



Republic of the Philippines
Sandiganbayan
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-17-CRM-2402 - 2405

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

-versus-

PRESENT:

FERNANDEZ, SJ, J., *Chairperson*

MIRANDA, J., &

VIVERO, J.

**ALEJANDRO N.
ABARRATIGUE,
ESMERALDA H. FRINCILLO,
LESARBO L. MENGOTE,
RAUL R. TAPIA, RENATO M.
ABAYARE, ROEL A. PAZON
and ALAN A. BABON,**

Accused,

Promulgated:

OCT 30 2019 *[Signature]*

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RESOLUTION

MIRANDA, J.:

This resolves the Motion for Reconsideration to Lift the Suspension Order dated September 9, 2019 filed by accused Esmeralda H. Frincillo (Frincillo), Lesarbo L. Mengote (Mengote), Raul R. Tapia (Tapia), Renato M. Abayare (Abayare), Roel A. Pazon (Pazon) and Alan A. Babon (Babon) on September 10, 2019, and the verbal manifestation of the Prosecution during the September 13, 2019 hearing that it is submitting said motion for reconsideration to the sound discretion of the Court.

In their motion for reconsideration, the accused argue that: 1) the belated filing of their motion for reconsideration may not hinder its filing as it is interlocutory in character; 2) the evil sought to be avoided, which is to avoid influencing the concerned office, no longer exists as the documents are now in the possession of the Ombudsman; and 3) before suspension pendente

[Handwritten signatures]

lite is imposed, the validity of the information should first be determined in a pre-suspension hearing.

The Court will first rule on whether the motion for reconsideration was filed by the accused on time. The Resolution dated August 9, 2019 preventively suspending the accused for ninety (90) days was received by the accused, through counsel, on August 16, 2019.¹ The accused filed their motion for reconsideration on September 10, 2019, or after twenty-five days (25) days.

Under Section III(2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases, which took effect on September 1, 2017, a motion for reconsideration of a meritorious motion shall be filed within a **non-extendible period of five (5) calendar days** from receipt of the resolution.

When the motion for reconsideration was filed, the Revised Guidelines for Continuous Trial of Criminal Cases were already in effect. The accused then had five (5) days from receipt of the resolution on August 16, 2019, or until August 21, 2019, within which to seek a reconsideration of the Resolution preventively suspending them. The accused failed to file their motion for reconsideration within the 5-day period given them by the guidelines. Instead, they filed their motion for reconsideration twenty (20) days late. Even if the Court considers the reglementary period of fifteen (15) days to file a motion for reconsideration under the Rules of Court, said motion for reconsideration was still filed out of time. On this basis alone, the Court **denies** the motion for reconsideration.

Even if the Court sets aside this procedural issue, the motion for reconsideration must still be denied. After a restudy of the grounds raised in the motion for reconsideration, the Court finds no valid reason to reconsider its Resolution dated August 9, 2019 preventively suspending the accused for ninety (90) days. The issues and arguments raised by the accused in their motion for reconsideration are a mere rehash and a repetition of the same issues and arguments raised in his Comment dated May 28, 2019. These issues and arguments have already been considered and passed upon by the Court in its Resolution dated August 9, 2019. There being no new matters or issues raised to warrant a reversal thereof, the motion for reconsideration must be **denied**.



¹ Notice of Resolution dated August 9, 2019; Records, vol. 5, p. 312; Motion for Reconsideration To Lift the Suspension Order dated September 9, 2019.


To reiterate, preventive suspension is mandatory, and there are no ‘ifs’ and ‘buts’ about it.² The court has neither discretion nor duty to determine whether preventive suspension is required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office.³

Since the Court had already established the validity of the information, the suspension *pendente lite* of the accused must follow as a matter of course.⁴

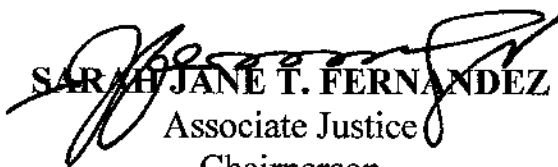
Accordingly, the Court rules that the motion for reconsideration was filed beyond the reglementary period, and that the preventive suspension of the accused for ninety (90) days is mandatory.

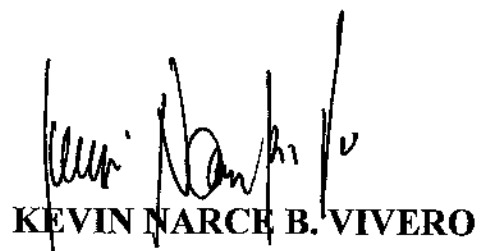
WHEREFORE, the Motion for Reconsideration to Lift the Suspension Order dated September 9, 2019 filed by accused Esmeralda H. Frincillo, Lesarbo L. Mengote, Raul R. Tapia, Renato M. Abayare, Roel A. Pazon and Alan A. Babon on September 10, 2019 is **DENIED** for being filed beyond the reglementary period and for lack of merit. The Resolution of the Court promulgated on August 9, 2019 is **AFFIRMED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice

² *Villaseñor v. Sandiganbayan*, G.R. No. 180700, March 4, 2008.

³ *Bolastig v. Sandiganbayan*, G.R. No. 110503, August 4, 1994.

⁴ *Flores v. Hon. Layosa*, G.R. No. 154714, August 12, 2004.