



Republic of the Philippines
Sandiganbayan
 Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on February 20, 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-17-CRM-0732 to 0735 – People v. Lucio Barcelá Uera

In its “*Ex-Parte* MOTION FOR CORRECTION OF RESOLUTION (ON THE PROSECUTION’S FORMAL OFFER OF EXHIBITS)” dated February 15, 2019,¹ the prosecution seeks for the correction of the Resolution² of the Court dated January 17, 2019 admitting Exhibits “S”, “S-1” and “S-2” considering that the prosecution did not offer said exhibits. Accused, for his part, opposes the motion and essentially argues in his “COMMENT AND OPPOSITION TO THE PROSECUTION’S ‘*Ex-Parte* MOTION FOR CORRECTION OF RESOLUTION (ON PROSECUTION’S FORMAL OFFER OF EXHIBITS)’, WITH COUNTER MOTIONS” dated February 18, 2019³ that while the prosecution has the right not to formally offer its previously marked documentary exhibits, it has no right to have these exhibits expunged once introduced into the record as in the case at bar. Thus, aside from asking for the denial of the motion, the accused also moves for reconsideration of the ruling of the Court during the hearing on October 29, 2018 excluding purpose No. 3 and Exhibits “S”, “S-1”, “S-2” & “S-3” and striking off Question and Answer Nos. 14 to 21 from the Judicial Affidavit of Jennifer Barcelo. Finally, accused moves for the production of the aforementioned exhibits pursuant to Section 2(2) of the Judicial Affidavit Rule, Section 1, Rule 27 and Section 10, Rule 116 of the Rules of Court.

As to the prosecution’s motion, a review of its Formal Offer of Evidence dated December 12, 2018⁴ would reveal that, indeed, it did not formally offer Exhibits “S”, “S-1” and “S-2”. In fact, even while it

¹ Record, vol. 2, pp. 372-375.
² *Id.*, pp. 361-363
³ *Id.*, pp. 376-382
⁴ *Id.*, pp. 151-354.

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described said exhibits, no purpose was mentioned and the exhibits themselves were not attached to said Formal Offer of Evidence.

Section 34, Rule 132 of the Rules of Court cannot be any clearer. It provides that “[t]he court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.” As Exhibits “S”, “S-1” and “S-2” were not formally offered into evidence by the prosecution, its admission as evidence was erroneously made and must therefore be corrected by the Court. Accordingly, the prosecution’s Motion is **GRANTED**. The resolution dated January 17, 2019 admitting Exhibits “S”, “S-1” and “S-2” as prosecution evidence is corrected by excluding Exhibits “S”, “S-1” and “S-2” as documentary exhibits for the prosecution.

As to accused Uera’s Motion for Reconsideration of the ruling of the Court dated October 29, 2018 granting the prosecution’s request to exclude purpose No. 3 and to strike off Question and Answer Nos. 14 to 21 from the Judicial Affidavit of Jennifer Barcelo and to expunge Exhibits “S”, “S-1”, “S-2” and “S-3”, the Court stands by its ruling that it is the prerogative of the prosecution on how to proceed with the presentation of its evidence especially in this case where it moved for the exclusion of purpose No. 3 and for the striking off of Question and Answer Nos. 14 to 21 from the Judicial Affidavit of Jennifer Barcelo before said Judicial Affidavit was admitted by the Court. As well, the request to expunge from the record Exhibits “S”, “S-1”, “S-2” and “S-3” was made before the Judicial Affidavit was admitted by the Court. Accordingly, accused Uera’s motion for reconsideration is **DENIED** for lack of merit.

Finally, with respect to accused’s motion for production of Exhibits “S”, “S-1”, “S-2” and “S-3”, the prosecution is **DIRECTED** to file its comment thereto within five days from notice. The incident shall be submitted for resolution thereafter.

SO ORDERED. ¶

GOMEZ-ESTOESTA, J., *Chairperson*

TRESPESES, J.

HIDALGO, J.






