



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-14-CRM-0107
For: Violation of Section 3(e)
of R.A. No. 3019

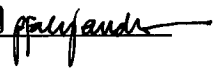
Present

- versus -

VIRGILIO PONCIANO A. OCAYA,
Accused.

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

Promulgated:

AUG 24 2020 
August 24, 2020

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Virgilio Ponciano A. Ocaya's *Motion for Reconsideration*,¹ and the prosecution's *Comment/Opposition (To Accused Ocaya's Motion for Reconsideration Dated 06 July 2020)*.²

In his *Motion for Reconsideration*, the accused prays that this Court reconsider and set aside the Resolution dated July 2, 2020;³ disallow the presentation of Atty. Claudine B. Orocio-Isorena as witness through her Judicial Affidavit dated March 10, 2020; and deem the present case submitted for decision. He avers:

1. The prosecution failed to justify why it did not present Atty. Orocio-Isorena's testimony as part of its evidence-in-chief, considering that her testimony is being offered to prove an element of the crime charged.

¹ Dated July 6, 2020 and filed on July 8, 2020

² Dated July 11, 2020

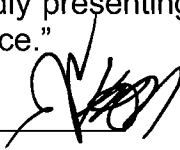
³ The accused erroneously indicated the date of the assailed Resolution as July 2, 2018 (*Motion for Reconsideration*, p. 7)

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2. His objection is not premature, but was simply made at the first opportunity. Atty. Orocio-Isorena's Judicial Affidavit already contains the purposes for which the prosecution would offer her testimony. The Court can already make an informed assessment of the purposes and contents of her testimony based on said Judicial Affidavit.
3. Courts have the power to suspend technical rules of procedure, or except a case from its operation, when the application thereof would tend to frustrate rather than promote justice.
4. Rule 132, Sec. [3]6 of the Rules of Court does not expressly prohibit the Court from disallowing the unjustified presentation of rebuttal evidence. His previously filed *Motion to Disallow Plaintiff's Rebuttal Evidence* sought to prevent the presentation of Atty. Orocio-Isorena's testimony by way of rebuttal evidence on the following grounds:
 - a. It does not constitute rebuttal evidence; and,
 - b. The prosecution failed to justify the belated presentation thereof.
5. In *People v. Padero*,⁴ the Supreme Court held that the purpose of rebuttal evidence is to "meet new facts put in by the opponent" on an issue.
6. The prosecution has the burden of proof to establish all the elements of the crime charged. This includes proving that his former office, the Metropolitan Waterworks and Sewerage System (MWSS-RO), is a public office.
7. The prosecution should have introduced all its evidence, including that proving that he was a public officer, during its presentation of evidence-in-chief.
8. In *Republic v. Sandiganbayan*,⁵ the Supreme Court held that a party who has the burden of proof must introduce, at the first instance, all the evidence the party relies upon, and such evidence cannot be given piecemeal.
9. The Court should not condone the prosecution's attempt to remedy its failure to prove an essential element of the crime by belatedly presenting evidence-in-chief, in the guise of "rebuttal evidence."



4 G.R. No. 106274, September 28, 1993

5 G.R. No. 152375, December 16, 2011


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In its *Comment/Opposition*, the prosecution counters:

1. The accused merely reiterated his assertions in his earlier motion. He raises no new issues that would warrant reconsideration of the Court's Resolution.
2. The accused did not cite any ground, both in his *Motion to Disallow* and in his *Motion for Reconsideration*, to support his prayer that the case be deemed submitted for decision.

THE COURT'S RULING

The Court finds nothing in the accused' *Motion for Reconsideration* to warrant the reversal of the Resolution dated July 2, 2020.

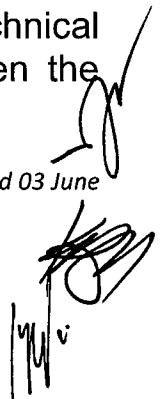
First, the matter of whether the accused' objection is premature. According to him, he was merely raising his objection at the first opportunity. Furthermore, the Court can already determine the propriety of the presentation of Atty. Orocio-Isorena as rebuttal witness on the basis of her Judicial Affidavit. This Court is not persuaded.

Indeed, Atty. Orocio-Isorena's Judicial Affidavit contains the purpose of her testimony, but as the prosecution explained in its *Comment/Opposition*⁶ to accused' *Motion to Disallow Plaintiff's Rebuttal Evidence*,⁷ the same was included only for the convenience of the Court and the parties, and cannot be considered as the prosecution's offer of testimonial evidence. Moreover, as this Court held in the assailed Resolution, Sections 35 and 36, Rule 132 of the 2019 *Proposed Amendments to the Revised Rules on Evidence* expressly provide that objection to the offer of evidence must be made orally immediately after the offer is made, which is, in the case of the testimony of a witness, at the time the witness is called to testify. As this Court previously held, the prosecution has yet to call Atty. Orocio-Isorena to testify.

