

Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-20-CRM-0001
For: Violation of Section 3(e) of
RA 3019, as amended

-versus-

JOHNNY V. DE LOS REYES and
JOHN YRE S. DE LOS REYES,
Accused.

Present:

LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.

Promulgated:

June 21, 2022

x ----- *Gregorio J. Larios* ----- x

RESOLUTION

CORPUS-MAÑALAC, J.:

Before the Court are: (1) the Motion for Leave of Court to File Demurrer to Evidence¹ dated May 16, 2022 filed by accused Johnny V. De Los Reyes and John Yre S. De Los Reyes (collectively as “accused”); and (2) the Comment/Opposition (*Re: Motion for Leave of Court to File Demurrer to Evidence dated May 16, 2022*)² dated May 19, 2022 filed by the prosecution.

To recall, on April 19, 2022, the prosecution formally offered its exhibits.³ On May 6, 2022, the accused filed their comment to the prosecution’s formal offer of exhibits.⁴ By a Resolution⁵ of May 6, 2022, this Court resolved to admit the following: **Exhibits A to A-1, B, C, D, E to E-2, F to F-1, G to G-4, H to H-3, and I.**

On May 12, 2022, the accused received a copy of the Court’s Resolution on the prosecution’s formal offer of exhibits.⁶ Then, on May 17,

¹ Records, pp. 455-463.

² Id. at 471-479.

³ Id. at 401-431.

⁴ Id. at 432-449.

⁵ Id. at 451-452.

⁶ Id. at 455 (Motion for Leave of Court to File Demurrer to Evidence, p. 1, par. 3).

2022, they mailed the Motion for Leave of Court to File Demurrer to Evidence by private courier (LBC).⁷ The court received the Motion on May 18, 2022.⁸

In their motion, they argue that the prosecution failed to establish beyond reasonable doubt all the elements of violation of Section 3(e) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act. While conceding that both of them were public officers at the time material to this case, they assert that the pieces of evidence of the prosecution are insufficient to establish the allegation that they gave unwarranted benefit, advantage, or preference to “D’ Limitless Vehicle Ventures Corporation,” or that they caused undue injury or prejudice to the government, through manifest partiality, evident bad faith, or gross inexcusable negligence. They pointed to some matters that supposedly show inadequacies in the prosecution’s evidence.

First, the accused assert that “the documentary evidence failed to show by itself the alleged commission of the accused that they acted with manifest partiality or had given unwarranted benefit or preference to the D’ Limitless Vehicle Ventures Corporation in the procurement of one (1) unit JAC Stallion Pickup 4x4 rescue vehicle, by specifying the [brand name] JAC.”

Second, the accused claim that the alleged injury or prejudice to the government was not proved. It is their contention that the *Inspection and Price Reasonableness Report*⁹ dated April 7, 2014 prepared by the Commission on Audit (COA) and the testimony of Engr. Nilo Confessor, the COA Technical Audit Specialist who signed the report, establish only the make, mode, and price of the JAC Stallion pickup, not the alleged excessiveness of its price.

Finally, the accused point out that Graft Investigation Officer Francis Santiago testified that the Office of the Ombudsman found no sufficient evidence of overpricing. This, according to them, was the reason they were not charged with entering into a contract/transaction manifestly and grossly disadvantageous to the government under Section 3(g) of the Anti-Graft law.

On May 20, 2022, the prosecution filed its Comment/Opposition (*Re: Motion for Leave of Court to File Demurrer to Evidence dated May 16, 2022*).¹⁰

In its comment/opposition, the prosecution counters that the elements of violation of Section 3(e) of RA 3019 were all duly proven by “overwhelming pieces of evidence.” It claims that the pieces of evidence

⁷ Id. at 462-465.

⁸ Id.

⁹ Exhibit “A”.

¹⁰ Id. at 471-479.

demonstrate the participation of the accused in the procurement of the JAC Stallion pickup, which was done in violation of the procurement law and its implement rules. It points out that *Purchase Request*¹¹ dated November 12, 2013, which specifies the brand name “JAC”, was prepared and signed by accused John Yre, as the Bids and Awards Committee chairperson, and approved by accused Johnny, as the city mayor. Further, the prosecution mentions that accused Johnny also signed the *Disbursement Voucher No. 100-2013*¹² for the payment of the price of the acquired JAC stallion pickup.

Furthermore, the prosecution contends that the accused acted with manifest partiality, evident bad faith, and gross inexcusable negligence when they specified the brand name “JAC” in the procurement documents, which, the prosecution asserts, is prohibited under the procurement law and its implementing rules.

RULING

The Court resolves to deny the present motion for being filed out of time.

Records show that the accused received on May 12, 2022 a copy of the Court’s Resolution admitting the prosecution’s exhibits.¹³ Intending to challenge the sufficiency of the prosecution’s evidence, they mailed the Motion for Leave of Court to File Demurrer to Evidence by private courier on May 17, 2022.¹⁴ The Court received the Motion on the following day, May 18, 2022.¹⁵

Notably, the motion states that copies of it were “filed to the Court and served to the other parties thru registered mail, accredited private courier and/or electronic mail.”¹⁶ However, the records do not reflect that the filing and the service of the Motion were done by means other than by private courier.

Under Rule 13, Section 3 of the Revised Rules of Court, as amended by A.M. No. 19-10-20-SC, filing of pleadings and other court submissions may be made by sending them by **accredited** courier. In that manner, the amended rule provides, the date of the mailing shall be considered as the date of filing. Significantly, in *Barroso v. Commission on Audit*,¹⁷ decided on April 27, 2021, the Supreme Court clarified that such rule applies only if the private courier is accredited by the courts, making reference to A.O. No.

¹¹ Exhibit “I”.

¹² Exhibit “B”.

¹³ Records, p. 455 (Motion for Leave of Court to File Demurrer to Evidence, p. 1, par. 3).

¹⁴ Id. at 462-465.

¹⁵ Id. at 455.

¹⁶ Id. at 462.

¹⁷ G.R. No. 253253, April 27, 2021 <<https://sc.judiciary.gov.ph/19843/>> last accessed on May 30, 2022.

242-A-2020¹⁸ regarding the guidelines on the accreditation of courier service providers; if not, the filing is considered similar to filing by ordinary mail in that the actual date of receipt shall be deemed the date of filing, to wit:

Verily, service and filing of pleadings via private courier should be reckoned from the date of the mailing when said private courier is **accredited** by the courts. Otherwise, the pre-amendment jurisprudential doctrine would govern, that is, it would be considered similar to filing via ordinary mail where the date of actual receipt is deemed the date of filing, albeit it was posted much earlier.

The procedure for accreditation is prescribed under Administrative Order 242-A-2020 which the Court En Banc approved on September 1, 2020. Said Administrative Order took effect on October 1, 2020 or nineteen (19) days after the present petition was mailed to the Court on September 11, 2020. Indubitably, the filing of the petition was not in accordance with the aforesaid rule. Thus, the date when the Court received the petition, September 21, 2020, should be considered as the date of filing. xxx.¹⁹

In this case, since the Motion for Leave of Court to File Demurrer to Evidence was mailed through a private courier, then it is deemed to have been filed not on the date when it was mailed, May 17, 2022, but on the date when it was actually received by the Court, May 18, 2022.

Moreover, in *Philippine Savings Bank v. Papa*,²⁰ it was held that “although they pertain to different acts, filing and service go hand-in-hand and must be considered together when determining whether the pleading, motion, or any other paper was filed within the applicable reglementary period.” Here, the prosecution received a copy of the Motion by private courier only on May 18, 2022.²¹ Hence, the Motion could not be deemed to have been filed earlier than May 18, 2022.

It bears pointing out that the Supreme Court, in A.M. No. 22-02-26-SC dated March 1, 2022, granted provisional accreditation for a period of six (6) months to Wall Street Courier Services, Inc. (doing business under the name and style “NINJA VAN”), as a courier service provider, to **exclusively** serve pleadings and other submissions in the National Capital Judicial Region as set forth in the Guidelines on the Accreditation of Courier Service Providers.²²

In view of the above disquisition, the Motion is deemed filed on May 18, 2022, which shall be the basis in determining whether it was timely filed.

¹⁸ <<https://sc.judiciary.gov.ph/13550/>> last accessed on May 30, 2022; took effect on October 1, 2020 (see *Barroso v. Commission on Audit*, G.R. No. 253253, April 27, 2021).

¹⁹ Emphasis in the original.

²⁰ G.R. No. 200469, January 15, 2018.

²¹ *Supra*, at Note 2; see also Records, p. 462 (Official Receipt).

²² OCA Circular No. 90-2022 <<https://sc.judiciary.gov.ph/26424/>> last accessed on May 30, 2022.

Under Rule 119, Section 23 of the Revised Rules of Criminal Procedure, “[t]he motion for leave of court to file demurrer to evidence . . . shall be filed within a non-extendible period of five (5) days after the prosecution rests its case.” The five (5)-day period shall commence from the receipt of the court’s ruling on the formal offer of exhibits.²³ The accused, by their own admission, received the Court’s Resolution on the prosecution’s formal offer of exhibits on May 12, 2022.²⁴ Therefore, the Motion for Leave of Court to File Demurrer to Evidence could be filed only until May 17, 2022. Unfortunately, the Motion of the accused is deemed filed on May 18, 2022 or beyond the five (5)-day reglementary period. Hence, the motion should be denied.

Nevertheless, the Court hastens to add that the denial of the motion for leave of court to file demurrer to evidence is without prejudice to right of the accused to file a demurrer to evidence **without** leave of court. In the event, however, that such demurrer to evidence is denied, the accused shall be deemed to have waived their right to present evidence and the case shall be decided on the basis of the prosecution evidence.²⁵


WHEREFORE, the motion for leave of court to file demurrer to evidence of accused Johnny V. De Los Reyes and John Yre S. De Los Reyes is **DENIED**.

The presentation of evidence for the defense shall proceed as previously set on **June 22, 2022 at 1:30 in the afternoon.**

SO ORDERED.


MARYANN E. CORPUS-MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

²³ See *BDO Unibank, Inc. v. Choa*, G.R. No. 237553, July 10, 2019. <<https://sc.judiciary.gov.ph/6542/>>last accessed on May 30, 2022.

²⁴ Records, p. 455 (Motion for Leave of Court to File Demurrer to Evidence, p. 1, par. 3).

²⁵ See Rule 119, Section 23 of the Revised Rules of Criminal Procedure.