



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on September 25, 2019.

Present:

JUSTICE MA. THERESA DOLORES C. GOMEZ-ESTOESTA -----	Chairperson
JUSTICE ZALDY V. TRESPESES -----	Member
JUSTICE GEORGINA D. HIDALGO -----	Member

The following resolution was adopted:

Crim. Case No. SB-14-CRM-0438 to 0441 -

People v. Laurencia S. Edma, et al.

This resolves the following:

1. The Prosecution's "MOTION FOR RECONSIDERATION (Re: JULY 29, 2019 RESOLUTION DENYING THE PROSECUTION'S MOTION FOR PARTIAL RECONSIDERATION)" dated August 5, 2019;¹

2. Accused Menchie Landicho-Dardo's "COMMENT" received on September 6, 2019;² and

3. Accused Laurencia S. Edma, Agapito B. Baldo, Felipa A. Catanus, and Nestor H. Lopez' "COMMENT/OPPOSITION ON THE SPECIAL PROSECUTOR'S MOTION FOR RECONSIDERATION (Re: JULY 29, 2019 RESOLUTION DENYING THE PROSECUTION'S MOTION FOR PARTIAL RECONSIDERATION) " received on September 19, 2019.³

GOMEZ-ESTOESTA, J.:

Whether the originals of Exhibits "A-305" to "A-308" and "A-309" to "A-312" exist lies at the cornerstone of the present *Motion for*

¹ Record, Volume 7, pp. 159-162

² Id., pp. 197-198

³ Id., pp. 204-208

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Reconsideration. The *Motion for Reconsideration* persists in its prayer that such excluded documentary exhibits be admitted.

The *Comment* submitted by accused Menchie Landicho-Dardo that the resolution of the present *Motion* has no causal relation to her case is noted.

Also, the *Comment/Opposition* filed by accused Edma, et al. which echoes the ruling of this Court in the questioned Resolution is noted.

To recall, Exhibits "A-305" to "A-308" refer to a copy of the Mindanao Philippines Sunday Journal Volume XXIII S. 36, 1st week of November 2003, with stamp marking "*certified true copy from the original*" by witness Ma. Helen C. Taray, State Auditor III, as an attachment to an Affidavit of Publication marked as Exhibit "A-304".

Likewise, Exhibits "A-309" to "A-312" refer to a copy of the Mindanao Philippines Sunday Journal Volume XXIII S. 37, 2nd week of November 2003, with stamp marking "*certified true copy from the original*" by witness Ma. Helen C. Taray, State Auditor III, as an attachment to the same Affidavit of Publication marked as Exhibit "A-304".

As held in the questioned Resolution dated July 25, 2019, the following documentary exhibits were **excluded**:

(i) the Affidavit of Publication marked as Exhibit "A-304", for its hearsay character, not having been identified by the affiant thereof; and

(ii) Exhibits "A-305" to "A-308" and "A-309" to "A-312", since the supposed basis of the *originals* from which custodian Maria Helen C. Taray certified the copies from, turned out to be non-existent.

Let it be noted that insofar as producing the *originals* of Exhibits "A-305" to "A-308" and "A-309" to "A-312", the Prosecution even resorted to the filing of a *Motion for Production of Original Documents*⁴ directed against accused Bernardita G. Basay to produce such newspaper clippings, but to no avail.

Generally, it would have been enough to satisfy the requirement of the admissibility of such public record of private documents under Section 19 (c) of Rule 132 had it been that the *original copies* themselves existed.

In these cases, however, Exhibits "A-305" to "A-308" and "A-309" to "A-312" are actually the *same*, insofar as content and form, as Exhibits "A-67" to "A-70" and "A-71" to "A-74", to wit:

⁴ Records, Volume 5, pp. 364-367

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Exhibit	Description	Exhibit
A-67	Mindanao Philippines Sunday Journal Volume XXIII S. 36, 1 st week of November 2003, Page 1	A-305
A-68	Page 2	A-306
A-69	Page 3	A-307
A-70	Page 4	A-308
A-71	Mindanao Philippines Sunday Journal Volume XXIII S. 36, 2 nd week of November 2003, Page 1	A-309
A-72	Page 2	A-310
A-73	Page 3	A-311
A-74	Page 4	A-312

Parenthetically, Exhibits “A-67” to “A-70” and “A-71” to “A-74”, despite being mere photocopies, were admitted as documentary exhibits for the Prosecution as the same have been adopted by the accused (except for Menchie Landicho-Dardo) as their Exhibit “36-Edma” and series and Exhibit “37-Edma” and series, which was taken in the form of a stipulation as to their existence per *Manifestation* dated January 29, 2019 filed by the accused’s counsel, Atty. Dale Bryan D. Mordeno and Atty. Eddie C. Cuaresma and later, noted in the Resolution dated February 7, 2019 of this Court;⁵

Since accused Edma, et al. only stipulated on Exhibits “A-67” to “A-70” and “A-71” to “A-74”, the same cannot extend to Exhibits “A-305” to “A-308” and “A-309” to “A-312”. The burden remains with the Prosecution to comply with the best evidence rule on these documentary exhibits.

In its present *Motion*, the Prosecution was nonetheless clear that insofar as admissibility, Exhibits “A-67” to “A-70” and “A-71” to “A-74” should not be treated the same as Exhibits “A-305” to “A-308” and “A-309” to “A-312”. It alludes, however, that Exhibits “A-305” to “A-308” and “A-309” to “A-312” were certified copies from the original newspapers,⁶ which can be produced in court as they are existing.

This cannot, however, be believed as it is immediately hampered by two facts:

First. In her *Judicial Affidavit*, Ma. Helen C. Taray was herself candid in stating that the *originals* of Exhibits A-67” to “A-70” and “A-71” to “A-74” should be taken within the following context:

Q:	When Regional Director Celso L. Vocal testified before this Honorable Court, he stated that he merely was able to obtain certified
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⁵ See TSN dated January 14, 2019, pp. 8-9, 13-14; Order dated January 14, 2019; Record, Volume 6, pp. 81-83, 84; See Judicial Affidavit of Ma. Helen C. Taray, Q7A10;

⁶ Vide: page 2 of the *Motion for REconsideration*

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		true copies of the two volumes of Mindanao Philippines Sunday Journal from the publisher. But it appears in your certification that Exhibits "A-67" to "A-70" and "A-71" to "A-74" are true copy from the original. What can you say about that?
	A:	May I clarify that when I certified the copy of the journals, what I really meant is they are based on the original photocopies of the journals with the original handwritten notation "certified true copy" of Flora Mae Gadot. There were really no original journals or newspapers on file, sir.

Clearly, the statement, "[t]here were really no original journals or newspapers on file, sir" only meant what it intended. There were no original newspapers on file, contrary to what the Prosecution claims in its present *Motion*.

Here, it would be too flimsy to distinguish which of Exhibits "A-67" to "A-70" and "A-71" to "A-74" or Exhibits "A-305" to "A-308" and "A-309" to "A-312" were sourced from the original considering that, as to content and form, they are, without a doubt, identical.

Second. Prosecution's earlier filing of a *Motion for Production of Original Documents*⁷ directed against accused Bernardita G. Basay to produce the originals of such newspaper clippings is but a contradiction of its asseveration that the originals indeed exist. If indeed the *originals* existed and can be produced at will, why then the need to file such *Motion*? And why would Ma. Helen C. Taray, who is the custodian from COA, reveal that "[t]here were really no original journals or newspapers on file, sir."

This is confusion compounded by the Prosecution on the availability of the originals.

In the end, the Court can only lean on its original ruling that the best evidence rule was never complied with. Hence, the exclusion of Exhibits "A-305" to "A-308" and "A-309" to "A-312".

WHEREFORE, in view of the foregoing, the *Motion for Reconsideration (Re: July 29, 2019 Resolution Denying the Prosecution's Motion for Partial Reconsideration)* filed by the Prosecution which reiterates its prayer to have Exhibits "A-305" to "A-308" and "A-309" to "A-312" admitted as documentary evidence is **DENIED**.

No further motions will be entertained by this Court insofar as the issue on the exclusion of such documentary exhibits is concerned.

⁷ Records, Volume 5, pp. 364-367. The *Motion for Production of Original Documents* was granted in the Court's Resolution dated October 12, 2018

The filing of a *Motion for Leave of Court to File Demurer to Evidence* by accused Edma, et al. should now be considered.

Before resolving the same, the Prosecution is directed to **COMMENT** thereto within a non-extendible period of five (5) days from receipt of this Resolution.

Since no similar motion for leave to file demurrer was filed by accused Menchie Landicho-Dardo in Criminal Case No. SB-14-CRM-0439, she is directed to present her defense evidence on *November 27 and 28, 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