



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-16-CRM-0580**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019, as amended

**SB-16-CRM-0581**  
For: Malversation of Public Funds  
under Art. 217 of the Revised  
Penal Code

- versus -

**ESTEBAN R. SIA, ET AL.**  
Accused.

*Present*

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

*Promulgated:*

**NOV 25 2020**

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## RESOLUTION

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Reconsideration*<sup>1</sup> filed by accused Esperato A. Del Socorro. He prays for the voluntary inhibition of the Court's Justices on the following grounds:

1. Voluntary inhibition is discretionary. However, the Court's Justices must inhibit in the interest of justice and fair play, considering that the instant cases involve his liberty.
2. He and his counsel observed bias on the part of the Court's Justices. Under the Rules of Court, courts must not only be impartial, but must also appear impartial.
3. Extrinsic evidence does not only come from documentary exhibits, written, or verbal manifestations. It can arise from

<sup>1</sup> Dated November 15, 2020. Filed by registered mail and received by the Court on November 20, 2020.

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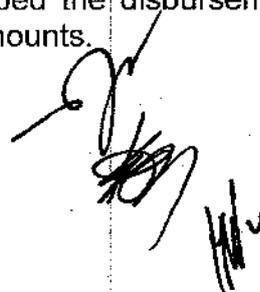
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demeanors and rulings, which if taken together, would tend to lean in favor of one party.

4. Considering the circumstances he imputed, the Court's rulings would amount to an error so gross and patent as to produce an ineluctable inference of bad faith or malice, which is a ground for voluntary inhibition.

During the hearing on November 17, 2020, he further argued:

1. Bias is not always deliberate or conscious. It is sometimes unconscious.
2. There was unconscious bias on the part of the Court's Justices because he was not allowed to explain why the prosecution's evidence is insufficient to establish his guilt.
  - a. The prosecution only established that he signed the check and disbursement voucher, declaring that funds were available.
  - b. As he pointed out in his *Motion to Dismiss* and *Motion to Quash*, he and his co-accused are charged with being conspirators. As a principal, he cannot be charged before the Sandiganbayan because his salary grade falls below that over which the Sandiganbayan has jurisdiction.
  - c. The complainant did not try to find out the role of other government agencies on the matter. The disbursement of cash is not the function solely of the municipal system, but also involves the COA.
  - d. The COA is more guilty than him because the COA could have stopped the issuance of the cash disbursement voucher but did not do so, notwithstanding the fact that large amounts of funds were involved.
  - e. It was the Accountant who could have stopped the disbursement, not the Treasurer. After the approval of the disbursement voucher, the issuance of the check is ministerial on the part of the Treasurer. He could have been charged with negligence if he did not perform his functions.
  - f. The Accountant could have stopped the disbursement but she merely noted down the amounts.



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3. He could have explained his side if he was allowed to file his Demurrer to Evidence.
4. Justices must not only be free from bias, but must also appear free from bias.
5. With the death of accused Sia, the principal in these cases, the conspirators are going to be more guilty, and will be punished, when he did not receive a single cent from the transaction.

### THE COURT'S RULING

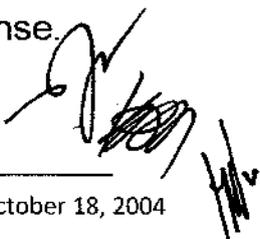
Accused Del Socorro's *Motion for Reconsideration* is bereft of merit and must be denied. His arguments in his *Motion for Reconsideration* and during the hearing on November 17, 2020, are merely a substantial reiteration or rehash of those in his *Motion to Inhibit*.

In *Mendoza-Ong v. Sandiganbayan*,<sup>2</sup> 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.

The Court had already considered accused Del Socorro's arguments in his *Motion to Inhibit*, and found the same to be without merit when the Court concluded that there was no compelling reason or cause for the Court's Justices to voluntarily inhibit. Although it is unnecessary to discuss the matter anew, the Court finds that a brief discussion is in order to clear any lingering doubt on the matter.

In a nutshell, accused Del Socorro argues that there is bias on the part of the Court's Justices because the Court denied his *Motion for Leave of Court to File Demurrer of Evidence* and his *Motion for Reconsideration* of the Resolution dated March 12, 2020. According to him, such denial is tantamount to depriving him of the opportunity to present his defense.

  
<sup>2</sup> G.R. Nos. 146368-69, October 18, 2004

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At the risk of repetition, the Court did not deprive accused Del Socorro of the opportunity to defend himself. In resolving a Motion for Leave to File a Demurrer to Evidence, the Court is called upon only to determine if the accused, in filing a Demurrer, is merely stalling the proceedings.<sup>3</sup> In the Resolution dated March 12, 2020, the Court ruled:<sup>4</sup>

After an examination of the prosecution's evidence and the arguments in the accused' Motions, this Court rules that granting the accused leave to file their demurrers to evidence will accomplish nothing but delay in the proceedings.

Contrary to accused Del Socorro's claim that the denial of his *Motion for Leave of Court to File Demurrer of Evidence* and his *Motion for Reconsideration* resulted in depriving him of the opportunity to present his defense, the Resolutions dated March 12, 2020 and September 4, 2020 explicitly stated that he may adduce evidence in his defense, or if he so desires, he may file his Demurrer to Evidence without leave of court pursuant to Sec. 23, Rule 119 of the Rules of Court.

Even assuming that that the Court erroneously ruled on his *Motion for Leave of Court to File Demurrer of Evidence* and his *Motion for Reconsideration*, accused Del Socorro has not shown how such rulings were patently erroneous such that the same would indicate bad faith or malice. Neither has he introduced extrinsic evidence to show bias and partiality on the part of this Court's Justices. In *Webb v. People*,<sup>5</sup> the Supreme Court held that the remedy for erroneous rulings, absent extrinsic evidence of malice or bad faith, is not the outright disqualification of the judge. *Viz.:*

We hasten to stress that a party aggrieved by erroneous interlocutory rulings in the course of a trial is not without remedy. The range of remedy is provided in our Rules of Court and we need not make an elongated discourse on the subject. But certainly, the remedy for erroneous rulings, absent any extrinsic evidence of malice or bad faith, is not the outright disqualification of the judge. For there is yet to come a judge with the omniscience to issue rulings that are always infallible. The courts will close shop if we disqualify judges who err for we all err.

(underscoring supplied)

<sup>3</sup> Please see *Bernardo v. Court of Appeals*, G.R. No. 119010, September 5, 1997

<sup>4</sup> p. 4

<sup>5</sup> G.R. No. 127262, July 24, 1997

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In fine, accused Del Socorro has failed to convince this Court that the reversal of the Resolution dated November 10, 2020, denying his *Motion to Inhibit*, is warranted.

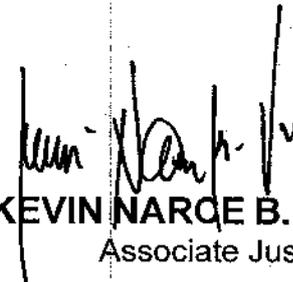
**WHEREFORE**, accused Del Socorro's *Motion for Reconsideration* is hereby DENIED for lack of merit.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice