



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on June 22, 2023.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice GEORGINA D. HIDALGO ----- Member

The following resolution was adopted:

SB-23- CRM-0044 – People v. Herbert Constantine M. Bautista, et al.

This resolves the following:

1. Prosecution's "MANIFESTATION" dated May 31, 2023;
and
2. Accused Aldrin Chin Cuña's "COMMENT" dated June 16, 2023.

GOMEZ-ESTOESTA, J.:

On May 31, 2023, the prosecution submitted a Manifestation alleging that it has acquired information that accused Aldrin Chin Cuña ("accused Cuña") is an incumbent Director III at the National Defense College of the Philippines, Department of National Defense.¹ In support thereof, the prosecution attached a Certification² issued by Antonio L. Bautista, Assistant Secretary for Human Resources, Department of National Defense.

A pre-suspension hearing was thus held on June 9, 2023, wherein accused Cuña was directed to show cause why he should not undergo preventive suspension as mandated by Section 13 of *Republic Act No. 3019*.

On June 19, 2023, accused Cuña filed his Comment.³ Essentially, he defends that his suspension is unnecessary because:

- i. he has no intention of influencing prosecution witnesses nor tampering with any documentary evidence;

¹ Prosecution's Manifestation dated May 31, 2023 (Records, Vol. 2, pp. 326-327).

² Records, Vol. 2, p. 328.

³ Records, Vol. 2, pp. 459-462.

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- ii. the physical distance between the accused, the Office of the Special Prosecutor and the local government unit of Quezon City prohibits the accused from tampering with the evidence;
- iii. the integrity of prosecution's evidence is preserved as it is safely stored in the Office of the Ombudsman;
- iv. the prosecution witnesses are also the intended witnesses of the accused; and
- v. the National Defense College does not have regular or usual transactions with the local government unit of Quezon City.

Furthermore, invoking the exception to the rule on preventive suspension, accused Cuña avers that he may continue serving in his present position due to the absence of conspiracy.

THIS COURT'S RULING

Section 13 of *Republic Act No. 3019* ("*R.A. 3019*") provides:⁴

SEC. 13. Suspension and loss of benefits. – Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as a complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office.

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Section 4, Rule VIII of the *2018 Revised Internal Rules of the Sandiganbayan* states:

Sec. 4. Suspension Pendente Lite. – After the arraignment of an accused public officer against whom a valid information charging any of the violations referred to in Section 13 of R.A. No. 3019 is filed, the Sandiganbayan shall motu proprio give the said accused a non-extendible period of ten (10) calendar days from notice within which to explain in writing why he should not be preventively suspended. Thereafter, the Sandiganbayan shall issue an order of preventive suspension of the accused, if found warranted under the aforesaid provision of R.A. No. 3019, as well as applicable decisions of the Supreme Court.

⁴ As amended by *Batas Pambansa Blg. 195* (1982).

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Accused Cuña was arraigned and pleaded not guilty under a valid Information for violation of Section 3 (e) of *R.A. 3019*. At the pre-suspension hearing on June 9, 2023, he was afforded an opportunity to show cause why he should not undergo suspension *pendente lite*.

Section 13 of *R.A. 3019* makes it mandatory for the court to suspend any public officer against whom a valid information is filed charging a violation of said law, Title 7, Book II of the *Revised Penal Code*, or for any offense involving fraud upon government or public funds or property.⁵ Once the information is found to be sufficient in form and substance, then the court must issue the order of suspension as a matter of course.⁶ There are no ifs and buts about it.⁷

The court possesses no discretion, not even liberality, to determine whether a preventive suspension is necessary to forestall the possibility that the accused may use his office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance. The presumption is that unless the accused is suspended, he or she may frustrate the prosecution of the case, commit further acts of malfeasance, or do both.⁸

Despite accused's position to the contrary, therefore, the mandatory nature of preventive suspension should be enforced.

As to the duration of suspension, it is settled that the preventive suspension may not be of indefinite duration or for an unreasonable length of time; it would be constitutionally proscribed otherwise as it raises, at the very least, questions of denial of due process and equal protection of the laws. The Supreme Court has thus laid down the rule that preventive suspension may not exceed the maximum period of ninety (90) days in consonance with *Presidential Decree No. 807, the Civil Service Decree* (now Section 52 of the *Administrative Code of 1987*).⁹

WHEREFORE, pursuant to Section 13 of *Republic Act No. 3019*, accused Aldrin Chin Cuña is hereby preventively suspended from his position as Director III, National Defense College of the Philippines, Department of National Defense, and from any public office which he may now or hereafter be holding for a period of ninety (90) days from notice of this Resolution.

Let a copy of this Resolution be furnished the Secretary of the Department of National Defense for the implementation of the order of preventive suspension on said accused. Said Office is further requested to

⁵ *Flores v. Layosa*, G.R. No. 154714, August 12, 2004.

⁶ *Ibid*.

⁷ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004.

⁸ *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009, which cited *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996).

⁹ *Layus v. Sandiganbayan*, G.R. No. 134272, December 8, 1999, which cited *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998.

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inform this court of the date the accused started serving his suspension *pendente lite*.

The preventive suspension of the accused shall be automatically lifted upon expiration of the 90-day period from the implementation of this Resolution.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice