

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0122

**FOR: Violation of Section 3(a),
R.A. No. 3019, as amended**

- versus -

RICHARD RAFAL ENOJO,

Accused.

Present:

**LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
MAÑALAC, JJ.**

Promulgated:

January 03, 2019 *Jel*

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RESOLUTION

LAGOS, J.:

For the Court's consideration is accused Richard Rafal Enojo's *Motion of Leave to File Demurrer to Evidence*¹ dated November 22, 2018, and the prosecution's *Opposition*² thereto, dated December 10, 2018.

The records show that the prosecution presented its last witness on October 25, 2018³ and thereafter filed its *Formal Offer of Documentary Evidence*⁴ on October 25, 2018. On **November 20, 2018**, after due consideration of the arguments raised by the parties, the Court resolved "to **ADMIT** all the exhibits offered by the prosecution"⁵ and, together with the admission of the testimonies of its witnesses, the prosecution was deemed to have rested its case.

¹ Records, Vol. 2, pp. 100-103

² *Id.*, pp. 104-113

³ *Id.*, Vol. 1, p. 401

⁴ *Id.*, Vol. 1, p. 402

⁵ *Id.*, Vol. 1, pp. 470-471; emphasis in the original

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Rule 119, Section 23, of the Rules of Court provides in part:

Sec. 23. *Demurrer to evidence.* – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of the 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. (Underscoring supplied.)

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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.

According to the accused, he received a copy of the Court's **November 20, 2018** Resolution on **November 26, 2018** and, on that basis, he claims that "the instant motion was filed within the period fixed by the Rules of Court." For what its worth, the Court finds it perplexing that that while he admittedly received notice of the Court's Resolution only on **November 26**, yet, he had his *Motion for Leave* prepared and filed as early as **November 22, 2018**, per date of his motion and the "NOV 22 18" (which is presumed to mean the date November 22, 2018) and "REGISTERED MAIL ACCEPTANCE COUNTER" stamped by University Ext. Post Office on the mailing envelope.

Prescinding from the foregoing observation, the accused in support of his motion asserts that "...after evaluating the entirety of the evidence presented by the prosecution and admitted by the Honorable Court, the accused is of the honest but firm belief that the prosecution failed to discharge its duty of proving the guilt of the accused beyond reasonable doubt. Dismal to the prosecution's case were the candid and straightforward testimonies of prosecution witness Police Officer Briones who told the Honorable Court that he was not persuaded nor **unduly** influenced by the accused when he acted on the request of the latter (accused) for police assistance as the same is part of their routine and duty as keeper of the peace in the community.xxx"⁶ Further, he argues, "Both the Constitution (Sec. 14, Article II and the Rules of Court (Sec. 3(a), Rule 131) presume every person to be innocent of any wrongdoing unless the contrary is proved, and he is not required to prove what the law presumes in his favor."⁷

The prosecution in its *Opposition* maintains that it has proven the requisite elements for violation of Section 3(a) and "[w]ithout a doubt, the prosecution has established that there is sufficient evidence proving that Section 3(a) of R.A. 3029 was violated"⁸ by the accused. Among other

⁶ Records, Vol. 2, par. 4, pp. 99-101; emphasis supplied.

⁷ *Ibid.*, par. 5

⁸ Records, Vol. 2, par. 41, p. 111

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things, the prosecution underscores that the accused was “a public officer when he committed the acts charged in the information”⁹; that he “*persuades, induces, or induces another public officer to perform an act*”¹⁰ and which act performed by the public officer, i.e., the “sending of the radio message/telegram to the Dumaguete Police Station to summon Hughes, Regalado, and Atty. Violeta for a conference regarding a land dispute at the behest of the accused,”¹¹....constitutes a “violation of the rules and regulations duly promulgated by competent authority considering that the matter involved in the telegram refers to a mere civil dispute which the PNP [Philippine National Police] has no authority,”¹² and “not within the mandate and power of the PNP”¹³ under Section 24 of R.A. 6975 or the Department of the Interior and Local Government Act of 199.

The accusatory portion of the Information in this case for violation of Section 3(a) of R.A. No. 3019, as amended, reads:

That on 7 February 2013, or sometime prior or subsequent thereto, in the Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, accused RICHARD RAFAL ENOJO, a high-ranking public official being then the Officer-in-Charge, Provincial Legal Officer/Provincial Administrator of the Province of Negros Oriental, in such capacities, committing the crime in relation to office and taking advantage thereof, did then and there willfully, unlawfully and criminally persuade, induce and influence the Philippine National Police (PNP)-Dauin Police Office/Station to summon Ralph Gavin Hughes, Merlinda A. Regalado and one Atty. Ligaya Rubio Violeta to a conference with the accused regarding a land dispute, which persuasion/inducement the PNP heeded even when such act was beyond its mandate under Section 24 of Republic Act No. 6975, or the Department of Interior and Local Government Act of 1990, thereby making such persuasion and inducement a violation of the same statute and its rules and regulations duly promulgated by competent authority, to the damage and prejudice of the government and public interest.

CONTRARY TO LAW.

Section 3(a) of R.A. No. 3019, on the other hand, provides:

SECTION 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the

⁹ *Id.*, par. 6, p. 105

¹⁰ *Id.*, par. 10, p. 106; italics in the original.

¹¹ *Id.*, par. 16, p. 107

¹² *Id.*, par. 17

¹³ *Id.*, par. 18

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official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

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The prosecution, citing *Ampil v. Office of the Ombudsman, et al.*,¹⁴ enumerated the elements of the crime under Sec. 3(a) of R.A. No. 3019, as follows:

- (1) the offender is a public officer;
- (2) the offender persuades, induces, or influences another public officer to perform an act or the offender allows himself to be persuaded, induced, or influenced to commit the act;
- (3) the act performed by the other public officer or committed by the offender constitutes a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duty of the latter.¹⁵

RULING

A *demurrer to evidence* is defined as “an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue.”¹⁶ In this regard, judicial action to grant prior leave to file demurrer to evidence is discretionary upon the trial court.¹⁷

Cognizant, and after due consideration, of the arguments of the parties, together with a review of the Information and the records of this case, the Court finds that based on the evidence offered by the prosecution, if unrebutted by the accused, the same is sufficient to support a finding of guilt beyond reasonable doubt against the accused. The accused anchors the merit of his arguments on the assertion that, first, witness Police Officer Briones was “not persuaded nor unduly influenced by the accused when he acted on the request of the latter (accused)” and, second, that there in his favor the “presumption of innocence” in law. As to witness Briones, the adverb “unduly” is not part of the essential or legal requirement for violation of Sec. 3(a). The law simply speaks of “persuading, inducing and influencing another to perform an act.” What is undeniable is that the accused requested officer Briones for police assistance and the latter acted on said request by sending a radio message to the Dumaguete Police Station to summon Hughes, among others. The request of the accused was the persuasion triggering officer Briones’s action. He did not act in a vacuum or out of thin air. It may be considered as an “effect,” precipitated by a certain

¹⁴ G.R. No. 192685 & 199115, July 31, 2013

¹⁵ See Opposition, Note 2, at p. 105.

¹⁶ *Rivera v. People*, G.R. No. 163996, June 9, 2005, citing *Gutib v. Court of Appeals*, 371 Phil. 293, 300 (1999).

¹⁷ *Bernardo v. CA, et al.*, G.R. No. 119010, September 5, 1997

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“cause,” which in this case could be due to the accused’s request. On the other hand, the existence of the benefit of the legal “presumption of innocence” is indeed indisputable. But the presumption itself is not irrebuttable. Section 3(a), Rule 131, of the Rules of Court provides:

SEC. 3. *Disputable presumptions.* – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

- (a) That a person is innocent of crime or wrong.

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Under Section 23, Rule 119 of the Rules of Court, accused-movant may now adduce evidence in his defense, or proceed instead with his demurrer to evidence, with the ramifications attendant thereto, as provided in par. 2 thereof, to wit: “If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis on the evidence for the prosecution.” (Underscoring supplied.)

WHEREFORE, in view of the foregoing, accused **RICHARD RAFAL ENOJO**’s *Motion of Leave to File Demurrer to Evidence* is **DENIED** for lack of merit. The initial presentation of defense evidence shall proceed as scheduled on January 23, 2019 at 1:30 o’clock in the afternoon.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

WE CONCUR:


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice