



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-18-CRM-0434 to 0437
For: Violation of Section 3 (e) of
Republic Act (R.A.) No. 3019

and

-versus-

**LEONILA PAREDES
MONTERO,**

Accused,

SB-18-CRM-0438 to 0441
For: Violation of Art. 244 of the
Revised Penal Code (R.P.C.)

PRESENT:

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, J. and
VIVERO, J.

Promulgated:

OCT 04 2019 

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RESOLUTION

MIRANDA, J.:

This resolves the: 1) Motion for Leave to File Demurrer to Evidence dated June 13, 2019 filed by accused Leonila Paredes Montero (Montero); and 2) Comment/Opposition dated September 9, 2019 filed by the Prosecution.

Accused Montero was charged with four (4) counts of Violation of Section 3(e) of R.A. No. 3019 and four (4) counts of Unlawful Appointments under Article 244 of the R.P.C. for making the following appointments despite the fact that the appointees were losing candidates in the May 2013 National and Local Elections¹, to wit:

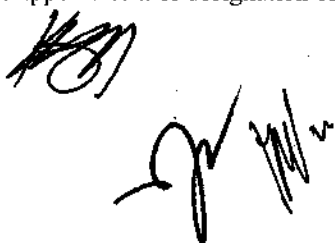
NAME	POSITION/OFFICE
Mr. Noel E. Hormachuelos	Consultant for Administrative Services/Municipal Administrator
Mr. Danilo A. Reyes	Public Information Officer of Panglao, Bohol
Mr. Apolinar B. Fudalan	Public Employment Service Office (PESO) Coordinator/Livelihood, TESDA/IT Consultant
Mr. Fernando B. Penales	Consultant on Infrastructure and Engineering Services

In her motion, accused Montero claimed that the Prosecution failed to adduce evidence sufficient to support her conviction for violation of Section 3(e) of R.A. No. 3019 and Unlawful Appointments under Article 244 of the R.P.C. In particular, accused Montero alleged that:

- 1) the Prosecution did not present any written and signed appointment papers;
- 2) the Prosecution merely proved the existence of service contracts with the aforementioned individuals, which are not considered appointments to public office;
- 3) there was no undue injury amounting to actual damages to the Government because the payment made to the aforementioned individuals were in consideration for the services that they have rendered to the Government; and
- 4) there was no manifest partiality, evident bad faith or gross inexcusable negligence when accused Montero entered into the service contracts because she merely relied on the issuances of the Civil Service Commission, opinions of the Department of the Interior and Local Government, and Supreme Court rulings.

In its Comment/Opposition, the Prosecution, through the Office of the Special Prosecutor, stated that the documentary and testimonial evidence it

¹ Section 6, Article IX-B of the 1987 Constitution and Section 94 of the Local Government Code proscribes the appointment or designation of a losing candidate to any public office within a year after elections.



adduced are sufficient to sustain the indictment of accused Montero for the crimes of Unlawful Appointments and Violation of Section 3 (e) of R.A. No. 3019. The Prosecution claimed that they were able to establish that accused Montero appointed and/or designated the aforementioned losing candidates despite being ineligible for public office under Section 6, Article IX-B of the 1987 Constitution² and Section 94 of the Local Government Code³, with evident bad faith, manifest partiality, and gross inexcusable negligence. The Prosecution posited that accused Montero's heavy reliance in the case of *Joson vs. Office of the Ombudsman*⁴ is misplaced because its factual milieu is different from the present cases.

After a thorough review of the records of the cases and the evidence submitted by the Prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for the crimes of Unlawful Appointments under Article 244 of the R.P.C. and Violation of Section 3 (e) of R.A. No. 3019. The Court hereby **DENIES** the Motion for Leave to File Demurrer to Evidence filed by accused Montero.

This is without prejudice to the filing by accused Montero of a Demurrer to Evidence without prior leave of court, but subject to the legal consequence provided under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, that she shall waive the right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the Prosecution.

WHEREFORE, the Motion for Leave to File Demurrer to Evidence dated June 13, 2019 of accused Leonila Paredes Montero is **DENIED**.

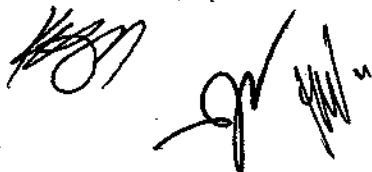
Accused Montero is given a non-extendible period of five (5) days from receipt of this Resolution within which to file her Demurrer to Evidence without prior leave of court, if she so desires, or file a

² SECTION 6. No candidate who has lost in any election shall, within one year after such election, be appointed to any office in the Government or any government-owned or controlled corporations or in any of their subsidiaries.

³ SECTION 94. *Appointment of Elective and Appointive Local Officials; Candidates Who Lost in an Election.* –

- a. xxx
- b. Except for losing candidates in barangay elections, no candidate who lost in any election shall, within one (1) year after such election, be appointed to any office in the government or any government-owned or -controlled corporations or in any of their subsidiaries.

⁴ G.R. No. 210220-21; April 6, 2016



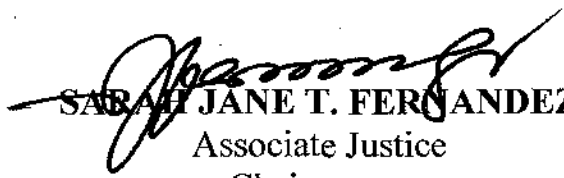
Manifestation informing the Court that she will no longer file a Demurrer to Evidence.

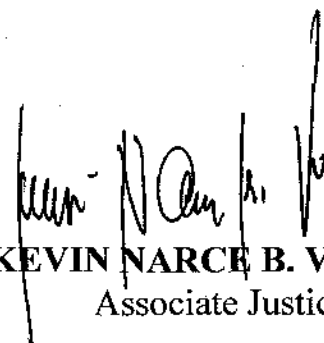
The hearings set on October 9 and 10; November 6 and 7, 2019, and every Wednesday and Thursday thereafter, all at 1:30 in the afternoon for the presentation of the evidence for the Defense are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the Demurrer to Evidence of the accused.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice