



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

FOURTH DIVISION

PEOPLE OF THE  
PHILIPPINES,

Plaintiff,

- versus -

**BIENVENIDO VILLA DIMERO,**  
Accused.

**CRIM. CASE NO. SB-16-CRM-1078**

For: Violation of Section 3(e) of  
R.A. No. 3019

Present:

**QUIROZ, J.,** *Chairperson*  
**CRUZ, J.**  
**JACINTO, J.**

Promulgated on:

JUN 19 2019

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RESOLUTION

**CRUZ, J.**

On 26 April 2019, the Court promulgated its Decision<sup>1</sup> finding accused Bienvenido Villa Dimero ("Dimero") guilty beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019. The dispositive portion of the Decision reads:

**WHEREFORE,** premises considered, the Court finds accused Bienvenido Villa Dimero **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019 in Criminal Case No. SB-16-CRM-1078 and hereby imposes on him an indeterminate penalty of **imprisonment of six (6) years and one**

<sup>1</sup> Records, Vol. 2, pp. 17-33.

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**(1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office.**

**SO ORDERED.**

The promulgation of the Decision took place in the absence of Dimero and his counsel despite due notice. Records show that copies of the notice of promulgation were sent to the respective given addresses of Dimero and his counsel by way of private courier. The return made by the private courier for the notice addressed to Dimero indicates: "Status and Location[:] Posted Status: Incomplete Address[:] Remarks[:] No House Details[,] No Contact Details"<sup>2</sup> while that addressed to his counsel states: "Office Closed"<sup>3</sup> for three (3) times<sup>4</sup> that the private courier attempted to serve the same. The Court ordered the Decision entered into its criminal docket and issued a bench warrant of arrest against Dimero. It also ordered the cancellation of the cash bond that he posted for his provisional liberty.<sup>5</sup>

Records further show that on 29 April 2019, a representative of Dimero or his counsel obtained from the Court a copy of the Decision.<sup>6</sup> On 17 May 2019, Dimero posted an additional cash bond for his provisional liberty post-conviction. The Court approved the same and lifted the bench warrant of arrest against him.<sup>7</sup>

In lieu of a motion for leave of court to avail of post-conviction remedies, Dimero filed on 6 May 2019 a *Motion for Reconsideration (Re: Decision dated 26 April 2019)*<sup>8</sup> with the same date<sup>9</sup> followed by a *Supplemental Motion for Reconsideration (Re: Decision dated 26 April 2019)*<sup>10</sup> dated 14 May 2019 that he filed on the same date. On 22 May 2019, the prosecution filed its *Opposition (Re: Accused Bienvenido V. Dimero's (a) Motion for Reconsideration, and (b) Supplemental Motion for Reconsideration)*<sup>11</sup> with the same date.

The Court merely notes without action Dimero's Motion for Reconsideration and Supplemental Motion for Reconsideration for being a wrong remedy. His motion contravenes the fourth and fifth paragraphs of Section 6, Rule 120 of the Rules of Court that provide:

<sup>2</sup> *Id.*, pp. 16-A-16-B.

<sup>3</sup> *Id.*, pp. 16-C-16-D.

<sup>4</sup> April 5, 6 and 8, 2019.

<sup>5</sup> Order dated 26 April 2019, *Id.*, p. 35.

<sup>6</sup> *Id.*, pp. 54-55.

<sup>7</sup> Order dated 17 May 2019, *Id.*, p. 75.

<sup>8</sup> *Id.*, pp. 64-68.

<sup>9</sup> Erroneously indicated in the motion as "6 May 2018."

<sup>10</sup> Records, Vol. 2, pp. 70-73.

<sup>11</sup> *Id.*, pp. 78-84.

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**Section 6. Promulgation of judgment. — x x x**

In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.

