



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on February 20, 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 Reconsideration" dated January 12, 2019; and
2. Prosecution's "Comment to Accused[s] Motion for Reconsideration" dated January 23, 2019.

GOMEZ-ESTOESTA, J.:

In his *Motion for Reconsideration*, accused Juanito Padilla Abergas ["**accused**"] questioned the Court's Resolution dated January 7, 2019, which denied his motion for leave to file a demurrer to evidence.

The accused disputes the charges against him on the basis of the alleged non-presentation of disbursement vouchers (DVs) which support the findings of the audit report published by the audit team. The accused points out that no evidence was presented to prove that the P603,459.99 travel expenses as alleged in the Information was disbursed for travel expenses, other than the findings in the audit report. Additionally, while the audit report alleged that accused's travel to Manila dated June 2, 2003 was unsupported by a travel authority, this was contradicted by witness Ma. Theresa Carillo who confirmed that said travel was authorized through a travel order.

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The accused further pointed out that certain allegations in the Informations were not supported by the evidence, viz: although it was alleged that the amount of P416,515.70 was spent for *pasalubong*, the testimonial evidence showed that this was only based on an assumption without actual proof that the items were actually given as intended; the total amount of P1,200,946.64 were claimed reimbursed and released in the nature of actual/incidental expenses, however, the sum of the notices of disallowance amount only to P753,062.77. Moreover, several others had participated in the disbursements subject of the notices of disallowance, but they were not charged together with the accused. Even then, the disbursements were certified by DPWH officers to be necessary, lawful, and supported by proper documents.

The accused also claimed that he did not discuss matters thoroughly in his motion for leave because of the apprehension that the same will be considered as a demurrer to evidence. He only pointed out specific instances which showed that the evidence is insufficient to prove the guilt of the accused beyond reasonable doubt.

The accused thus prayed that the questioned *Resolution* be reconsidered, and that he be granted leave of court to file the intended pleading.

For its part, the prosecution asserted that the accused's arguments rehashed the same points he already brought up in his Motion for Leave to file Demurrer to Evidence. Furthermore, the essential elements of the crimes charged has been established. It thus prayed that accused's Motion for Reconsideration be denied.

OUR RULING

The *Motion* is unmeritorious.

While the accused averred that he only highlighted key points in his motion for leave to file demurrer to evidence so as to avoid a situation in which said pleading might have been considered as equivalent to filing a demurrer to evidence without prior leave of court, this does not justify a departure from the requirement to *specifically state the grounds relied upon* as per Section 23, Rule 119 of the *Rules of Court*.¹ The fact of the matter is that the accused did

¹ The cited provision reads:

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.

not even touch on any of the essential elements of the charges which are paramount in the three (3) Informations filed against him. To stress, all that the accused highlighted centered only on the non-presentation of the DVs (regarding accused's travel expenses) by the prosecution. This fact alone, however, is not automatically fatal to the cases. The Court cannot simply accept at face value the accused's contention that the prosecution failed to establish the disbursement of public funds for travel expenses. Exhibit "G" and its annexes, which point to the accused himself as the sole claimant and only recipient of reimbursements for travel expenses, can actually stand on their own.

Moreover, although the accused underscored seemingly conflicting matters in the evidence, relating to allegedly unsupported and/or contradictory findings in the audit report as against the witnesses' testimonies, it bears emphasizing that the probative value of the evidence and the credibility of the witnesses' statements shall be evaluated in the ultimate disposition of the case.

To reiterate, this Court has already found that sufficient evidence has been presented by the prosecution to hold the accused liable for Violations of Section 3 (e) of *Republic Act No. 3019*, which is precisely the reason why he should refute the same by submitting his own proof in support of his defenses.

In fine, no strong or compelling ground was raised by the accused which would justify a departure from the Court's previous ruling.

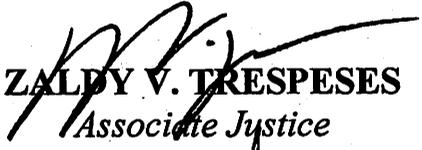
WHEREFORE, the *Motion for Reconsideration* dated January 12, 2019 of accused Juanito Padilla Abergas is **DENIED**.

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA

Associate Justice
Chairperson

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice

GEORGINA D. HIDALGO
Associate Justice

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.