 2019.

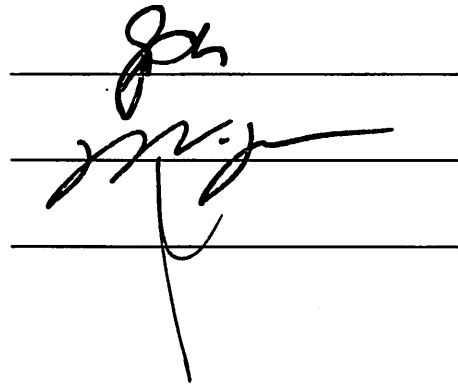
With the finality of the judgment, let a *mittimus* order issue in this case.

**SO ORDERED.**

**GOMEZ-ESTOESTA, J., Chairperson**

**TRESPESES, J.**

**HIDALGO, J.**



Handwritten signatures of the judges over three horizontal lines. The top signature is for Gomez-Estoesta, J., the middle for Trespeses, J., and the bottom for Hidalgo, J.