



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

MINUTES of the proceedings held on October 29, 2019

PRESENT:

HON. SARAH JANE T. FERNANDEZ.....Associate Justice
HON. KARL B. MIRANDA.....Associate Justice
HON. LORIFEL L. PAHIMNA*.....Associate Justice

The following resolution was adopted:

SB-16-CRM-0580 and 0581 –

PEOPLE vs. ESTEBAN R. SIA, ET AL.

In its *Motion for Reconsideration*,¹ the prosecution prays for the reversal of the Resolution dated September 17, 2019,² directing prosecution witness Roderick S. Blazo to produce his Report.

According to the prosecution, a witness may not be ordered to produce documents to be used for cross-examination because under Sec. 3, Rule 132 of the Rules of Court, the only obligation of a witness is to “answer questions, although his answer may tend to establish a claim against him.” The prosecution further insists that the document sought to be produced is confidential under Sec. 3, Rule IV of the *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (IRR of R.A. No. 6713), and that *Agustin-Se v. Office of the President*³ does not apply to the present cases.

During the hearing on October 4, 2019, the accused were given five (5) days from notice within which to file their respective Comments to the prosecution’s Motion.⁴

In his *Comment (on the Motion for Reconsideration)*,⁵ accused Esteban R. Sia argues that by invoking his Report in his initial testimony, witness Blazo has waived its confidentiality. The Report, being the basis of witness Blazo’s testimony, it will be unfair and unjust if it cannot be the subject of the cross-examination.

* J. Pahimna participated in the assailed Resolution (Per A.O. No. 352-2019 dated August 29, 2019)

¹ Dated October 1, 2019; Record, Vol. 5, pp. 310-317

² Record, Vol. 5, pp. 301-302

³ G.R. No. 207355, February 3, 2016

⁴ Order dated October 4, 2019 (Record, Vol. 5, p. 320)

⁵ Dated and filed on October 21, 2019

The Court did not receive accused Esperato A. Del Soccoro's Comment. Hence, he is deemed to have waived the right to file the same. On the other hand, Genara M. Kasayan was discharged from the present cases to testify as state witness.⁶

The Court **DENIES** the prosecution's *Motion for Reconsideration*.

Sec. 3, Rule 132 of the Rules of Court, which provides for the rights and obligations of a witness, reads:

Sec. 3. Rights and obligations of a witness. – A witness must answer questions, although his answer may tend to establish a claim against him. However, it is the right of a witness:

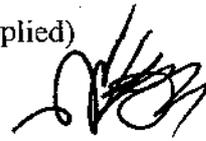
- (1) To be protected from irrelevant, improper, or insulting questions, and from harsh or insulting demeanor;
- (2) Not to be detained longer than the interests of justice require;
- (3) Not to be examined except only as to the matters pertinent to the issue;
- (4) Not to give an answer which will tend to subject him to a penalty for an offense unless otherwise provided by law; or
- (5) Not to give an answer which will tend to degrade his reputation, unless it be to the very fact at issue or to a fact from which the fact in issue would be presumed. But a witness must answer to the fact of his previous final conviction for an offense.

Indeed, under the aforequoted provision, a witness has the obligation to answer questions, although the answer may tend to establish a claim against such witness. However, there is nothing in said provision that would even remotely suggest that answering questions is the only obligation of the witness, to the exclusion of everything else. There is also nothing in said provision that prohibits the Court from ordering a witness to produce a document mentioned during direct examination, to be the subject of cross-examination by the adverse party.

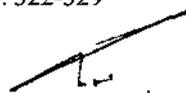
As this Court held in the assailed Resolution, the Report sought to be produced was mentioned in the direct examination, and is thus, a proper subject of cross-examination. Sec. 6, Rule 132 of the Rules of Court provides:

Sec. 6. Cross-examination; its purpose and extent. – Upon the termination of the direct examination, the witness may be cross-examined by the adverse party as to any matters stated in the direct examination, or connected therewith, with sufficient fullness and freedom to test his accuracy and truthfulness and freedom from interest or bias, or the reverse, and to elicit all important facts bearing upon the issue.

(emphasis and underscoring supplied)



⁶ Resolution dated October 4, 2019; Record, Vol. 5, pp. 322-329



The Report sought to be produced is undoubtedly in the possession of witness Blazo. To test the accuracy and truthfulness of witness Blazo's testimony, insofar as the Report is concerned, accused Sia must be allowed to inspect the Report and to cross-examine witness Blazo thereon.

Next, the issue of confidentiality of the Report sought to be produced. Sec. 3(f), Rule IV of the IRR of R.A. No. 6713 provides:

Section 3. Every department, office or agency shall provide official information, records or documents to any requesting public, except if:

x x x

- (f) it would disclose investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, or (iv) unjustifiably disclose investigative techniques and procedures; or

x x x

(underscoring supplied)

It is clear from the aforequoted provision of the IRR that as a general rule, investigatory records are not confidential. They are considered confidential only if they fall within the enumeration after the phrase "but only to the extent that the production of such records or information would x x x." The prosecution still has not shown how the production of the Report will fall under said enumeration.

Finally, the prosecution is correct in pointing out that unlike in *Agustin-Se*, the alleged confidentiality of the Report sought to be produced is not based on OMB-Office Order No. 05-18, Series of 2005, and that the present cases do not involve employees of the Office of the Ombudsman. But it must be emphasized that the import of the Supreme Court's ruling in *Agustin-Se* is simply clarifying that internal documents of the Office of the Ombudsman are not *ipso facto* confidential. The party invoking confidentiality bears the burden of proving that the document or information sought to be produced is indeed confidential.

Considering the foregoing, the Court reiterates its directive in the assailed Resolution. Prosecution witness Roderick S. Blazo is **DIRECTED** to produce his Report which led to the filing of the Information in the present cases.



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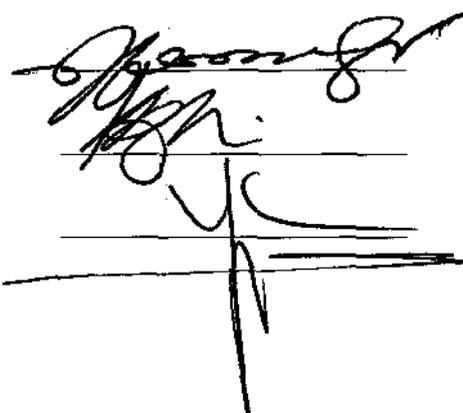
SO ORDERED.

APPROVED:

FERNANDEZ, SJ, J., *Chairperson*

MIRANDA, J.

PAHIMNA, J.



Handwritten signatures of the three individuals listed above. The first signature is for Fernandez, SJ, J., the second for Miranda, J., and the third for Pahimna, J. Each signature is written over a horizontal line.