



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on May 2, 2019

Present:

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

The following resolution was adopted:

CRIMINAL CASE NO. SB-17-CRM-0063

PEOPLE v. JAIME K. RECIO

Before the Court are the following:

1. **"FORMAL OFFER (Of Documentary Evidence for the Accused)"** dated March 18, 2019; and
2. Prosecution's **"COMMENT/OPPOSITION Re: Accused's Formal Offer of Documentary Evidence"** dated April 2, 2019.

GOMEZ-ESTOESTA, J.:

Acting on accused Recio's Formal Offer of Evidence¹ as well as the Prosecution's Comment/Opposition thereto,² the Court resolves to:

ADMIT Exhibit "1", Counter-Affidavit of accused Recio, which he duly authenticated,³ over the Prosecution's objection to the purpose for which it was offered, which pertains more to its probative value to be determined by this Court in the ultimate disposition of the case;

¹ Records, Vol. 6, pp. 166-796

² Records, Vol. 7, pp. 7-20

³ Judicial Affidavit of Jaime K. Recio dated February 8, 2019, Q&A Nos. 52-55

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ADMIT Exhibit “2”, which is common with the Prosecution’s Exhibit “B”;

ADMIT Exhibit “10”, a certified copy of a letter re: intent to elect accused Recio as a member of the Board of Directors of PNOC-EC, having been duly authenticated,⁴ over the Prosecution’s objection on the ground of violation of the Best Evidence Rule, the same rule not being applicable as the contents of said document are not the subject of inquiry.

The best evidence rule as encapsulated in Rule 130, Section 3, of the Revised Rules of Civil Procedure applies only when the content of such document is the subject of the inquiry. Where the issue is only as to whether such document was actually executed, or exists, or on the circumstances relevant to or surrounding its execution, the best evidence rule does not apply and testimonial evidence is admissible. Any other substitutionary evidence is likewise admissible without need to account for the original. Moreover, production of the original may be dispensed with, in the trial court’s discretion, whenever the opponent does not bona fide dispute the contents of the document and no other useful purpose will be served by requiring production.⁵

The relevance of Exhibit “10” will be determined by this Court in the ultimate disposition of the case;

EXCLUDE Exhibit “9”, a certified copy of a certification that “the cop[ies] of the files for the Office of the Executive Director (OED) [of the National Parks Development Committee] from year 2000 to 2008 of the Bids and Awards committee folder was damaged by flood during typhoon Ondoy”, which was not authenticated by either the certifying officer or the official custodian,⁶ as properly pointed out by the Prosecution.

Consequently, the photocopies marked as Exhibits “4”, “5”, “6”, and “7”, which were offered to prove that bidding was conducted in 2003 for the contract of security services, are EXCLUDED for violation of the Best Evidence Rule, as pointed out by the Prosecution.

EXCLUDE Exhibit “3”, a certified copy of the Contract for Security Services, there being merit in the Prosecution’s objection that it was not properly authenticated by the legal custodian of the document.⁷ The stamp “certified true copy” likewise does not clearly show who or what office certified said document.

ADMIT the following exhibits, over the Prosecution’s objection that they were not properly authenticated by their custodian:

⁴ Judicial Affidavit of Jaime Recio, Q&A Nos. 47-50

⁵ *Lee v. People*, G.R. No. 159288, October 19, 2004

⁶ Rule 132, Section 24. *Proof of official record.* — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, x x x

⁷ *ibid.*

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Exhibits:

