



Republic of the Philippines  
*Sandiganbayan*  
 Quezon City

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SEVENTH DIVISION

*MINUTES of the proceedings held on March 1, 2019.*

*Present:*

<i>MA. THERESA DOLORES C. GOMEZ-ESTOESTA</i> -----	<i>Chairperson.</i>
<i>BAYANI H. JACINTO*</i> -----	<i>Associate Justice</i>
<i>KEVIN NARCE B. VIVERO**</i> -----	<i>Associate Justice</i>

*The following resolution was adopted:*

***SB-13-CRM-0323 to 0558 – People v. Florendo B. Arias, et al.***

The Court now treats the prosecution’s “MOTION FOR RECONSIDERATION (on the Minute Resolution dated [December 20, 2018]<sup>1</sup>)” dated January 14, 2019 [hereinafter referred to as “Motion for Reconsideration”]; accused Burt Favorito and Napoleon Anas’ “COMMENT/OPPOSITION (To the Motion for Reconsideration dated January 14, 2019) dated January 24, 2019; and accused Florendo B. Arias, Mirofe C. Fronda, Renan C. Sikat, Rogelio L. Beray, Maximo A. Borje, Jr. and Janette A. Bugayong’s “COMMENT/OPPOSITION (To the Motion for Reconsideration) dated February 11, 2019.<sup>2</sup> The prosecution’s Motion for Reconsideration asks the Court to take a second look at its denial, per the Resolution dated December 20, 2018, of paragraph 3, *viz.* the request to reserve additional markings for Exhibits “Y<sup>91</sup>”, “Z<sup>92</sup>” and “I<sup>101</sup>” and series, and of item (s) of paragraph 5, *viz.* the inclusion of additional prosecution witness referred as “BIR representatives (BIR Main Office and RDO Biñan Laguna)”, both contained in the prosecution’s “COMMENT WITH MOTION TO CORRECT ENTRIES IN THE PRE-TRIAL ORDER DATED 05 NOVEMBER 2018” dated November 19, 2018 [hereinafter, “Comment”]. The Court again notes the prosecution’s withdrawal of paragraph 2 (concerning the inclusion of Ms. Cristina Canalan as prosecution witness) of the Motion for Reconsideration made during its hearing on January 25, 2019.

To recall, paragraph 3 of the Comment was denied due to the prosecution’s failure to mention these exhibits in the Joint Stipulation of Facts and Issues signed by the parties and to offer good cause in its Comment why these additional reserved exhibits should be included in the Pre-Trial Order. Meanwhile, item (s) of paragraph 5 of the Comment was

\* Per Administrative Order No. 070-2019 dated February 21, 2019.

\*\* Per Administrative Order No. 069-2019 dated February 21, 2019.

<sup>1</sup> As corrected during the hearing of the motion on January 25, 2019.

<sup>2</sup> Accused Norma Villarmino, Lucia Rondon, Bella Tolentino, Ronaldo Simbahan, Rolando Cabangon, Angelita Cabacungan, Melquiadesa Gubatina, Nonito Fano, Victoria Maniego-Go, Maragrito Tinio, Conchita Dela Cruz, Jesus Cruz, Ricardo Juan, Jr. and Carmen Ramos have not filed their comment/opposition despite the period given them per Order dated January 25, 2019.

RESOLUTION

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denied because no witnesses coming from the BIR was listed in the parties' Joint Stipulation of Facts and Issues and also for failure to show good cause why these BIR representatives should be allowed as additional witnesses for the prosecution.

The prosecution's Motion for Reconsideration now argues that paragraph 3 and item (s) of paragraph 5 of the Comment were denied without the prosecution being given the opportunity to show good cause for their allowance as additional prosecution exhibits and witnesses, respectively. It thus moves to be allowed to present the good cause required and then did so by reasoning that the BIR and LTO documents were not available during the preliminary conference and that the presentation of additional witnesses from the BIR that can testify on the BIR documents subject of the requested reservation is only proper.

After considering these arguments along with those advanced by accused Favorito, Anas, Arias, Fronda, Sikat, Beray, Borje, Jr. and Bugayong in their respective submissions, the Court hereby resolves, in the exercise of its judicial discretion, to **DENY** the prosecution's Motion for Reconsideration and affirm the resolution of the Court dated December 20, 2018 regarding paragraph 3 and item (s) of paragraph 5 of the prosecution's Comment.

The prosecution erroneously conflated the Court's direction for the parties to comment on the Pre-Trial Order issued as an avenue to ask the Court to exercise its discretion to allow additional evidence not identified and marked during the preliminary conference upon a showing of good cause. The Court's instruction for the parties to comment on the Pre-Trial Order is solely for the purpose of ensuring that the said order is faithful to the contents of the Joint Stipulations of Facts and Issues explicitly agreed upon by the parties prior to the issuance of the Pre-Trial Order, as well as to the preliminary conference proceedings. It is precisely under this premise that the Court denied the prosecution's requests under paragraph 3 and item (s) of paragraph 5 of its Comment. Simply put, paragraph 3 and item (s) of paragraph 5 were not mentioned in the Joint Stipulations of Facts and Issues and there is thus no basis to correct the Pre-Trial Order to reflect these additions. Should the prosecution desire to belatedly present the documentary exhibits in paragraph 3 and the witnesses mentioned in item (s) of paragraph 5, good cause must be still be offered. This the prosecution failed to do at the first instance in its Comment, in the belief that a simple correction of the Pre-Trial Order is all that must be done.

The prosecution's reliance on *San Juan v. Sandiganbayan, et al.*<sup>3</sup> is also misplaced. The Supreme Court's pronouncement in that case was factually premised on a Pre-Trial Order that the Sandiganbayan explicitly kept open to modification in consideration of the numerous documentary

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<sup>3</sup> G.R. No. 173956, August 6, 2008.

evidence involved in the case and even if trial already commenced. Such is not the situation here. The parties participated in a preliminary conference with the aim of coming into agreements regarding undisputed facts and admissions, issues, documentary exhibits for marking, intended witnesses and other matters that will aid the prompt disposition of the case. Such agreement is then embodied in the Joint Stipulation of Facts and Issues that unconditionally binds the parties and the proceedings of the case. It is precisely this unconditional bind that calls for the presentation of good cause whenever evidence other than those identified and marked during the pre-trial is to be presented and offered.

While the prosecution now offers the unavailability of the documents during the preliminary conference as "good cause" to ask for additional reservations of exhibit markings and witnesses, it cannot be overlooked that the prosecution had already begun presenting its evidence. Without any clear indication in the prosecution's Comment or Motion for Reconsideration as to the provenance of the certifications on which the reserved markings shall be applied to determine if they indeed only became available or accessible after the preliminary conference, it would be iniquitous for the accused if further reservations in favor of the prosecution will be allowed this late in the proceedings.

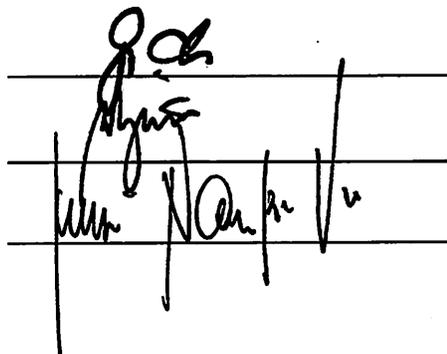
Consequently, as the request for additional reservations of markings for the BIR certifications is denied, the request to include BIR representatives, mentioned in item (s) of paragraph 5 of the prosecution's Comment, as witnesses who will testify on said BIR certifications must also be **DENIED**.

**SO ORDERED.**

**GOMEZ-ESTOESTA, J., Chairperson**

**JACINTO, J.**

**VIVERO, J.**



Handwritten signatures of the judges over horizontal lines. The signatures are written in black ink and appear to be: Gomez-Estoesta, Jacinto, and Vivero.