**If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies.** He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice. (Emphasis supplied)

The Supreme Court explained the foregoing rule in *Salvador v. Chua*,<sup>12</sup> as follows:

As the rule expressly indicates, the promulgation of the judgment of conviction may be done *in absentia*. The accused in such case is allowed a period of 15 days from notice of the judgment to him or his counsel within which to appeal; otherwise, the decision becomes final. The accused who fails to appear at the promulgation of the judgment of conviction loses the remedies available under the Rules of Court against the judgment, specifically: (a) the filing of a motion for new trial or for reconsideration (Rule 121), and (b) an appeal from the judgment of conviction (Rule 122). However, the Rules of Court permits him to regain his standing in court in order to avail himself of these remedies within 15 days from the date of promulgation of the judgment conditioned upon: (a) his surrender; and (b) his filing of a motion for leave of court to avail himself of the remedies, stating therein the reason for his absence. Should the trial court find that his absence was for a justifiable cause, he should be allowed to avail himself of the remedies within 15 days from notice of the order finding his absence justified and allowing him the available remedies from the judgment of conviction.

Dimero opted to proceed straight to the filing of a motion for reconsideration instead of a motion for leave of court to avail of post-conviction remedies. This is a fatal error. The Court cannot act on his motion for reconsideration since he has lost his right to avail of post-conviction remedies due to his absence during the promulgation of judgment. Following the rules and the jurisprudence on the matter, when he failed to appear during the promulgation of the judgment against him, he automatically lost the right to avail of post-conviction

<sup>12</sup> G.R. No. 212865, 15 July 2015.

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remedies, *i.e.*, motion for new trial or reconsideration and an appeal. Only when he files a motion for leave of court to avail of post-conviction remedies, stating therein the reason for his absence during the promulgation of judgment, can he file a motion for reconsideration if the Court accepts such explanation, *i.e.*, his absence was with or for a justifiable cause. Absent such motion for leave of court, he cannot as a matter of right avail of any post-conviction remedy. "The filing of a motion for reconsideration to question a decision of conviction can only be resorted to if the accused did not jump bail, but appeared in court to face the promulgation of judgment."<sup>13</sup>

To conclude, Dimero has lost his standing in court because of his non-compliance with the above-quoted paragraphs of Section 6, Rule 120 of the Rules of Court. His failure to fulfill the requirements rendered his conviction final and immutable.<sup>14</sup>

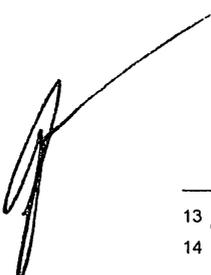
On a final note, even if the Court could, assuming *arguendo*, relax the aforestated rule, still his Motion must fail, having been filed beyond the reglementary period for doing so.

**WHEREFORE**, premises considered, the Court merely **NOTES WITHOUT ACTION** accused Bienvenido Villa Dimero's Motion for Reconsideration and the supplement thereto. Due to his failure to file a motion for leave of court to avail of post-conviction remedies within the reglementary period, the judgment against him has now become final and executory.

Accordingly, the Court **CANCELS** the cash bond that he posted for his provisional liberty. Let a Bench Warrant of Arrest be **ISSUED** against Bienvenido Villa Dimero.

**SO ORDERED.**

  
**REYNALDO P. CRUZ**  
Associate Justice

  
<sup>13</sup> *Javier v. Gonzales*, G.R. No. 193150, 23 January 2017.

<sup>14</sup> *Salvador v. Chua*, *supra*, note 12.

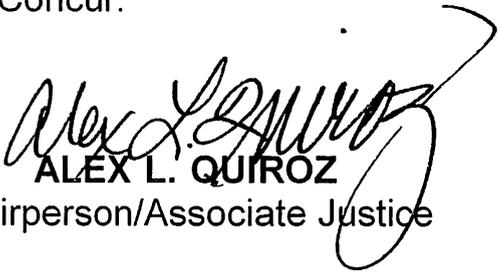


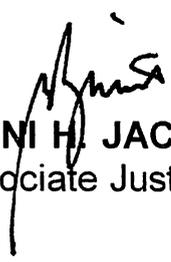
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We Concur:

  
**ALEX L. QUIROZ**  
Chairperson/Associate Justice

  
**BAYANI H. JACINTO**  
Associate Justice