"11-I" (3 pp); "11-J" to "11-J-1";
"12-L" to "12-L-22"; "12-N"; "12-O"; "12-P"; "12-Q"; "12-Q-1";
"13-I" to "13-I-2"; "13-J" (17 pp); "13-K" to "13-K-1"; "13-M"; "13-M-1"; "13-M-2";
"14-H" to "14-H-6"; "14-J"; "14-J-1"; "14-K" to "14-K-8"; "14-L";
"15-I" (2 pp); "15-J"; "15-J-1"; "15-K" to "15-K-1"; "15-L";
"16-G" to "16-G-2"; "16-H" to "16-H-18"; "16-J"; "16-K";
"17-F"; "17-G"; "17-G-1"; "17-H" (18 pp); "17-K"; "17-K-1";
"18-D" to "18-D-2"; "18-I" to "18-I-17"; "18-K"; "18-K-1"; "18-L" to "18-L-1"; "18-M"; "18-M-1"; "18-N";
"19-J" to "19-J-2"; "19-K" to "19-K-17"; "19-M"; "19-M-1"; "19-M-2"; "19-N"; "19-N-1"; "19-O" to "19-O-1";
"20-I" to "20-I-2"; "20-J" (16 pp); "20-L"; "20-L-1"; "20-M"; "20-M-1"; "20-N"; "20-O" to "20-O-1"; "20-P";
"21-H"; "21-H-1"; "21-I" to "21-I-9"; "21-K"; "21-L"; "21-L-1"; "21-M"; "21-N" to "21-N-8";
"22-J" to "22-J-2"; "22-K" to "22-K-15"; "22-M"; "22-M-1"; "22-N"; "22-N-1"; "22-O" to "22-O-1";
"23-H" to "23-H-2"; "23-I" to "23-I-17"; "23-K"; "23-L"; "23-M"; "23-N"; "23-O";
"24-H"; "24-I" to "24-I-2"; "24-J"; "24-K" to "24-K-7"; "24-M"; "24-N"; "24-O"; "24-P"; "24-Q" to "24-Q-5";
"25-I" to "25-I-2"; "25-J" to "25-J-15"; "25-L"; "25-L-1"; "25-M"; "25-N"; "25-O" to "25-O-1";
"26-H"; "26-I" to "26-I-4" (7 pp); "26-J"; "26-K" to "26-K-1"
"27-I" to "27-I-1"; "27-J" to "27-J-15"; "27-L"; "27-L-1"; "27-M"; "27-O" to "27-O-1"
"28-H"; "28-I"; "28-J"; "28-K" to "28-K-1"; "28-L"; "28-M" to "28-M-5";
"29-J" to "29-J-2"; "29-K" to "29-K-18"; "29-M"; "29-N"; "29-O"; "29-P"; "29-Q";
"30-I" to "30-I-2"; "30-J" to "30-J-18"; "30-L"; "30-M"; "30-N"; "30-O"; "30-O-1";
"31-H"; "31-I" to "31-I-7"; "31-J"; "31-K" to "31-K-1"; "31-P"; "31-Q" to "31-Q-7"; "31-R"; "31-S" to "31-S-1";
"32-H"; "32-I" to "32-I-1"; "32-J"; "32-K" to "32-K-6";
"33-J" to "33-J-2"; "33-K" to "33-K-19"; "33-M"; "33-N"; "33-N-1"; "33-O"; "33-P"; "33-Q" to "33-Q-1";
"34-H" to "34-H-2"; "34-J" to "34-J-18"; "34-K"; "34-L"; "34-L-1"; "34-M"; "34-N";
"35-G"; "35-H" to "35-H-1"; "35-I"; "35-J" to "35-J-7";
"36-G"; "36-H" to "36-H-1"; "36-I"; "36-J" to "36-J-8";
"37-I" to "37-I-2"; "37-J"; "37-J-1" to "37-J-19"; "37-L"; "37-M"; "37-N"; "37-O"; "37-P" to "37-P-1".

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Accused Recio testified⁸ having obtained these documents from the Commission on Audit, as they indeed bear stamps from said office that they were certified copies. These documents were offered to prove that services were rendered, thus, the issue is limited to whether these documents were actually executed.

Pursuant to the *Resolution* of this Court dated March 26, 2019,⁹ the prosecution is DIRECTED to manifest within five (5) days from receipt of this *Resolution* if it intends to proceed with the presentation of rebuttal evidence, which is tentatively set on June 24, 2019 at 8:30 in the morning.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

⁸ Judicial Affidavit of Jaime Recio, Q&A Nos. 57-59

⁹ *Records*, Vol. 7, p. 4