



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on June 18, 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. Accused Jaime Kison Recio's "**MOTION FOR [PARTIAL] RECONSIDERATION (Of the Minute Resolution dated 02 May 2019)**" dated June 3, 2019; and
2. Prosecution's "**COMMENT/OPPOSITION (Re: Motion for [Partial] Reconsideration dated 24 May 2019)**" dated June 3, 2019.

GOMEZ-ESTOESTA, J.:

This resolves accused Recio's *Motion for [Partial] Reconsideration*¹ of this Court's *Resolution* dated May 2, 2019, insofar as it excluded his Exhibits "3" and "9", and consequently, Exhibits "4", "5", "6" and "7".

Accused Recio contends that Exhibits "3" and "9" are public documents whose admissibility as such was sufficiently established. Exhibit "3", the Contract for Services dated July 31, 2002, was certified by the NPDC, who, as a party to said contract, was necessarily the custodian of said

¹ Records, Vol. 7, pp. 38-45

Tj.

document. It was offered to prove, among others, that said contract was executed, and its existence was sufficiently established by accused, who was a signatory thereto. Exhibit “9”, which is a copy of a certification dated March 20, 2014, was likewise duly certified by NPDC, its legal custodian.

Accused Recio argues that these certifications of the copies by the NPDC were sufficient to make Exhibits “3” and “9” admissible in evidence, as no specific form of authentication is required; neither is there a rule requiring the certifying officer to testify on his certification.

In its *Comment/Opposition*,² the Prosecution counters that these exhibits were properly excluded. The certification on Exhibit “3”, as observed by this Court, does not even clearly show who made such certification. The best evidence rule applies to Exhibit “3”, as accused Recio alludes to its contents, particularly its effectivity and duration. On the other hand, Exhibit “9” is not even a certified copy but a mere photocopy, whose certification itself is a photocopy. Besides, it partakes of the nature of an affidavit, and the person who certified did not testify to identify it.

Procedurally, the Prosecution points out that the Motion for Reconsideration was belatedly filed more than five (5) days from accused Recio’s receipt of the resolution of a meritorious motion, contrary to Section II(c), par. 5 of the Revised Guidelines for Continuous Trial of Criminal Cases.

The *Motion* is bereft of merit.

At the outset, accused Recio’s Motion for Reconsideration does not assail the Resolution of a **meritorious motion**,³ but his Formal Offer of Evidence, hence, the five (5)-day reglemantary period under the Guidelines for Continuous Trial does not apply, and the *Motion* was not belatedly filed.

In any event, this Court sees no cogent reason to reverse the exclusion of accused Recio’s Exhibits “3” and “9”.

It is not correct to say that the mere certification on a public document suffices to make it admissible. As cited by accused Recio, Rule 132 of the Rules on Evidence provides:

Section 19. Classes of Documents. — For the purpose of their presentation evidence, documents are either public or private.

Public documents are:

² *Id.*, pp. 51-55

³ III.2.(c) Meritorious Motions. — Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, such as: x x x

The motion for reconsideration of the resolution of a **meritorious motion** shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment.

17.1

(a) **The written official acts**, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;

(b) Documents acknowledge before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

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, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

Section 25. What attestation of copy must state. — Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. **The attestation must be under the official seal of the attesting officer**, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

Accused Recio argues that the NPDC stamp on the certification is sufficient to make Exhibits “3” and “9” admissible, but clearly the mere stamp of an agency is **not** the attestation of the **officer** having legal custody thereof that is required under the rules. Not only do Exhibits “3” and “9” not bear the name of the **attesting officer**, as required under Section 25 of Rule 132, but nobody was presented to testify that he/she was indeed the attesting officer who certified said documents. While accused Recio claims that there is no rule requiring said attesting officer to testify on the document he certified, a perusal of the above-cited rules demonstrates the necessity of such testimony as a means to prove that (a) said person was indeed the attesting officer, having legal custody of the document, and (b) he certified the copy of the document. Only when these are established could a certified copy of a public document be admitted in evidence, as surely, this Court cannot assume the proper attestation of documents merely stamped as certified copies.

The mere fact that Exhibit “3” was offered, **among others**, to prove that said contract was executed, does not take it out of the ambit of the best evidence rule. A revisit of accused Recio’s Formal Offer of Evidence shows that Exhibit “3” was in fact also offered to prove its contents. Even as signatory to the contract, accused Recio’s mere identification of the same is

12

not sufficient to make it admissible, as it remains to be a mere photocopy, not having been certified in accordance with the rules.

Indeed, public documents are self-authenticating, but **only** when they comply with the requirements under the Rules. As explained above, the “certified” copies of public documents marked as Exhibits “3” and “9” fell short of these requirements. Consequently, the exclusion of these exhibits, as well as Exhibits “4”, “5”, “6”, and “7”, stands.

WHEREFORE, in view of the foregoing, accused Recio’s *Motion for [Partial] Reconsideration* is **DENIED** for lack of merit.

The parties are directed to file their respective Memoranda within thirty (30) days from receipt hereof, to aid the Court in the disposition of the case.

Accused Recio is directed to appear in Court on November 15, 2019 at 8:30 a.m. for the promulgation of Judgment.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice