



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on October 18, 2022.

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
ZALDY V. TRESPES ----- Associate Justice
GINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

Criminal Case No. SB-17-CRM-2140 and 2141 -

PEOPLE v. JUNIO NORBERTO M. RAGRAGIO
ROSENDO CEA CALLEJA
ABDUL AZIZ M. PANGANDAMAN
ESTELITO A. NIERVA
RUBEN A. BESMONTE
NEOFITO C. PERILLA
DIVINA GRACIA D. DANTES
CESAR L. BOCANOG
MARIO D. ARIAS a.k.a Marlo

This resolves the following:

1. Accused Rosendo Cea Calleja's "**Formal Offer of Evidence**" dated September 19, 2022;¹ and
2. Prosecution's "**Comment/Opposition (to Formal Offer of Evidence)**" dated September 21, 2022;²

GOMEZ-ESTOESTA, J.:

On the basis of the *Judicial Affidavits* offered in lieu of the testimonies of accused Rosendo Cea Calleja³ and his witness Imma P. Bombase,⁴ the

¹ Records, Volume 8, pp. 168-227.

² Records, Volume 8, pp. 228-231.

³ TSN dated September 15, 2022, pp. 7-12.

⁴ TSN dated August 11, 2022, pp. 14-28. The intended testimony of the other witness, Mr. Rico M. Reyes, was dispensed with when the court took judicial notice of NBC No. 545 and 573 which

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following documentary exhibits are subject of accused Calleja's *Formal Offer*, viz:

Marking	Description	Copy
"6-Calleja"	Cash Position as of March 7, 2013	certified true copy by Anna Liza N. Estrella.
"7-Calleja"	Cash Position as of April 26, 2013	certified true copy by Anna Liza N. Estrella
"8-Calleja"	SARO No. BMB-F-0009852 issued on June 10, 2011 with attached Special Allotment Release Order for Fiscal Year 2011 and Advice of SARO Issued for SARO-BMB-F-0009852	certified true copy by Anna Liza N. Estrella
"9-Calleja"	General Sub-Allotment Release Order dated June 28, 2011	certified true copy by Anna Liza N. Estrella
"10-Calleja"	Advice of NCA Issued dated April 11, 2013 for NCA No. BMB-A-13-0006633	certified true copy by Anna Liza N. Estrella
"11-Calleja"	Advice of NCA Issued dated April 11, 2013 for NCA No. BMB-F-13-0007110	certified true copy by Anna Liza N. Estrella
"12-Calleja"	PNR Advice of Check Issued and Cancelled	certified true copy by Anna Liza N. Estrella
"14-Calleja" Page 1	Notice of Cash Allocation dated April 11, 2013	certified true copy by Anna Liza N. Estrella
"14-Calleja" Page 2	Advice of NCA Issued dated April 11, 2013 for NCA No. BMB-A-13-0006633	certified true copy by Anna Liza N. Estrella
"14-Calleja" Page 3	List of Due and Demandable Accounts Payable – External Creditors	certified true copy by Anna Liza N. Estrella (same as Exhibit "23-Calleja")
"14-Calleja" Page 4	List of Due and Demandable Accounts Payable – External Creditors	certified true copy by Anna Liza N. Estrella
"17-Calleja"	AOM No. 2013-001 (AAR2012) dated March 7, 2013	certified true copy by Mirasol M. Santos
"18-Calleja"	Letter from DBM dated June 10, 2011	certified true copy by Anna Liza N. Estrella
"19-Calleja"	DV No. ENG-2013-02-284 dated March 7, 2013	common with Exhibit "R"
"20-Calleja"	DV No. ENG-2013-02-284 dated March 7, 2013	common with Exhibit "JJ"

the witness was supposed to identify; Order dated August 11, 2022; Records, Volume 8, pp. 129-131.

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“21-Calleja”	DBP Check No. 0008603215 dated March 7, 2013 in the amount of P9,387,148.23	common with Exhibit “S”
“22-Calleja”	Veterans Bank Check No. 0000020579 dated April 26, 2013 in the amount of P37,747,832.60	common with Exhibit “KK” ⁵
“23-Calleja”	List of Due and Demandable Accounts Payable – External Creditors	common with Exhibit “ZZZ”
“24-Calleja”	PNR letter-request for cash allocation dated February 27, 2013	common with Exhibit “XXX” ⁶
“25-Calleja”	Contract Agreement dated December 29, 2011	common with Exhibit “BB”
“26-Calleja”	Contract Agreement dated February 14, 2012	common with Exhibit “K”

In its *Comment/Opposition*, the Prosecution:

(i) made no objection to Exhibits “10-Calleja”, “11-Calleja”, “14-Calleja”, “19-Calleja” to “26-Calleja”; and

(ii) objected to Exhibits “6-Calleja”, “7-Calleja”, “8-Calleja”, “9-Calleja”, “12-Calleja”, “17-Calleja” and “18-Calleja” for “*lack of authentication and identification*”, averring that the persons (Anna Liza N. Estrella or Mirasol M. Santos) who certified them as true copies were not presented as witnesses to prove that they are the custodians of the originals of the documents pursuant to Section 8, Rule 130 of the Revised Rules of Evidence.

THE COURT’S RULING

Having considered the objection interposed by the Prosecution, the Court resolves to:

ADMIT Exhibits “10-Calleja”, “11-Calleja”, “14-Calleja”, “22-Calleja” and “24-Calleja”, as no objection has been interposed on the same. The rule is, evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment. This is true even if by its nature the evidence is inadmissible and would have surely been rejected if it had been challenged at the proper time.⁷

⁵ Exhibit “KK” was not offered as evidence for the Prosecution per Resolution dated November 29, 2019.

⁶ Exhibit “XXX” was excluded as evidence per Resolution dated November 29, 2019.

⁷ *Dantis v. Maghinang, Jr.*, G.R. No. 191696, April 10, 2013.

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ADMIT Exhibits “19-Calleja”, “20-Calleja”, “21-Calleja”, “23-Calleja”, “25-Calleja”, and “26-Calleja”, as no objection has been interposed on the same, and for being common with Exhibits “R,” “JJ”, “S”, “ZZZ”, “BB”, and “K” which were already admitted for the prosecution per Resolution dated November 29, 2019.⁸

EXCLUDE Exhibits “6-Calleja”, “7-Calleja”, “8-Calleja”, “9-Calleja”, “12-Calleja”, “17-Calleja”, and “18-Calleja”, for not having been properly attested to by the custodian of the original pursuant to Sections 24 and 25, Rule 132 of the Revised Rules of Evidence which provide:

Section 24. Proof of official record. - The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or **by a copy attested by the officer having the legal custody of the record**, or by his or her deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. (emphasis supplied)

XXX

XXX

XXX

XXX.

Section 25. What attestation of copy must state. - Whenever a copy of a document or record is attested for the purpose of evidence, **the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be.** The attestation must be under the official seal of the attesting officer, if there be any, or if he or she be the clerk of a court having a seal, under the seal of such court. (25 a) (emphasis supplied)

Exhibits “6-Calleja,” “7-Calleja”, “8-Calleja”, “9-Calleja”, “12-Calleja”, “17-Calleja”, and “18-Calleja” may have been presented by accused Calleja in his Judicial Affidavit to be *certified true copies* by one Anna Liza N. Estrella or Mirasol M. Santos (for Exhibit “17-Caleja”) but they were not presented as witnesses to testify on the fact that they are the records custodians of the originals of said exhibits. No offer for stipulation on the same was likewise made. Whether these exhibits were certified from the originals thereof was not likewise offered or stipulated as evidence. Public documents⁹ may be proved by the original copy, an official publication thereof, or a

⁸ Records, Volume 6, pp. 152-159.

⁹ Section 19 (a), Rule 132 of the *Revised Rules on Evidence* reads:

Sec. 19. Classes of Documents – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

- (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country; xxx

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certified true copy thereof.¹⁰ At this instance, Sections 24 and 25 of Rule 132 have not been observed.

While offered as an unmarked documentary exhibit, the *Judicial Affidavit* of Imma P. Bombase which was taken in lieu of her direct testimony has already been **ADMITTED** at the time it was offered during the hearing on August 11, 2022.¹¹ This only follows Section 35, Rule 132 which states:

Section 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. (35a)

The purpose of the offer, however, shall be evaluated in the ultimate disposition of the cases.

In the court's *Minute Resolution*¹² dated September 30, 2022, it was noted that accused Ruben Besmonte and Divina Gracia Dantes have waived the presentation of testimonial evidence and adopted the (i) Judicial Affidavit of Atty. Neofito C. Perilla and the (ii) Formal Offer of Exhibits of accused Abdul Aziz Pangandaman, Marlo Arias, Cesar Bocanog, and Atty. Neofito Perillo.

For the next sequence of defense evidence, accused **Estelito Nierva** was directed, in the same *Minute Resolution*, to submit the judicial affidavits of his intended witnesses.

For this purpose, the hearing set on **November 17 and 29, 2022 at 8:30 in the morning** before the Fourth Division Courtroom shall **PROCEED**, as scheduled, for the reception of evidence of accused Estelito Nierva.

SO ORDERED.



MA. THERESA DOLORES C. GOMEZ-ESTOESTA

Associate Justice
Chairperson

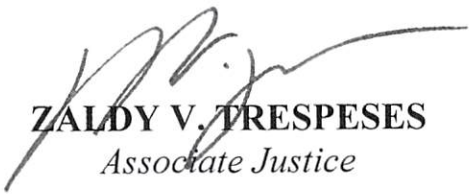
¹⁰ *Vide: Delfin v. Billones*, G.R. No. 146550, March 17, 2006.

¹¹ TSN dated August 11, 2022, pp. 28-29.

¹² Records, Volume 8, p. 249.



WE CONCUR:



ZALDY V. TRESPESES
Associate Justice



GEORGINA D. HIDALGO
Associate Justice

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