



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
QUEZON CITY

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**SEVENTH DIVISION**

*MINUTES of the proceedings held on January 7, 2019.*

*Present:*

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

The following resolution was adopted:

***SB-15-CRM-0116 to 0118 – People v. Juanito Padilla Abergas***

This resolves the following:

1. Accused Juanito Padilla Abergas's "Motion for Leave of Court to File Demurrer to Evidence" dated October 5, 2018; and
2. Prosecution's "Comment/Opposition on Accused' Motion for Leave to File Demurrer to Evidence" dated November 26, 2018.

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***GOMEZ-ESTOESTA, J.:***

Before Us is accused Juanito Padilla Abergas's ["accused"] *Motion for Leave of Court to File Demurrer to Evidence*.

In his four-page *Motion*, accused argued that the prosecution's evidence is insufficient to establish his conviction beyond reasonable doubt. He highlighted that witness Akila S. Manggis had testified, on cross-examination, that several disbursement vouchers ("DVs") marked as Exhibits "AA", "BB", "CC", and "DD" were "NOT SIGNED" although a Certification appears in Box "B" thereof that the supporting documents attached are complete and proper. Further, witness Ma. Theresa Carillo had averred that accused's travel on June 2, 2003 was supported by a Travel Authority, and that he was authorized to collect actual reimbursement of travel and incidental expenses. Accused also contended that the prosecution did not present any DV relating to his local travel expenses; neither did the prosecution show the DVs which would establish that the amounts alleged in the Information were claimed or

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paid. Thus, accused prays that he be granted leave of court to file the intended pleading.

In the main, the prosecution countered that its evidence established all the elements of Violation of Section 3 (e) of *Republic Act No. 3019*. Firstly, accused was a public officer as he was the Regional Director of DPWH Region VII. Secondly, accused acted with evident bad faith when he caused the reimbursement, release, and collection of: (1) travel expenses in the total amount of P603,459.55 despite failure to submit the documentary requirements in support of his frequent travels from Cebu to Manila; (2) extraordinary and miscellaneous expenses in the total amount of P784,430.94 which not only exceeded the P320,000.00 ceiling set by the General Appropriation Act for the years 2002 to 2005, but also was used for purposes not related to the performance of official functions; and (3) actual and/or incidental expenses in the total amount of P416,525.70, which are of the same nature as his claim for extraordinary and miscellaneous expenses. Lastly, the third element was established because the accused's reimbursement, release, and collection of the abovestated expenses caused undue injury to the government. It thus prays for the denial of accused's *Motion*.

### OUR RULING

The power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court.<sup>1</sup> The filing of a demurrer to evidence is governed by Section 23, Rule 119 of the *Revised Rules of Criminal Procedure*, viz:

SEC. 23. Demurrer to evidence. – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

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The motion for leave of court to file demurrer to evidence **shall specifically state its grounds** and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt. (Emphasis supplied)

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There is no cogent reason to grant the *Motion* as the accused did not specifically state the grounds relied upon.

A review of accused's pleading shows that while it pointed to the alleged insufficiency of the prosecution's evidence, accused's arguments were

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<sup>1</sup> *People v. Crespo y Cruz*, G.R. No. 180500, September 11, 2008

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narrowly confined to the worth of the DVs presented in evidence by the prosecution, or the lack thereof (relating to accused's travel expenses). The accused is not entirely correct in contending that the non-presentation by the prosecution of the DVs is fatal to the cases and negates the fact of payment. Undue injury to the Government, which could be evidenced by payment or reimbursement, may be proved and established by other competent evidence on record. The non-presentation of the DVs, by itself, does not automatically tarnish the sufficiency of prosecution evidence, which is best tested in determining the existence of the elements of the offenses charged. As it is, the accused omitted to discuss the very facts which would establish the presence or absence of the essential elements comprising Violations of Section 3 (e) of *R.A. 3019*, which are the bone of contention in the three (3) Informations filed against him.

To stress, an exhaustive evaluation of the probative value of the evidence presented, and the credibility of the witnesses' statements is premature at this point, but only upon the ultimate disposition of the cases.

A review of the prosecution's evidence nonetheless shows that sufficient evidence has been established to hold the accused liable for the crimes charged.

The elements of Section 3 (e) juxtaposed with the evidence corresponding thereto, disclose the following:

<b>Criminal Case Nos. SB-15-CRM-0116 to 0118</b>	
<b>Elements of Violation of Section 3 (e) of <i>R.A. 3019</i></b>	<b>Evidence Presented</b>
(1) The accused must be a public officer discharging administrative, judicial or official functions;	Exhibits "C", "D", "E" and "F"
(2) The accused must have acted with manifest partiality, evident bad faith or inexcusable negligence; and	Exhibits "A", "B", "G", "G-1", and "G-2" Exhibits "AA", "BB", "CC", and "DD"
(3) The accused's action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.	Exhibits "LLL" to "CCCC", as testified by prosecution witnesses Ma. Theresa Carillo, Anecia M. Maglahus and Rafael O. Taleon, Jr. from COA; and Atty. Nilo C. Pala from RLAU

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The evidence points to the disbursement of public funds in accused's claim for reimbursement of his travel expenses, extraordinary and miscellaneous expenses, and actual and/or incidental expenses, as found in the fact-finding investigation of COA, which is accorded presumption in the regularity of its function.

The accused should now refute the same by submitting his own proof in support of his defenses.

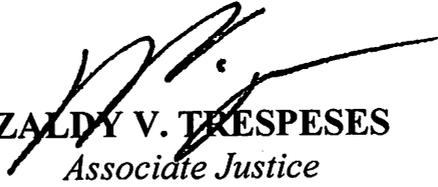
**WHEREFORE**, the *Motion for Leave of Court to File Demurrer to Evidence* of accused Juanito Padilla Abergas is **DENIED**.

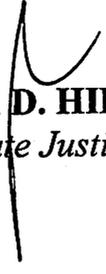
Let the initial presentation of defense evidence **PROCEED**, as scheduled, on January 14, 2019 at 8:30 in the morning at the Fourth Division courtroom.

**SO ORDERED.**

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

WE CONCUR:

  
**ZALDY V. TRESPESES**  
*Associate Justice*

  
**GEORGINA D. HIDALGO**  
*Associate Justice*