To be sure, as pointed out by the accused, the Supreme Court had previously held that courts have the power to suspend technical rules of procedure, or except a case from its operation, when the

⁶ *Comment/Opposition (To Accused Ocaya's Motion to Disallow Plaintiff's Rebuttal Evidence dated 03 June 2020) dated June 6, 2020*, par. 2, pp. 2-3

⁷ Dated June 3, 2020



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application thereof would tend to frustrate rather than promote justice. However, it must be emphasized that there should be special or compelling reasons to warrant such relaxation of the rules. In *Building Care Corporation/Leopard Security & Investigation Agency and/or Ruperto Protacio v. Macaraeg*,⁸ it was held:

It should be emphasized that the resort to a liberal application, or suspension of the application of procedural rules, must remain as the exception to the well-settled principle that rules must be complied with for the orderly administration of justice. In *Marahomsalic v. Cole*, the Court stated:

While procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. **The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity.** Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances. While litigation is not a game of technicalities, **every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.**

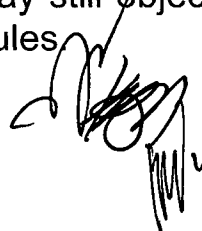
The later case of *Daikoku Electronics Phils., Inc. v. Raza*, further explained that:

To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice. x x x The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse. x x x

We must stress that the bare invocation of "the interest of substantial justice" line is not some magic wand that will automatically compel this Court to suspend procedural rules. **Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.**

The accused has not shown any reasonable cause to justify allowing him to prematurely object to the presentation of Atty. Orocio-Isorena as rebuttal witness. The denial of his *Motion to Disallow* did not deprive him of the opportunity to object to the presentation of the prosecution's rebuttal evidence. He may still object to the same, but he must do so in accordance with the rules

⁸ G.R. No. 198357, December 10, 2012



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The rest of the accused' arguments are a mere reiteration or rehash of those in his *Motion to Disallow*. In *Mendoza-Ong v. Sandiganbayan*,⁹ the Supreme Court held:

Concerning the first ground abovesited, the Court notes that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

In the Resolution dated July 2, 2020, this Court had already considered the accused' arguments in his *Motion to Disallow*, and found the same to be without merit. It is unnecessary to discuss the same anew. For convenience, the pertinent portions¹⁰ of the assailed Resolution are hereunder quoted:

First, Sections 35 and 36, Rule 132 of the *2019 Proposed Amendments to the Revised Rules on Evidence* provide:

Sec. 35. *When to make offer.* – All evidence must be offered orally.

The offer of the testimony of a witness in evidence must be made at the time the witness is called to testify.

The offer of documentary and object evidence shall be made after the presentation of a party's testimonial evidence.

Sec. 36. *Objection.* – Objection to offer of evidence must be made orally immediately after the offer is made.

Objection to the testimony of a witness for lack of a formal offer must be made as soon as the witness begins to testify. Objection to a question propounded in the course of the oral examination of a witness must be made as soon as the grounds therefor become reasonably apparent.

The grounds for the objection must be specified.

(underscoring supplied)

On the other hand, Sec. 6 of the *Judicial Affidavit Rule* provides:

⁹ G.R. Nos. 146368-69, October 18, 2004

¹⁰ pp. 4-6

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Sec. 6. Offer of and objections to testimony in judicial affidavit. – The party presenting the judicial affidavit of his witness in place of direct testimony shall state the purpose of such testimony at the start of the presentation of the witness. The adverse party may move to disqualify the witness or to strike out his affidavit or any of the answers found in it on ground of inadmissibility. The court shall promptly rule on the motion and, if granted, shall cause the marking of any excluded answer by placing it in brackets under the initials of an authorized court personnel, without prejudice to a tender of excluded evidence under Section 40 of Rule 132 of the Rules of Court.

From the aforequoted provisions, it is clear that the offer of testimonial evidence must be made at the time the witness is called to testify. Any objection to such offer must be made after the offer. The accused was served a copy of Atty. Orocio-Isorena's Judicial Affidavit pursuant to Sec. 2 of the *Judicial Affidavit Rule*. Such service of the Judicial Affidavit on the accused is not considered the prosecution's offer of testimonial evidence. As pointed out by the prosecution, it has yet to call Atty. Orocio-Isorena to testify. There being no offer of testimonial evidence, the accused' objection to the presentation of Atty. Orocio-Isorena as rebuttal witness is premature.

Second, there is no ground for this Court to deem the present case submitted for decision.

III. Procedure, 13. Trial, (e) of the *Revised Guidelines for Continuous Trial of Criminal Cases* (Revised Guidelines) provides for the presentation of rebuttal evidence. To wit:

(e) *Presentation of Rebuttal and Sur-rebuttal Evidence.* – If the court grants the motion to present rebuttal evidence, the prosecution shall immediately proceed with its presentation after the accused had rested his/her case, and orally rest its case in rebuttal after the presentation of its last rebuttal witness. Thereafter, the accused shall immediately present sur-rebuttal evidence, if there is any, and orally rest the case in sur-rebuttal after the presentation of its last sur-rebuttal witness. Thereafter, the court shall submit the case for decision.

During the hearing on January 20, 2020, this Court set the hearings for the presentation of rebuttal evidence for the prosecution on March 18 and 19, 2020, and all Wednesdays and Thursdays for the month of March. However, the hearings on those dates did not proceed because of the suspension of all hearings in all courts nationwide due to the rising cases of COVID-19 infection. As previously mentioned, the prosecution has yet to present Atty. Orocio-Isorena as its rebuttal witness. The present case will be submitted for decision after the prosecution has rested its case in rebuttal, or after the accused has rested his case in sur-rebuttal, if he intends to present sur-rebuttal evidence.



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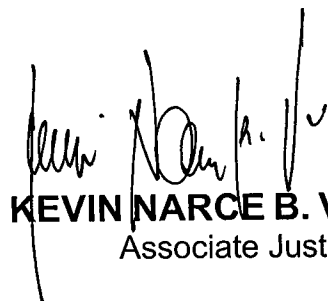
WHEREFORE, the accused' *Motion for Reconsideration* is hereby DENIED. The hearing dates set for the presentation of rebuttal evidence for the prosecution are maintained.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice