



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-15-CRM-0003, 0004, 0006**
Plaintiff, **and 0007**

For: Violation of Sec. 52(g)
of R.A. No. 8291

SB-15-CRM-0005

For: Violation of Section 3(e)
of R.A. 3019 as amended

- versus -

Present

FERNANDEZ, SJ, J.,

Chairperson

MIRANDA, J. and

VIVERO, J.

LEOVIGILDA P. CINCHES,

Accused.

Promulgated:

JAN 16 2019

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion to Suspend Proceedings*¹ filed by accused Leovigilda P. Cinches.

The accused prays that this Court suspend the proceedings in the present cases for one (1) year. She avers:

1. In the *Medical Certificate* dated January 10, 2018 issued by her Cardiologist, Dr. Nelson S. Abelardo, she was diagnosed with the following medical conditions:
 - a. Uncontrolled stage 2 essential hypertension;

¹ Dated November 16, 2018; Record, Vol. 2, pp. 121-130

RESOLUTION

People vs. Cinches

Criminal Cases No. SB-15-CRM-0003 to 0007

Page 2 of 7

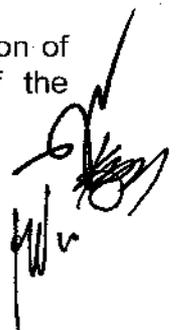
X-----X

- b. Ischemic heart disease with occasional episodes of instability;
 - c. T2DM [Type 2 *Diabetes Mellitus*] with erratic glycemic control; and
 - d. Intermittent depressive anxiety.
2. Dr. Abelardo, also in said *Medical Certificate*, recommended that she regularly take medication, and that she avoid being exposed to undue stress, and further concluded that she was unfit to stand criminal trial.
 3. In the *Medical Certificate* dated November 12, 2018, Dr. Abelardo noted the sharp increase in her blood pressure, and again, recommended that she refrain from being exposed to situations that cause increased levels of stress.
 4. She was deprived of her right of confrontation under Art. III, Sec. 14 of the Constitution because of her frail physical condition.
 5. She has not expressly waived her right to confront the witnesses presented against her.
 6. Her absence due to her advanced age and the state of her physical and mental health should not be deemed as an implied waiver of such right because these are matters which are beyond her control.
 7. Furthermore, the state of her physical and mental health renders her unable to continue to meaningfully participate in the proceedings.
 8. The proceedings should be suspended to prevent her from being further deprived of her rights of confrontation, and to due process.

In its *Opposition (To Accused Cinches' Motion to Suspend Proceedings)*,² the prosecution counters:

1. The grounds cited by the accused are not grounds for the suspension of proceedings under Rule 116, Sec. 11 of the Rules of Court.
2. Although the said rule refers to grounds for the suspension of arraignment, it may also apply to the suspension of the

² Dated December 12, 2018; Record, Vol. 2, pp. 142-147



RESOLUTION

People vs. Cinches

Criminal Cases No. SB-15-CRM-0003 to 0007

Page 3 of 7

X-----X

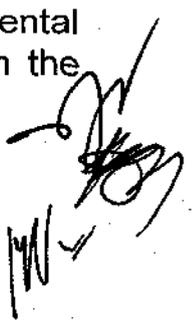
presentation of evidence, considering that both may be suspended for valid reasons.

3. The accused did not show how her frail physical and mental health renders her incapable of comprehending the charges against her, or of being able to prepare her defense.
4. Dr. Abelardo, upon being put to the witness stand, categorically stated that the accused is of sound mind, and was mentally capable of comprehending and answering questions which may be asked.
5. He concluded that the accused "is not fit to stand a criminal trial" because of the adversarial nature of court proceedings, which would cause nervousness and agitation to persons appearing before the court.
6. He did not recommend the suspension of the proceedings.
7. There was no violation of her right to confront the witnesses against her, notwithstanding her absence at the time of the presentation of the prosecution's evidence.
 - a. She is deemed to have waived her right to be present after she executed the Waiver of Appearance.
 - b. In the Special Power of Attorney, she authorized her counsel to represent, and to defend her, in the proceedings in the present cases. Her counsel actively participated during the presentation of the prosecution's evidence.
8. There would be no violation of the accused' right to confront the witnesses against her because the evidence that will be presented is her own evidence. The presentation of the prosecution's evidence was already terminated.

THE COURT'S RULING

The Court resolves to deny the accused' *Motion to Suspend Proceedings*.

The accused argues that the state of her physical and mental health renders her unable to appear during the proceedings in the

Handwritten signature and initials in the bottom right corner of the page.

RESOLUTION

People vs. Cinches

Criminal Cases No. SB-15-CRM-0003 to 0007

Page 4 of 7

X-----X

present cases, and therefore, “not fit to stand criminal trial.”³ Because of her inability to be physically present during the hearings, she is deprived, or will be deprived, of her right to confront the witnesses against her. The Court is not persuaded.

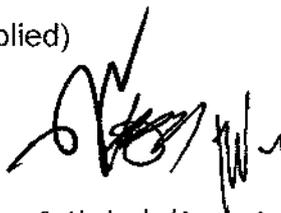
First, the Court finds it necessary to clarify the concept of “competency to stand trial.” In *People v. Estrada*,⁴ it was held that in determining whether proceedings should be suspended on the ground of the accused’ competency, or lack thereof, to stand trial, the Court should resolve the question of whether the accused, even with the assistance of counsel, would have a fair trial. The Supreme Court, citing the rules in American jurisdiction, explained the test in determining the defendant’s competency to stand trial as follows:

In determining a defendant’s competency to stand trial, the test 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. The test is prescribed by state law but it exists generally as a statutory recognition of the rule at common law. Thus:

[I]t is not enough for the... judge to find that the defendant [is] oriented to time and place, and [has] some recollection of events, but that the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.

There are two distinct matters to be determined under this test: (1) whether the defendant is sufficiently coherent to provide his counsel with information necessary or relevant to constructing a defense; and (2) whether he is able to comprehend the significance of the trial and his relation to it. The first requisite is the relation between the defendant and his counsel such that the defendant must be able to confer coherently with his counsel. The second is the relation of the defendant vis-à-vis the court proceedings, i.e., that he must have a rational as well as a factual understanding of the proceedings.

(underscoring supplied)



³ Medical Certificate dated January 10, 2018 issued by Dr. Nelson S. Abelardo (Annex A of the accused’ Motion to Suspend Proceedings)

⁴ G.R. No. 130487, June 19, 2000

RESOLUTION

People vs. Cinches

Criminal Cases No. SB-15-CRM-0003 to 0007

Page 5 of 7

x-----x

From the foregoing, it is clear that "competency to stand trial" does not refer to mere inability to be physically present during the proceedings. To be considered incompetent to stand trial, it must be shown that the accused is unable to coherently confer with counsel, and to rationally and factually understand the proceedings. These, the accused failed to show.

There is nothing in the medical certificates issued by Dr. Abelardo that would show how the physical and mental state of the accused renders her unable to coherently confer with her counsel, or to understand the proceedings. In fact, during the hearing on December 5, 2018, Dr. Abelardo categorically stated that the accused can intelligently answer questions, and has not exhibited irrational behavior. The medical certificates only declared that the accused' physical and mental state renders her unable to appear during the hearings in the course of the proceedings.

The Court will now resolve the main issue, *i.e.*, whether or not the accused was, or will be deprived of her right to confront the witnesses against her. The Court rules in the negative.

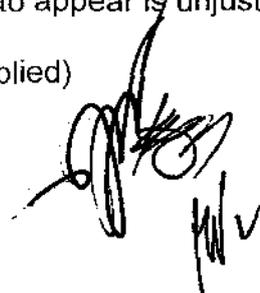
The accused must be disabused of her notion that the exercise of the right of confrontation necessitates her personal appearance during the proceedings.

The accused' right to confront the witnesses against him or her is enshrined in Art. III, Sec. 14 (2) of the Constitution. The provision reads:

Sec. 14. (1) x x x

(2) In all criminal prosecutions the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

(underscoring supplied)



| ||

RESOLUTION

People vs. Cinches

Criminal Cases No. SB-15-CRM-0003 to 0007

Page 6 of 7

X-----X

In *Go v. People*,⁵ it was held that this right has a twofold purpose, namely, (1) to afford the accused an opportunity to test the testimony of the witnesses by cross-examination, and (2), to allow the judge to observe the deportment of witnesses. It was further explained that such right was intended to guarantee against the use of unreliable testimony in criminal trials. *viz.:*

As the right of confrontation is intended "to secure the accused in the right to be tried as far as facts provable by witnesses as meet him face to face at the trial who give their testimony in his presence, and give to the accused an opportunity of cross-examination," it is properly viewed as a guarantee against the use of unreliable testimony in criminal trials. In the American case of *Crawford v. Washington*, the US Supreme Court had expounded on the procedural intent of the confrontation requirement, thus:

Where testimonial statements are involved, we do not think the Framers meant to leave the Sixth Amendment's [right to confront the witness face to face] protection to the vagaries of the rules of evidence, much less to amorphous notions of "reliability". Certainly, none of the authorities discussed above acknowledges any general reliability exception to the common-law rule. Admitting statements deemed reliable by a judge is fundamentally at odds with the right of confrontation. To be sure, the Clause's ultimate goal is to ensure reliability of evidence, but it is a procedural rather than a substantive guarantee. It commands, not that evidence be reliable, but that reliability be assessed in a particular manner: by testing in the crucible of cross-examination. The Clause thus reflects a judgment, not only about the desirability of reliable evidence (a point on which there could be little dissent), but about how reliability can best be determined."

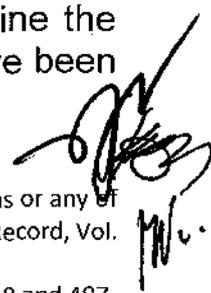
Although the accused herself was not present when the prosecution presented its witnesses, she actually exercised her right to confront the witnesses against her through counsel,⁶ who appeared in court and actually conducted the cross-examination of the prosecution's witnesses.⁷

Even assuming that counsel for the accused failed to actually cross-examine the prosecution's witnesses, the accused would not have been deprived of her right of confrontation because her counsel was actually present, and had the opportunity to cross-examine the prosecution's witnesses. In such case, the accused would have been

⁵ G.R. No. 185527, July 18, 2012

⁶ *Special Power of Attorney* dated March 4, 2016 of the accused, authorizing Atty. Jose A. Bernas or any of the lawyers of Bernas Law Offices to appear on her behalf, in the hearings in the present cases; Record, Vol. 1, pp. 331-332

⁷ Record, Vol. 1, pp. 426-428 (hearing on August 14, 2017), 462-464 (hearing on January 10, 2018 and 497-499 (hearing on March 5, 2018)



RESOLUTION

People vs. Cinches

Criminal Cases No. SB-15-CRM-0003 to 0007

Page 7 of 7

X-----X

deemed to have waived her right to cross-examine, mere opportunity and not actual cross-examination being the essence of such right.⁸

Finally, the accused' right of confrontation finds no application at this point in the proceedings because such right pertains to the cross-examination of witnesses **against** the accused. As the prosecution pointed out, the prosecution had already rested, and it is now the accused' turn to present her evidence. The prosecution, and not the accused, will conduct the cross-examination of the witness(es) of the defense.

There being no violation—whether actual or imminent—of the accused' right of confrontation, her *Motion to Suspend Proceedings* has no leg to stand on.

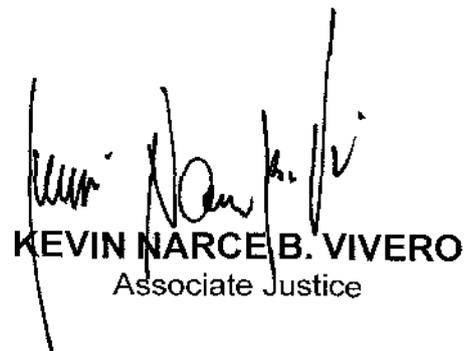
WHEREFORE, the *Motion to Suspend Proceedings* of the accused is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

⁸ Please see *Liong v. People* (G.R. No. 200630, June 4, 2018), citing *People v. Narca* (G.R. No. 108488, July 21, 1997)