



Republic of the Philippines

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 18 July 2022.

Present:

Justice ZALDY V. TRESPESSES-----Acting Chairperson

Justice GEORGINA D. HIDALGO-----Member

Presiding Justice AMPARO M. CABOTAJE-TANG-----Member*

The following resolution was adopted:

Crim. Case No. SB-22-CRM- 0117 - People vs. MARC RED ARCADIO MARINÁS, ET AL.

This resolves the following:

1. Accused Rován Rey Manlapas's "URGENT MOTION FOR LEAVE TO FILE (The Attached Motion for Reconsideration with Profuse Apologies)" dated July 8, 2022;¹ and
2. Accused Grifón Medina's "MOTION FOR RECONSIDERATION" dated July 11, 2022.²

TRESPESSES, J.

This resolves the Motion for Reconsideration of the Resolution dated 6 July 2022 filed by accused Grifón Medina and the Urgent Motion for Leave to File (The "Attached Motion for Reconsideration with Profuse Apologies") filed by accused Rován Rey Manlapas.

In the Resolution dated 6 July 2022, the Court merely noted accused Medina and Manlapas's manifestation as to the filing of their motions for reconsideration of the Ombudsman's Consolidated Resolution on the ground that they were filed without corresponding leave of court. The Court posits that once the Information is filed in court, the filing of a motion for reconsideration of the resolution of the preliminary investigation is allowed provided that accused has to obtain leave from the court in accordance with Sec. 7, Rule II of Administrative Order No. 07, or the Rules of Procedure of the Ombudsman.

*Sitting as Special Member per Administrative Order No. 138-2022 dated 20 June 2022 in view of the inhibition of Justice Ma. Theresa Dolores C. Gomez-Estoesta.

¹ Record, Vol. 5, pp. 406-441.

² Record, Vol. 5, pp. 452-454.

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ACCUSED MEDINA'S MOTION FOR RECONSIDERATION

Accused Medina moves for reconsideration of the Resolution dated 6 July 2022 and prays that he likewise be given leave in order for his Motion for Reconsideration of the Consolidated Resolution be acted upon by the Office of the Special Prosecutor of the Office of the Ombudsman. Accused alleges that although the omnibus motion he previously filed did not use the term "leave of court," he claims that among the reliefs prayed for was actually the permission for leave of court to allow the Ombudsman to first resolve his motion for reconsideration. Also, accused apologizes for the non-inclusion of a specific prayer for a leave of court due to an honest mistake or oversight. Accused now seeks the indulgence of the court for the relaxation of the rules and to consider his Omnibus Motion as one similarly containing the prayer for a permission or leave of court.

ACCUSED MANLAPAS'S URGENT MOTION FOR LEAVE

Accused Manlapas alleges that his counsel received the Ombudsman's Consolidated Resolution on 8 June 2022. On 13 June 2022, which is well within the prescriptive period, accused through counsel, filed a Motion for Reconsideration with Leave of Court with the Ombudsman. Admittedly, they failed to file leave of court with the Court due to heavy workloads.


On 30 June 2022, accused filed a motion to suspend arraignment grounded on the pending motion for reconsideration with the Ombudsman. Accused alleges that in his request for suspension, he also sought the court's permission, although done impliedly. Accused apologizes and prays that he be allowed to seek reconsideration of the Ombudsman's findings.

OUR RULING

We resolve to **grant** the motions.

The Court maintains that leave of court is necessary before a motion for reconsideration of the resolution in the preliminary investigation finding probable cause is given due course where an Information has been already filed in court. Sec. 7, Rule II of Administrative Order No. 07, or the Rules of Procedure of the Ombudsman, specifically provides that:

Section 7. Motion for reconsideration. —

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- a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, ***with corresponding leave of court in cases where information has already been filed in court.***
- b) The filing of a motion for reconsideration/reinvestigation shall not bar the filing of the corresponding information in Court on the basis of the finding of probable cause in the resolution subject of the motion.

The rationale for requesting leave for purposes of filing motion for reconsideration was mentioned in the Resolution dated 6 July 2022, the pertinent portion of which reads:

In *People v. Sandiganbayan (Fourth Division)*,³ the Supreme Court clearly provides that there is no legal right to move for reconsideration beyond what the rule allows. A motion for reconsideration is not inherent to due process but is merely granted subject to the conditions for its exercise or availability. It is a privilege and must be invoked only in the manner so provided.⁴

Considering that the instant motions essentially pray for leave, and finding the reasons in support thereof to be well taken, it appearing further that accused Medina's and Manlapas's motions for reconsideration of the Consolidated Resolution were timely filed with the Ombudsman, the motions are hereby granted as prayed for.

WHEREFORE, premises considered, accused Grifton Medina's *Motion for Reconsideration* and accused Rovon Rey Manlapas's *Urgent Motion for Leave to File (The "Attached Motion for Reconsideration with Profuse Apologies")* are **GRANTED**.

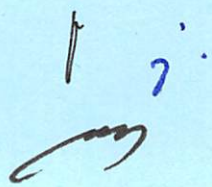
Accordingly, the prosecution is given leave to act on the motions for reconsideration filed by accused Medina and Manlapas. Since the Court has already granted leave to several accused per Resolution dated 6 July 2022, the prosecution is directed to resolve within the same period herein accused's motions together with the other previously filed motions to avoid further delay.

SO ORDERED.

Quezon City, Philippines.

³ Supra note 15.

⁴ *People v. Sandiganbayan (Fourth Division)*, G.R. Nos. 233061-62, 28 July 2020.



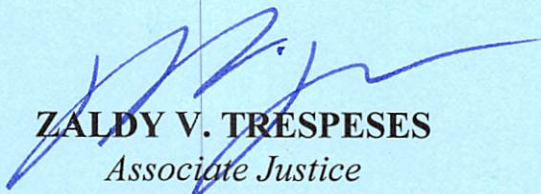
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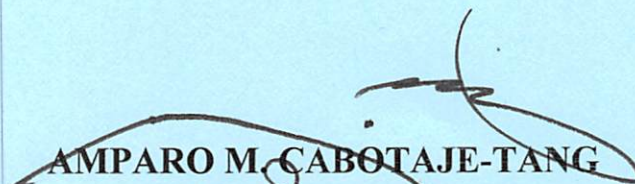


ZALDY V. TRESPESSES
Associate Justice
Acting Chairperson

WE CONCUR:



GEORGINA D. HIDALGO
Associate Justice



AMPARO M. CABOTAJE-TANG
Presiding Justice