



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-18-CRM-0337**
Plaintiff, For: Violation of Section 3(e)
of R.A. No. 3019

Present

- versus -

EDGAR G. RAMA, ET AL.,
Accused.

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

Promulgated:

JUL 29 2022

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Ruben T. Estrera, Jr.'s *Motion for Reconsideration*,¹ and the prosecution's *Comment/Opposition (To the Motion for Reconsideration dated July 16, 2022)*.²

In his *Motion for Reconsideration*, accused Estrera prays that the Court reconsider its Resolution denying his *Motion to Dismiss*, and issue an order dismissing the case against him. He avers:

1. He can still invoke his right to speedy disposition of cases even if he did not file his counter-affidavit. The fact that he did not file his counter-affidavit even made the delay in the conduct of the preliminary investigation more unreasonable.
2. When the Supreme Court ruled that accused Catamco, Perez and Rama, et al. are all similarly situated, the basis for such conclusion was not the fact that all of them filed their respective counter-affidavits. The Supreme Court held that the said

¹ Dated July 16, 2022 and filed by electronic mail on July 18, 2022

² Dated July 22, 2022 and filed by electronic mail on July 25, 2022

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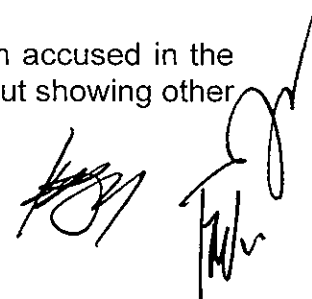
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accused are similarly situated because all of them were accused in the same complaints filed before the Ombudsman.

3. The issue in the Supreme Court's decisions in the respective petitions for certiorari of accused Catamco, accused Perez and accused Rama, et al. is whether or not there was inordinate delay in the conduct of the preliminary investigation. The Supreme Court held that there was inordinate delay in the preliminary investigation. Since there was only one preliminary investigation, the Supreme Court's ruling should also apply to him.
4. It is speculative to say that just because he did not file his counter-affidavit, he is presumed to have had no knowledge of the preliminary investigation. The filing of a counter-affidavit is discretionary on the part of the respondent, and the non-filing of the same does not bar him from invoking his constitutional right to speedy disposition of cases.
5. He suffered whatever inordinate delay was suffered by accused Catamco, accused Perez, and accused Rama, et al. because there was only one preliminary investigation conducted against all of them.
6. To proceed with his prosecution is not in accordance with the principles of equality and justice. The other accused are already free because the Ombudsman violated their right to speedy disposition of cases.

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

1. Accused Estrera's arguments in his *Motion for Reconsideration* are a mere rehash of those in his *Motion to Dismiss*.
2. The Court did not commit any error of fact and law when it ruled that he was not similarly situated as accused Catamco, accused Perez, and accused Rama, et al., considering that the latter participated in the preliminary investigation and accused Estrera did not.
3. In concluding that accused Rama, et al. are similarly situated as accused Catamco and accused Perez, the Supreme Court considered the factual circumstances presented before it. All of the said accused alleged in their respective petitions that they participated in the preliminary investigation and filed their counter-affidavits.
4. Accused Estrera merely stated that he was an accused in the same complaint before the Ombudsman, without showing other



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facts to establish that he was similarly situated as the other accused.

THE COURT'S RULING

Accused Estrera's *Motion for Reconsideration* is bereft of merit and should be denied.

In the assailed Resolution,³ this Court denied accused Estrera's *Motion to Dismiss* because he failed to show that he was similarly situated as accused Nancy A. Catamco, accused Pompey M. Perez, and accused Edgar G. Rama, William G. Surbano, Gorgonia E. Gonzales, Sergio G. Zurita and Nilo B. Gorgonio (accused Rama, et al.), whose right to speedy disposition of cases was violated, according to the Supreme Court.⁴

There was nothing in accused Estrera's *Motion to Dismiss* that would substantiate his bare claim that he was similarly situated as accused Catamco, accused Perez, and accused Rama, et al., so this Court examined the record of the case and found that accused Estrera, who had been at large until he filed his *Motion to Dismiss*, did not participate in the preliminary investigation.

Accused Estrera now insists that he is similarly situated as the said accused, and that "he suffered the same sufferings that accused Catamco, accused Perez and accused Rama, et al. had suffered since there was only one preliminary investigation conducted against all of them." This Court is not persuaded.

In *People v. Sandiganbayan (First Division)*,⁵ it was held that in determining if the right to speedy disposition of cases was violated, the Court must consider the prejudice the accused suffered due to the delay. Claims of prejudice should have a conclusive factual basis, and the Court cannot rely on pure speculation or guesswork. *Viz.:*

In determining whether the right of the accused to a speedy disposition of his/her case was violated, it is likewise essential for the

³ Dated July 14, 2022

⁴ Decision dated July 28, 2020 in *Nancy A. Catamco v. Sandiganbayan Sixth Division* (G.R. Nos. 243560-62) and *Pompey M. Perez v. Sandiganbayan (Sixth Division)* (G.R. Nos. 243261-63); Resolution dated June 23, 2021 in *Edgar G. Rama, et al. v. People of the Philippines and Sandiganbayan Sixth Division* (G.R. Nos. 255962 and 255964-65)

⁵ G.R. No. 233557-67, June 19, 2019

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accused to show that he/she suffered prejudice due to the delay. This "prejudice" is assessed in light of the interests of the accused which the speedy disposition right is designed to protect, such as: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired.

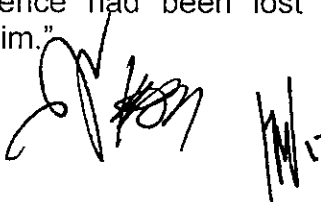
To begin with, the first criterion does not apply in the case at bar, as the respondent was never arrested or taken into custody, or otherwise deprived of his liberty in any manner. Thus, the only conceivable harm to Diaz are the anxiety brought by the investigation, and the potential prejudice to his ability to defend his case. Even then, the harm suffered by Diaz occasioned by the filing of the criminal cases against him is too minimal and insubstantial to tip the scales in his favor.

Suffice to say, not every claim of prejudice shall conveniently work in favor of the respondent. First, there must be a conclusive factual basis behind the purported claim of prejudice, as the Court cannot rely on pure speculation or guesswork. The respondent, who asserts to have suffered prejudice, must show actual, specific, and real injury to his rights. Thus, a "mere reference to a general asseveration that their 'life, liberty and property, not to mention reputation' have been prejudiced is not enough."

Diaz's claims that he endured financial drain, restrained freedom of movement, public ridicule, embarrassment, anguish, sleepless nights, restless moments, and isolation from friends and other people," are vague assertions, and typical trepidations and problems attendant to every criminal prosecution. Concededly, anxiety typically accompanies a criminal charge. However, not every claim of anxiety affords the accused a ground to decry a violation of the rights to speedy disposition of cases and to speedy trial. "The anxiety must be of such nature and degree that it becomes oppressive, unnecessary and notoriously disproportionate to the nature of the criminal charge."

Likewise, the alleged public ridicule, embarrassment, anguish, sleepless nights, restless moments and isolation do not amount to that degree that would justify the nullification of the appropriate and regular steps that must be taken to assure that while the innocent should go unpunished, those guilty must expiate for their offense. They pale in importance to the gravity of the charges and the paramount considerations of seeking justice.

Furthermore, a claim that the delay has caused an impairment to one's defense must be specific and not merely conjectural. "Vague assertions of faded memory will not suffice. Failure to claim that particular evidence had been lost or had disappeared defeats speedy trial claim."

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Here, this Court, in the assailed Resolution, found that accused Catamco, accused Perez, and accused Rama, et al. all participated in the preliminary investigation. By participating in the preliminary investigation, it is clear that they were aware of the same, and the second criterion in *People v. Sandiganbayan (First Division)*, i.e., to minimize anxiety and concern of the accused, may apply to them. In contrast, accused Estrera did not participate in the preliminary investigation. There is nothing in the record that would indicate that he was aware of the same. In fact, he did not even allege in his *Motion to Dismiss* or in his *Motion for Reconsideration* that he was aware of the proceedings before the Office of the Ombudsman. Therefore, this Court has no basis to conclude that accused Estrera may have suffered anxiety or concern as a result of the delay in the preliminary investigation.

While the Court agrees with accused Estrera that the mere fact that he did not file a counter-affidavit should not bar him from invoking his right to speedy disposition of cases, he must still show how he is similarly situated as accused Catamco, accused Perez, and accused Rama, et al. However, as with accused Estrera's *Motion to Dismiss*, there is nothing in his *Motion for Reconsideration* that would substantiate his bare claim that he is similarly situated as accused Catamco, accused Perez, and accused Rama, et al. There is likewise nothing therein that would substantiate the prejudice he supposedly suffered.

In fine, there is nothing in accused Estrera's *Motion for Reconsideration* that would warrant the reversal of the assailed Resolution.

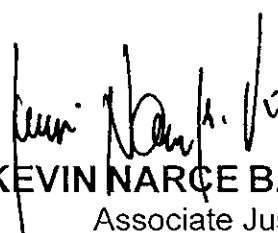
WHEREFORE, accused Estrera's *Motion for Reconsideration* is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice