



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES

OF THE

Plaintiff,

- versus -

EFRAIM C. GENUINO, et al.,
Accused.

Criminal Cases Nos. SB-13-CRM-0605, 0608, 0610, 0612, 0614, 0616, 0618, 0620, 0622, 0624, 0626, 0628, 0630, 0632, 0634, 0636, 0638, 0640, 0642

For: Violation of Section 3 (e), in relation to Section 3 (g), of Republic Act No. 3019

Criminal Cases Nos. SB-13-CRM-0606, 0607, 0609, 0611, 0613, 0615, 0617, 0619, 0621, 0623, 0625, 0627, 0629, 0631, 0633, 0635, 0637, 0639, 0641, 0643

For: Malversation of Public Funds or Property Defined and Penalized Under Article 217 of the Revised Penal Code

Present:

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B., J. and
MORENO, J.

Promulgated:

MAY 4, 2023

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RESOLUTION

CABOTAJE-TANG, PJ:

For resolution are accused Efraim C. Genuino's [1] "*Omnibus Motion*" dated March 17, 2023,¹ and [2] "*Motion to Reopen Accused Efraim C. Genuino's Presentation of Evidence*" dated March 23, 2023.²

ACCUSED-MOVANT GENUINO'S OMNIBUS MOTION IN CRIMINAL CASES NOS. SB-13-CRM-0605 TO 0606

Accused-movant Genuino prays that he be allowed to present his testimony in Criminal Cases Nos. SB-13-CRM-0605 to 0606. He requests that the Court [1] set two (2) additional hearing dates for the presentation of his testimony, [2] allow him to file his *Formal Offer of Evidence* within ten (10) days from the date of the last hearing, and [3] grant him a period of thirty (30) days from his receipt of the Court's resolution on his *Formal Offer of Evidence* within which to file his *memorandum* in the said cases.³

He avers that he intends to testify on the authorship of the signatures appearing on the check vouchers, memoranda, and the Philippine Amusement and Gaming Corporation Board of Directors (PAGCOR Board) minutes of the meeting subject of these cases.⁴

The said accused-movant further recounts that the prosecution formally offered in evidence PAGCOR Check Voucher No. 081219076 dated December 22, 2018,⁵ which supposedly proves that he participated in the release of the amount of Php26,700,000.00 in favor of BIDA Foundation, Inc., which was

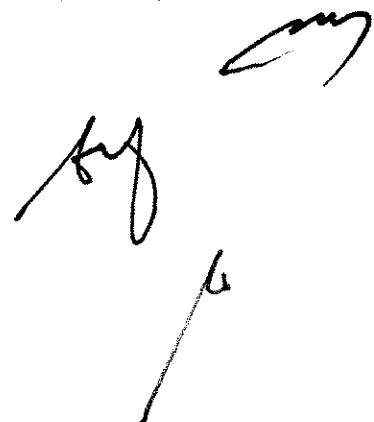
¹ pp. 192-294, Vol. XXXV, Record

² *Id.*, at pp. 309-556

³ *Id.*, at pp. 195

⁴ *Id.*, at p. 193

⁵ Exhibit A

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Resolution

Criminal Cases Nos. SB-13-CRM-0605 to 0643
People v. Genuino, *et al.*

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allegedly intended for the purchase of the *Baler* movie tickets.⁶ However, he submits that a plain examination of the signatures appearing thereon reveals that they are materially different from his genuine signature which appears on the PAGCOR Board's *Minutes of Meeting* dated December 16, 2008.⁷

Accused-movant Genuino further notes that no witnesses were presented by the prosecution in the said cases to specifically identify the above-mentioned signatures attributed to him.⁸

Moreover, the said accused-movant manifests that he is adopting the following pieces of evidence presented by the prosecution as part of his documentary evidence in above-mentioned cases, to wit:

1. PAGCOR Check Voucher No. 081219076 dated December 22, 2008;⁹
2. Landbank of the Philippines Check No. 0153001 dated December 23, 2008;¹⁰ and,
3. PAGCOR Board's Minutes of the Meeting dated December 16, 2008, Board Resolution No. 08-3302 appearing therein, and the signature page thereof.¹¹

Lastly, accused-movant Genuino submits that he is further adopting as part of his evidence in the said cases, the testimony of Dario V. Cordero who testified before the Court through his Judicial Affidavit dated January 23, 2023.¹²

⁶ *Id.*, at p. 193

⁷ *Id.*, at p. 194

⁸ *Id.*, at p. 194

⁹ Marked as "Exhibit A" for the prosecution; marked as "Exhibit 38-Genuino" for the accused-movant.

¹⁰ Marked as "Exhibit A-3" for the prosecution; marked as "Exhibit 40-Genuino" for the accused-movant.

¹¹ Marked as "Exhibit A-7-YY" for the prosecution; marked as "Exhibit 38-L-Genuino," "38-L-1-Genuino," "38-L-2-Genuino" for the accused-movant.

¹² *Id.*, at p. 195

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**ACCUSED-MOVANT GENUINO'S MOTION TO REOPEN THE
PRESENTATION OF EVIDENCE IN CRIMINAL CASES NOS. SB-
13-CRM-0608 TO 0643**

In the said *motion*, accused-movant Genuino similarly prays that the Court set two (2) additional hearing dates for further reception of his evidence in Criminal Cases Nos. SB-13-CRM-0608 to 0643 on the ground that the signatures appearing on the subject PAGCOR check vouchers which are attributed to him are different from his genuine signatures which appear on the certified true copies of the PAGCOR Board *Minutes of the Meeting* which form part of his evidence in the said cases.¹³

In support of his *motion*, accused-movant Genuino invokes Rule 119, Section 24 of the Revised Rules of Court. Also, he relies on the cases of *Cabarles v. People*,¹⁴ and *Republic v. Sandiganbayan*,¹⁵ and argues that a *motion to reopen* may be properly presented after either or both parties had formally offered and closed their evidence, before judgment is rendered, and even after promulgation but before finality of judgment to prevent a miscarriage of justice.¹⁶

**THE PROSECUTION'S COMMENT ON ACCUSED-MOVANT
GENUINO'S OMNIBUS MOTION**

In its *Comment* dated April 11, 2023,¹⁷ the prosecution submits that since accused-movant Genuino has not filed his *Formal Offer of Evidence* in Criminal Cases Nos. SB-13-CRM-0605 to 0606, it is not interposing any objection to the additional two (2) settings prayed for by the said accused-movant, provided that [1]

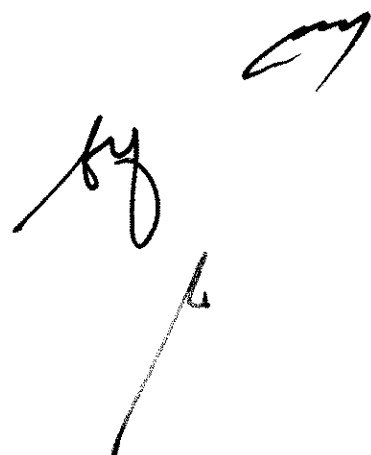
¹³ *Id.*, at pp. 311-313

¹⁴ 516 SCRA 303 (2007)

¹⁵ 629 SCRA 55 (2010)

¹⁶ *Id.*, at pp. 309-310

¹⁷ p. 105-107, Vol. XXXVII, Record

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the additional dates will be limited to two (2) settings only, and [2] only accused-movant Genuino will be allowed to take the witness stand.¹⁸

On the accused-movant's *motion* to file a memorandum, the prosecution contends that there is no need to file the same considering that the Court is capable of carrying out its judicial functions even without the said memorandum.¹⁹

**THE PROSECUTION'S OPPOSITION TO ACCUSED-MOVANT
GENUINO'S MOTION TO REOPEN THE PRESENTATION OF
EVIDENCE**

In its *Opposition* dated April 11, 2023,²⁰ the prosecution submits that the Court has already resolved the *Formal Offer of Evidence* filed by all the accused in Criminal Cases Nos. SB-13-CRM-0608 to 0643. Thus, it contends the said cases are now considered to be submitted for decision.²¹

It further avers that in order for the above-mentioned cases to be reopened, accused-movant Genuino must show that he will be presenting "*new evidence*" or that the denial of his *motion* will result in a miscarriage of justice.²²

It adds that accused-movant Genuino was not deprived of the opportunity to view the prosecution's documentary exhibits, and he did not find it necessary to adopt and/or rebut the evidence that was presented by the prosecution in the said cases. Thus, the present *motion to reopen the presentation of evidence* in Criminal Cases Nos. SB-13-CRM-0608 to 0643 is a mere afterthought to

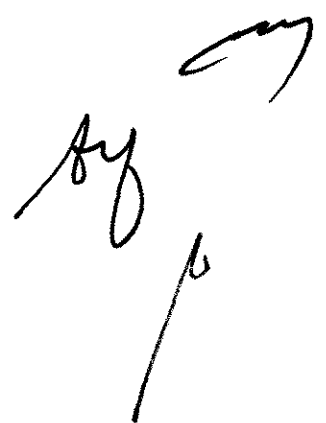
¹⁸ p. 105, Vol. XXXVII, Record

¹⁹ *Id.*, at p. 106

²⁰ *Id.*, at pp. 112-114

²¹ *Id.*, at p. 112

²² *Id.*, at p. 112

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rectify accused-movant Genuino's lapse in judgment in handling his defense.²³

THE RULING OF THE COURT

The Court finds the subject *motions* partly meritorious.

In its *Comment* dated April 11, 2023,²⁴ the prosecution acknowledges that accused-movant Genuino has not filed his *Formal Offer of Evidence* in Criminal Cases Nos. SB-13-CRM-0605 to 0606. Thereby, it interposes no objection to the additional two (2) hearing dates prayed for by the said accused-movant subject to the following conditions, namely: [1] the additional dates will be limited to two (2) settings only, and [2] only accused-movant Genuino will be allowed to take the witness stand.²⁵

Thus, considering that the prosecution interposes no objection to the *motion* filed by accused-movant Genuino in the said cases, the Court grants two (2) hearing dates for the presentation of the testimony of accused-movant Genuino in the said cases.

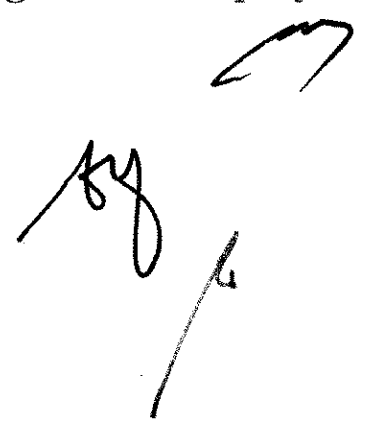
On accused-movant Genuino's prayer that he be granted a period of thirty (30) days from receipt of the Court's *resolution* of his *Formal Offer of Evidence* within which to file his *memorandum* in the said cases, the Court finds it premature since he has not filed his *Formal Offer of Evidence* and the Court has yet to rule thereon.

Moreover, Item 14, part III of A.M. No. 15-06-10-SC, or the Revised Guidelines for Continuous Trial of Criminal Cases, makes it discretionary on the part of the Court to allow the filing of *memoranda* by the parties. To be sure, the accused-movant has not alleged any compelling reason to warrant the grant of his prayer.

²³ *Id.*, at pp. 112-113

²⁴ *Id.*, at pp. 105-107

²⁵ p. 105, Vol. XXXVII, Record

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On the contrary, the grant thereof will only contribute to the delay in the resolution of these cases.

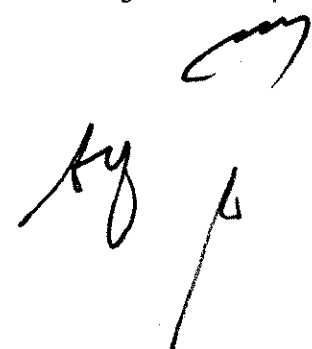
Regarding accused-movant Genuino's *Motion to Reopen the Presentation of Evidence in Criminal Cases Nos. SB-13-CRM-0608 to 0643*, Section 24, Rule 119 of the Revised Rules on Criminal Procedure provides:

Sec. 24. Reopening. – At any time before finality of judgement of conviction, the judge may, *motu proprio* or upon motion, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it.

On the other hand, the case of ***Cabarles v. Maceda***,²⁶ reiterated the following requirements for reopening a case, namely: [1] the reopening must be before the finality of a judgment of conviction; [2] the order is issued by the judge on his own initiative or upon motion; [3] the order is issued only after a hearing is conducted; [4] the order intends to prevent a miscarriage of justice; and, [5] the presentation of additional and/or further evidence should be terminated within thirty days from the issuance of the order.

Furthermore, it must be noted that in ***Cabarles***, the Supreme Court held that a *motion to reopen* may properly be presented after either or both parties had formally offered and closed their evidence, but before judgment is rendered, and even after promulgation but before finality of judgment, and the only guiding parameter is to **“avoid a miscarriage of justice.”** The High Tribunal also teaches in the said case that while the matter of reopening a case for reception of further evidence is largely a matter of discretion on the part of the trial court judge, this judicial action must not be done whimsically, capriciously and/or

²⁶ 516 SCRA 303 (2007)

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unreasonably.²⁷ Therein, the Supreme Court annulled and set aside the questioned *order* of the respondent judge which allowed the reopening of the case after it found that “*the prosecution was given ample opportunity to present all its witnesses but it failed to do so; [t]he failure of the prosecution to take full advantage of the opportunities given does not change the fact that it was accorded such opportunities; and, [c]ontrary to the justification stated in the April 1, 2003, Order, the prosecution was not deprived of its day in court.*”²⁸

Here, there is no showing that accused-movant Genuino was deprived of the opportunity to fully examine and/or rebut the documentary exhibits presented by the prosecution. Indeed, accused-movant Genuino had every reasonable opportunity to rebut the prosecution evidence, particularly his signature on the PAGCOR check vouchers in issue which he failed to do. Thus, the fourth requirement mentioned in **Cabarles** is not present in these cases considering that no miscarriage of justice will be occasioned to accused-movant Genuino by the disallowance of his bid to reopen the proceedings in the said criminal cases.

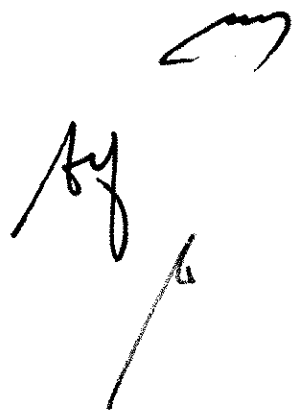
Obviously, as pointed out by the prosecution, accused-movant Genuino’s present *motion to reopen the presentation of evidence* is a mere afterthought.

At any rate, the purported variance of the signatures of accused-movant Genuino appearing on the said check vouchers and PAGCOR Board *minutes* is still subject to the appreciation of the Court in due time.

WHEREFORE, the Court [1] **NOTES** the manifestation of accused-movant Genuino in his *Omnibus Motion* dated March 17, 2023; [2] **DENIES** accused-movant Genuino’s (1) prayer to file a *memorandum* in Criminal Cases Nos. SB-13-CRM-0605 to 0606, and (2) *motion to reopen the proceedings* in Criminal Cases Nos. SB-

²⁷ *Id*

²⁸ *Id*

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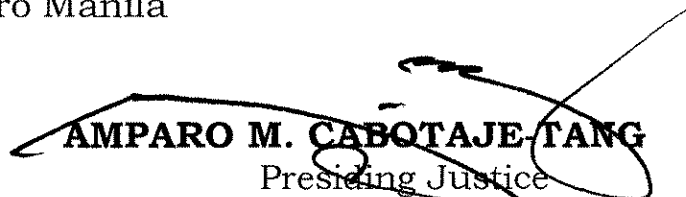
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13-CRM-0608 to 0643; and, [3] **GRANTS** accused-movant Genuino two (2) hearing dates for the presentation of his testimony in Criminal Cases Nos. SB-13-CRM-0605 to 0606.

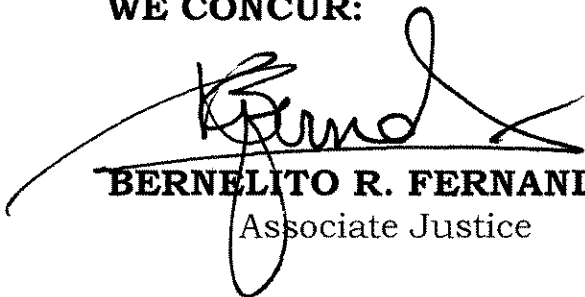
Accordingly, set the continuation of the reception of the defense's evidence in Criminal Cases Nos. SB-13-CRM-0605 to 0606 on June 26, 2023, and July 3, 2023, both at 8:30 o'clock in the morning.

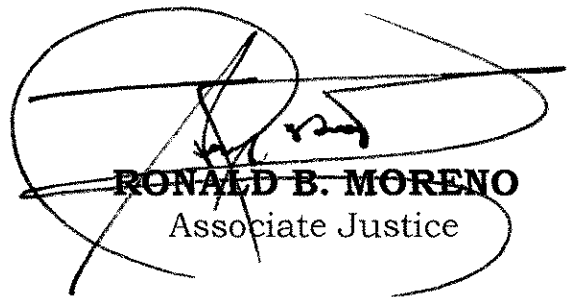
SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice