



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on February 13, 2023.

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
ZALDY V. TRESPESSES ----- Associate Justice
GEORGINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

CRIMINAL CASE NOS. SB-16-CRM-0173 TO 0178

PEOPLE v. RODOLFO G. VALENCIA, ET AL.

Before the Court are the following:

1. Accused Rodolfo Valencia's "**EX ABUNDANTE AD CAUTELAM MOTION FOR RECONSIDERATION OF THE RESOLUTION DATED 15 November 2022**" dated November 22, 2022 and received by the Court via registered mail on December 22, 2022 (vol. 17, pp. 499-505A); and

2. Prosecution's "**COMMENT/OPPOSITION to the EX ABUNDANTE AD CAUTELAM MOTION FOR RECONSIDERATION OF THE RESOLUTION DATED 15 November 2022 filed by accused Rodolfo G. Valencia**" dated December 29, 2022 and received by the Court via the 365 account on January 3, 2023 (vol. 17, pp. 507-513).

GOMEZ-ESTOESTA, J.:

In his *Motion for Reconsideration*,¹ accused Valencia challenges the admission of prosecution's Exhibits "J" and series (employment documents of Nico Valencia) over his objection that the participation of Nico Valencia is not part of the theory of the prosecution as stated in the *Informations* and that the offer in this regard is only belated and an "afterthought" on the part of the

¹ Records, Vol. 17, pp. 499-505A.

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prosecution. Accused Valencia insists that he not only objected to the admission of Exhibits “J” and series with prosecution’s change in theory but also on the ground that these documentary exhibits are irrelevant and immaterial. The same would only prove the employment record of Nico Valencia at best, and his personal circumstances at worst, but that they would have no bearing on any fact in issue; neither would it tend to establish the probability or improbability of any fact in issue. His relationship with accused Valencia would not prove accused Valencia’s complicity in the purported conspiracy.

Accused Valencia carps that this court was mistaken in deducing that prosecution’s change in theory has nothing to do with the admissibility of Exhibits “J” and series when quite the contrary, they go into the relevance, materiality, and competence of these documentary exhibits. During the preliminary investigation of these cases, there was never a mention of “Nico Valencia” but only that of Celia Cuasay who allegedly acted for and in behalf of accused Valencia. It was only when the prosecution could not establish the link between accused Valencia and Celia Cuasay that the name of Nico Valencia surfaced. In effect, this deprived accused Valencia of the opportunity to ask the necessary questions relating to the witnesses who testified before the name Nico Valencia came about. The change in prosecution’s theory would necessarily entail a change in accused Valencia’s theory. The Constitution itself forbids a change in theory as this violates his right to be informed of the charges against him.

Moreover, accused Valencia claims that since these documents were neither identified nor marked during pre-trial, the provision on A.M. No. 03-01-09-SC that no other evidence shall be admitted other than those identified and/or marked during pre-trial has been violated.

In its *Comment/Opposition*,² the prosecution countered that there has never been a change in its theory, as claimed by accused Valencia. These documents are relevant, as they pertain to Nico Valencia’s position as accused Valencia’s chief of staff, and as such, signed several documents relevant to the cases. Exhibits “J” and series, being public documents, are not excluded by the law or the rules. Finally, the witness from CSC who submitted these documents, as well as the documents themselves, have been reserved under the Joint Stipulation of Facts and Issues, which accused Valencia signed. Accused Valencia was absent during the presentation of the witness, and has waived his right to object to the presentation of such witness and the documents thus identified.

The *Motion for Reconsideration* lacks merit.

² Records, Vol. 17, pp. 507-513

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The only issue to be resolved in a formal offer is the **admissibility** of the documents offered. Evidence is admissible when it is **relevant to the issue** and not excluded by the Constitution, the law or the Rules.³

The carpings of accused Valencia, however, point more to the appreciation of the **probative weight** of the documentary exhibits and how they relate to the supposed complicity of accused Valencia. The arguments raised have come too far, when the purpose of the offer in these documentary exhibits only pertain to the existence of these documents in the “201 File” of John Nico P. Valencia with the Civil Service Commission.

To recall, Exhibits “J” and series only refer to:

Exhibit Marking	Description of the Document
“J”	Service Record of John Nico P. Valencia
“J-1”	Letter dated July 1, 2020 signed by Cong. Rodolfo G. Valencia
“J-2” to “J-5”	Appointment Paper of John Nico P. Valencia
“J-6” to “J-9”	Personal Data Sheet of John Nico P. Valencia

The purposes offered were reflected in the Judicial Affidavit of Dick N. Echavez, Director II of the Civil Service Commission – NCR, to wit:

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- iii. That among his duties and functions as Director II is to manage the operation of the assigned CSC-FO, including the processing of appointments submitted by agencies under his jurisdiction, such as the House of Representatives and the preparation of the “201 File” of individual appointees wherein they receive, take custody and incorporate the documents submitted by the concerned agencies in support of the appointment;
- iv. That the witness received two *Subpoenas* from the Office of the Ombudsman to appear for case conference, execute Judicial Affidavit, to testify before the *Sandiganbayan* and to submit certified true copies of the PSD/201 file of one John Nico P. Valencia;
- v. That the witness complied with the requests in the two Subpoenas and submitted certified true copies of documents as enumerated in question and answer no. 9 of his Judicial Affidavit, all sourced available original and official copies on the personnel file of John Nico Peñaroyo Valencia, all retained in his office; and
- vi. To prove the existence and authenticity of all the public documents enumerated in his Judicial Affidavit under question and answer no. 9.

³ Rule 128, Section 3.

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The testimony of Benhuy K. Luy on the matter of Nico P. Valencia being the Chief of Staff of accused Valencia will have to be calibrated as a whole when the cases are submitted for decision. Besides, accused Valencia's objection that this effected a change in the theory of the prosecution has already been resolved during the taking of Benhur K. Luy's testimony. Verily, this objection has been ruled at the time the **testimonial evidence** is offered, and should not be confused, if not compounded, with prosecution's formal offer of **documentary evidence**. Since Exhibits "J" and series have been properly attested to and identified by CSC Director II Dick N. Echavez, being public documents in themselves, they have been admitted as prosecution evidence.

Moreover, accused Valencia cannot likewise confuse the issue on accused's right to be informed of the nature and cause of the accusation against him when the right to be informed is relevant only if the issue relates to the **sufficiency of an Information**, but not in the resolution of the **admissibility** of documents. As the Supreme Court has explained:

No less than the Constitution guarantees the right of every person accused in a criminal prosecution to be informed of the nature and cause of accusation against him/her. **In this regard, every element constituting the offense must be alleged in the information to enable the accused to suitably prepare his/her defense.** This is because an accused is presumed to have no independent knowledge of the facts that constitute the offense. Hence, **the right to be informed of the nature and cause of accusation is not transgressed if the information sufficiently alleges facts and omissions constituting an offense that includes the offense established to have been committed by the accused.**⁴ (emphases supplied)

Finally, it is only now that accused Valencia opposed the admission of these documents on the ground that they were neither identified nor marked during pre-trial. Significantly, accused Valencia was never heard to object to the testimony of Dick Echavez who was presented on July 26, 2022 to identify these documents, as his counsel was absent on such date despite having been duly notified.⁵


WHEREFORE, accused Rodolfo Garong Valencia's *Ex Abundante Ad Cautelam Motion for Reconsideration of the Resolution dated 15 November 2022* is **DENIED** for lack of merit.

SO ORDERED.

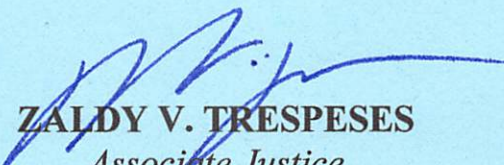
⁴ *People v. Olarte*, G.R. No. 233209, March 11, 2019

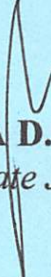
⁵ Order dated July 26, 2022, *Records*, Vol. 16, pp. 520-522.

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MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

WE CONCUR:


ZALDY V. TRESPESSES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice