



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

**Criminal Case No. SB-20-
CRM-0077**

*For: Violation of Section 3 (e) of
Republic Act No. 3019 (Anti-
Graft and Corrupt Practices
Act), as amended*

- versus -

Present:

GODY H. CARDENAS,

Accused.

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

Promulgated:

JULY 25, 2023

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution are the following: (1) the “*Motion and Manifestation with Conformity to the Pretrial Order*” dated May 23, 2023,¹ filed by accused Gody H. Cardenas, (2) the “*Manifestation with Motion*” dated May 29, 2023,² filed by the prosecution, and (3) accused Cardenas’ “*Comment (on the Manifestation with Motion of the Prosecution)*” also dated May 29, 2023.³

¹ pp. 452-457, Record

² pp. 748-756, Record

³ pp. 458-465, Record

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**THE ANTECEDENTS AND THE SUBMISSIONS OF ACCUSED
CARDENAS IN HIS "MOTION AND MANIFESTATION WITH
CONFORMITY TO THE PRETRIAL ORDER"**

On **May 24, 2023**, the prosecution was scheduled to present its evidence in the case at bar. This setting was agreed upon by the parties, through their respective counsels, as evidenced by the *Pre-Trial Order* dated April 26, 2023,⁴ and the *Order* dated April 24, 2023, issued by this Court.⁵

However, on the **evening of May 23, 2023**, the Court received **via e-mail** a "*Motion and Manifestation with Conformity to the Pre-Trial Order*" dated May 23, 2023,⁶ filed by accused Cardenas, through his counsel, Atty. Ma. Saniata Liwliwa V. Gonzales-Alzate. In the said motion, it was alleged that the accused was still recuperating from the mild stroke that he previously suffered and, as such, would not be able to attend the scheduled hearing as he is not yet able to travel.⁷ Atty. Gonzales-Alzate likewise manifested that she would not be able to attend the hearing since she suddenly experienced signs of hypertension while she was on her way to Metro Manila from Bangued, Abra on May 23, 2023. She explained that she had previously assured the prosecution that she would be able to attend the hearing set for May 24, 2023. Thus, in the afternoon of May 23, 2023, she took the late afternoon or "night bus" bound for Manila from Bangued, Abra, which would allow her to arrive in Quezon City in the morning of May 24, 2023. However, she had to stop at San Fernando City, La Union, to seek urgent medical assistance as she experienced signs of hypertension, particularly "palpitations, discomfort, and fatigue."⁸

⁴ pp. 435-445, Record

⁵ See also the Transcript of the Stenographic Notes taking during the April 24, 2023 Hearing, pp. 4-6.

⁶ pp. 452-457, Record

⁷ p. 452, Record

⁸ pp. 452-453, Record

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To support her allegations regarding her condition, Atty. Gonzales-Alzate attached to the *Motion and Manifestation with Conformity to the Pretrial Order* a scanned copy of a letter signed by a certain “Romulo R. Monico, M.D., City Health Officer,” presumably of the City of San Fernando, La Union, based on the seal printed in the letter head of the certificate.⁹ The letter states that Dr. Monico examined Atty. Gonzales-Alzate and found her to have “**severe migraine headache with aura.**”¹⁰ The letter also states that Atty. Gonzales-Alzate was given medication and advised to do a follow-up. She was also referred to a neurologist for further work up and management.¹¹

Given the absence of the accused and his counsel, it was alleged in the motion that so as not to waste the time of the Court and the prosecution, “the accused and counsel expressly conform with the Pretrial Order especially that the accused has also signed and gave his conformity to the Joint Stipulation of Facts submitted to this Honorable Court.”¹² The accused also averred that the prosecution informed Atty. Gonzales-Alzate that it would “present evidence on March 31, 2023 [sic] and not on May 24, 2023.” Thus, he prayed for the Court to consider the “unexpected circumstances of the undersigned counsel as well as the accused in this case.”¹³

Accordingly, on May 24, 2023, only the prosecution attended the scheduled hearing.¹⁴

During the hearing, the prosecution manifested that it was only able to access the email to which accused Cardenas sent the *Motion and Manifestation with Conformity to the Pre-Trial Order* on the **morning of the hearing itself**. It also pointed out several observations in connection with the reasons proffered by accused Cardenas and his counsel for the requested resetting of the hearing. The Court directed the

⁹ p. 456

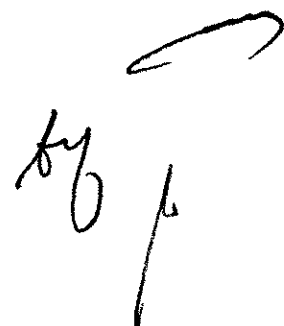
¹⁰ *Id*

¹¹ *Id*

¹² p. 453

¹³ *Id*

¹⁴ Order dated May 24, 2023, pp. 466-467, Record

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prosecution to file a written manifestation and motion regarding its observations to formalize the same. With the absence of the accused and his counsel, the May 24, 2023 hearing was consequently cancelled.¹⁵

THE PROSECUTION'S "MANIFESTATION WITH MOTION"

In its *Manifestation with Motion* dated May 29, 2023,¹⁶ the prosecution put forth its observations concerning the actions of accused Cardenas and his counsel, Atty. Gonzales-Alzate, in relation to the scheduled hearing on May 24, 2023.

First, it highlights that accused Cardenas filed his motion just a few hours before the hearing, violating the three-day notice rule for motions. Emphasizing that its team of prosecutors only gained access to its official email account on the morning of May 24, 2023, it avers that the timing of the filing of the motion left them with minimal notice regarding the requested resetting of the scheduled hearing.

Second, the prosecution questions the validity of the medical certificate that was attached to the *Motion and Manifestation with Conformity to the Pre-Trial Order*. It notes that while the same was not notarized, it was presumably issued by the City Health Officer of San Fernando, La Union. However, the timing of the issuance of the certificate, which is dated **May 23, 2023, 8:57 p.m.**, raises concerns of whether Atty. Gonzales-Alzate was truly able to secure such certification as the time indicated was clearly beyond the office hours of a City Health Officer. According to the prosecution, this raises doubts as to how Atty. Gonzales-Alzate was able to obtain the certificate on May 23, 2023. In light of its observations regarding the matter, the prosecution prays that the Court require a notarized medical certificate from Atty. Gonzales-Alzate detailing her medical condition. It claims that this would provide clarity to the Court and the

¹⁵ *Id*

¹⁶ pp. 748-756, Record



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plaintiff as to whether her condition was genuinely severe enough to prevent her from traveling to Quezon City and attending the hearing.

Turning to accused Cardenas, the prosecution recalls that his “stroke” was initially reported to the Court via a “*Manifestation*” dated April 18, 2023. It notes that while a medical certificate issued by the Municipal Health Officer of Bucloc, Abra, was attached to the said *Manifestation*, the certificate did not explicitly state that accused Cardenas suffered a stroke. Instead, it merely indicated a diagnosis of “**Hypertension Stage II; Systemic Viral Infection.**”¹⁷

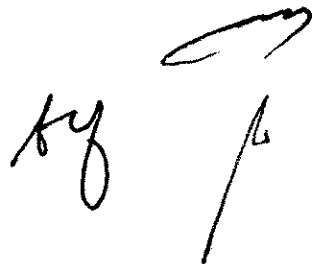
Additionally, the prosecution states that it discovered evidence showing that **less than two weeks after his alleged stroke**, accused Cardenas was already out and about, **having attended a wedding on April 22, 2023**. To support this claim, it provided three (3) photos as evidence, two (2) of which show the words “Freshlee & Karen 04.22.2023,” and one (1) featuring accused Cardenas alongside the bride, groom, and other wedding guests.¹⁸

Given these circumstances, the prosecution prays that accused Cardenas be likewise required to submit a notarized medical certificate issued by a licensed neurologist, confirming that he indeed suffered a stroke, along with a comprehensive medical abstract describing his condition. It also prays that accused Cardenas be required to submit an explanation as to why he was unable to attend the May 24, 2023 hearing when, according to the wedding photos, he was already active and participating in social events as early as April 22, 2023.

Ultimately, the prosecution charges the accused and his counsel of “making a mockery of these proceedings” based on the observed inconsistencies above. It argues that its prayers in its *Manifestation with Motion* aim to inform the Court and the plaintiff whether the conditions of accused Cardenas and

¹⁷ p. 400, Record

¹⁸ pp. 754-756, Record

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Atty. Gonzales-Alzate were genuinely severe enough that they were prevented from attending the scheduled hearing.

THE ACCUSED'S "COMMENT"

In the *Comment (on the Manifestation with Motion of the Prosecution)* dated May 29, 2023,¹⁹ accused Cardenas and his counsel belie the observations of the prosecution and insist that their absence during the May 24, 2023 hearing and their submissions regarding their health conditions were all in good faith.

Regarding her absence and the medical certificate that she submitted, Atty. Gonzales-Alzate asserts that at 4:17 p.m. of May 22, 2023, she was informed by Prosecutor Ouano that the prosecution would be presenting its evidence on May 31, 2023, instead of May 24, 2023, since the Pre Trial Order has not yet been signed by all parties. She reiterates that she assured Prosecutor Ouano during the call that she would be present during the May 24, 2023 hearing, and that on May 23, 2023, she took the night trip or late afternoon bus bound to Manila, so that she can arrive early on the morning of May 24, 2023, in time for the 8:30 a.m. setting. She claims that the bus was already passing La Union when she felt the signs of a health disturbance. Thus, she asked her sister in La Union to pick her up from the bus station. She states that she also asked if her sister knew any medical practitioner who can issue a medical certificate to document what happened to her. Atty. Gonzales-Alzate asserts that at that time, the only medical doctor who was able to accommodate her sister's request was the City Health Officer. Under the circumstances extant at that time, Atty. Gonzales-Alzate contends that she had to think of her life first and as such, she was not able to choose other doctors. She further states that a doctor has no office hours as anybody may need his medical assistance.

¹⁹ pp. 458-465, Record

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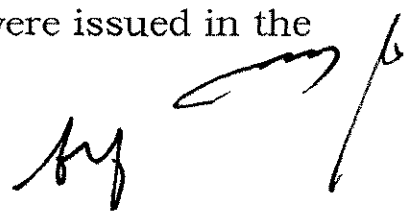
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As for the medical certificate issued to her, she contends that she requested its issuance for her peace of mind. She states that she asked the City Health Officer to indicate the time that it was issued to her to show her good faith to the Court and the prosecution, and to prove that her absence was not intentional. She avers that she filed the *Motion and Manifestation with Conformity to the Pretrial Order* through electronic mail, as soon as she can, in order to show the sincerity of the manifestation. In order not to delay the proceedings, she says she likewise included the accused's conformity to the Pre-Trial Order in the manifestation, as evidenced by the Special Power of Attorney.

Atty. Gonzales-Alzate also argues that her medical condition is not the subject matter of the case at bar. Thus, the prosecution's request for her to submit a notarized medical certificate detailing her medical condition is not necessary.

As regards the issue pertaining to accused Cardenas, Atty. Gomez-Alzate avers that accused Cardenas himself informed her that he would not be able to attend the signing of the Pre-Trial Order as he was still recuperating from his "mild stroke." Atty. Gomez-Alzate emphasizes that it was the accused himself who used the term "mild stroke." Thus, when she filed the *Motion and Manifestation with Conformity to the Pretrial Order*, she also used the term as this was the information relayed to her by the accused. She insists that she and accused Cardenas used the term "mild stroke" in its colloquial meaning as ordinary persons, and not as medical professionals or doctors. She argues that it would be unjust for the prosecution to confront her and the accused with how they use the medical term, especially since she was merely relaying to the Court, in good faith, the information given to her by the accused.

As for the medical certificates submitted by her and the accused, Atty. Gonzales-Alzate emphasizes that these were issued by the health officers of the City of San Fernando, La Union, and the Municipality of Bucloc, Abra. As such, they enjoy the presumption of regularity as they were issued in the



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performance of the health officers' functions and duties. Likewise, as "entries in official records made in the performance of official duty," she maintains that they are prima facie evidence of the facts stated therein, following Rule 130, Section 44 of the Rules of Court.

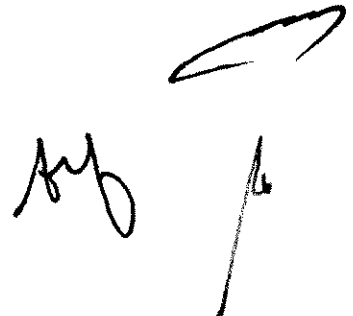
Additionally, for accused Cardenas, Atty. Gonzales-Alzate points out that the Municipality of Bucloc is a remote area. To reach the municipality, she relays that one has to traverse mountain ridges and a river enroute to it. Since the municipality is more than two (2) hours away from the capital city of Abra, the only medical doctor available in the area is its Municipal Health Officer. Thus, she contends that the prosecution's request for accused Cardenas to submit a notarized medical certificate from a licensed neurologist to attest to his condition would be "too much."²⁰ She adds that the medical records of the accused are confidential. She also avers that the medical certificate was submitted by accused Cardenas in good faith and was already considered by the Court when he filed his *Manifestation* dated April 18, 2023.

THE RULING OF THE COURT

The Court finds accused Cardenas' *motion* moot and the prosecution's *motion* partly meritorious.

One manner by which due process is assured in courts is through the faithful adherence to the procedural rules that govern the behavior of the party-litigants. One of these rules is Rule 30, Section 1 of the Rules of Court which provides that "**[p]arties shall strictly observe the scheduled hearings as agreed upon and set forth in the pre-trial order.**" During trial, the adherence to the schedule of hearings not only assists the Court in the orderly administration and timely disposition of cases, but similarly benefits the parties and their counsels. This is because

²⁰ p. 462, Records

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postponements of hearings cause delays in the resolution of cases which necessarily entail additional fees and effort on the part of the parties. Delays likewise inevitably cause anxiety and additional frustration for parties who may want their pending cases to be resolved already. On part of the counsels of the parties, postponements would sometimes entail wasted efforts and the need to prepare for additional hearing or trial dates on top of their already heavy workload.

Given these, the recent amendments to the Rules of Court generally deem a “motion for postponement” as a **prohibited pleading**.²¹ A postponement may still be prayed for but only if the same is based on acts of God, *force majeure*, physical inability of the witness to appear and testify,²² or on the ground of illness of a party or counsel.²³ In instances when a party or his or her counsel claims illness to postpone the proceedings, the Rules of Court provide that the motion **may** be granted **if** it appears upon **affidavit or sworn certification** that the presence of such party or counsel at the trial is indispensable and **that the character of his or her illness is such as to render his or her non-attendance excusable**.²⁴ Further, the Rules of Court require that the motion for postponement be accompanied by the original official receipt from the office of the clerk of court evidencing payment of the **postponement fee** under Section 21(b), Rule 141, to be submitted either at the time of the filing of said motion or not later than the next hearing date.²⁵

In the case of the May 24, 2023 hearing, accused Cardenas and counsel **did not explicitly pray for the postponement of the hearing**. Rather, they filed a “*Motion and Manifestation with Conformity to the Pretrial Order*.” It was averred therein that they both could not attend the May 24, 2023 hearing due to illness on both their part. As for the relief sought, the motion did not expressly ask for the

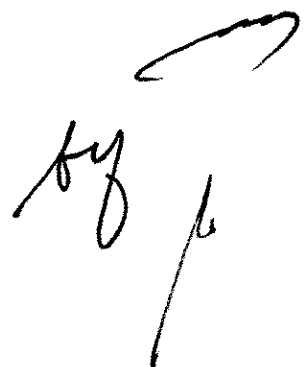
²¹ Rule 15, Section 12 (f), Rules of Court

²² *Id*

²³ Rule 30, Section 3, Rules of Court

²⁴ *Id*

²⁵ Rule 15, Section 12, Rules of Court

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postponement of the hearing but merely prayed for this Honorable Court *“to consider the unexpected circumstances of the undersigned counsel as well as the accused in this case.”*²⁶

Although not captioned as one, given the accused’s averments, as well as the end relief which the accused and his counsel sought, **the Court treats the same as a motion for postponement.**

However, since the May 24, 2023 hearing had already been cancelled, as directed by the Court in its **Order** dated May 24, 2023,²⁷ the Court finds the *“Motion and Manifestation with Conformity to the Pretrial Order”* filed by accused Cardenas **moot**. Nevertheless, considering that it was the absence of both accused Cardenas and his counsel on the said date which prompted the cancellation of the set hearing, and given that they filed a motion seeking such relief, the Court, pursuant to its inherent powers to issue all auxiliary writs, processes and other means necessary to carry its jurisdiction into effect,²⁸ **requires accused Cardenas to pay the postponement fee prescribed under Section 21(b), Rule 141 not later than the next hearing date.**

As for the *Manifestation with Motion* filed by the prosecution, the Court finds the same **partly meritorious**, particularly with regard to its prayer for the Court to require accused Cardenas to explain why he was not able to attend the May 24, 2023 hearing.

To recall, accused Cardenas filed a *Manifestation* dated April 18, 2023,²⁹ to inform the Court that he suffered a *“mild stroke.”* He attached a medical certificate issued by the Municipal Health Officer of Bucloc, Abra, to the said *Manifestation*.³⁰ This medical certificate is a public document since it was issued by a public officer in the performance of

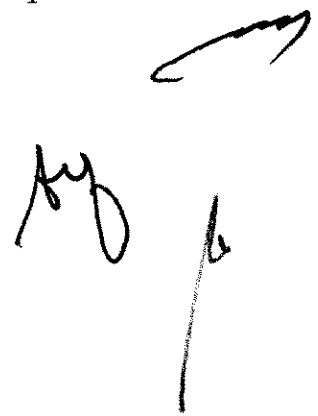
²⁶ p. 453, Record

²⁷ pp. 466-467, Record

²⁸ See Rule 135, Sections 5 and 5, Rules of Court

²⁹ pp.398-400, Record

³⁰ p. 400, Record

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official duty.³¹ As such, it constitutes *prima facie* evidence of the facts therein stated.³² Given this, the Court elected to note the manifestation³³ and excuse the absence of the accused on April 11, 2023, which was the day that the parties were supposed to sign the *Joint Stipulations of Facts and List of Documentary Evidence and Witnesses*.³⁴

However, being a mere *prima facie* evidence of the facts therein stated, the same suffices as proof of a particular fact, until contradicted and overcome by other evidence. In this connection, the Court notes the following:

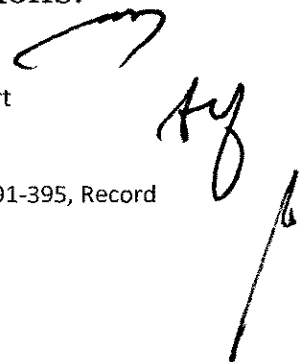
- (1) The Medical Certificate issued by the Municipal Health Officer of Bucloc, Abra, is dated **April 11, 2023**. It states that on that date, accused Cardenas was seen and examined in the Municipal Health Office and was diagnosed with “Hypertension Stage II; Systemic Viral Infection.” He was prescribed with several medicines and was advised to rest while undergoing treatment. As aptly pointed out by the prosecution, the Medical Certificate does not indicate that accused Cardenas suffered a “mild stroke.”
- (2) In his *Motion and Manifestation with Conformity to the Pretrial Order* dated **May 23, 2023**, accused Cardenas, through counsel, Atty. Gonzales-Alzate, alleged that he would not be able to attend the May 24, 2023, hearing since he was still recuperating from his “mild stroke.”
- (3) The prosecution, in its *Manifestation with Motion*, presented photographic evidence showing that as early as **April 22, 2023**, or less than two (2) weeks after he allegedly suffered a stroke, accused Cardenas was already able to attend social functions.

³¹ *Republic v. Unabia*, 892 SCRA 270 (2019); Rule 132, Section 23, Rules of Court

³² Rule 132, Section 23, Rules of Court

³³ *Resolution* dated April 18, 2023, p. 402, Record

³⁴ See the prosecution’s *Manifestation with Motion* dated April 11, 2023, pp. 391-395, Record

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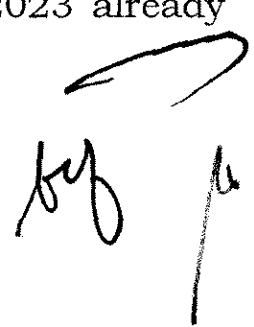
(4) In the *Comment (on the Manifestation with Motion of the Prosecution)*, Atty. Gonzales-Alzate alleged that she used the term “mild stroke” in the *Motion and Manifestation with Conformity to the Pretrial Order* dated May 23, 2023, since this was the term used by accused Cardenas when he called her up and informed her that he would not be able to attend the May 24, 2023 hearing. She added that when she and accused Cardenas used the term “mild stroke,” they were referring to the term as it is colloquially understood or how an ordinary person would use it.

CONCLUSION

In view of the above disquisition, and with the treatment of the *Motion and Manifestation with Conformity to the Pretrial Order* dated May 23, 2023, as a motion for postponement, the Court holds that accused Cardenas should be required to submit a written explanation (1) **clarifying his actual medical status**, in light of the lack of actual medical certification that he indeed suffered a stroke and his counsel’s caveat that they used the term “mild stroke” colloquially and (2) **explaining** his absence at the May 24, 2023 hearing, despite notice and given evidence showing that he was already attending social functions as early as April 22, 2023. This is in light of the requirement that motions for postponement should be supported by **affidavit or sworn certification** that the character of the illness is such as to render the non-attendance excusable.³⁵

As for Atty. Gonzales-Alzate, the Court further finds that the request of the prosecution to have her submit anew a notarized medical certificate regarding her medical condition should be **denied**. For one, the *Motion and Manifestation with Conformity to the Pretrial Order* dated May 23, 2023 already

³⁵ Rule 30, Section 3, Rules of Court

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included a medical certificate issued by a city health officer regarding her condition. As earlier discussed, a medical certificate, having been issued by a public officer in the performance of official duty, is considered a public document. As such, it constitutes *prima facie* evidence of the facts therein stated under Section 23, Rule 132 of the Rules of Court.³⁶ In this case, the medical certificate submitted by Atty. Gonzales-Alzate may be taken as *prima facie* evidence that she suffered from “**severe migraine headache with aura**”³⁷ on the evening of May 23, 2023.

The Court, however, notes that the records of the case at bar do not contain the original of the Medical Certificate dated May 23, 2023, issued by Dr. Romulo R. Monico to Atty. Gonzales-Alzate since the *Motion and Manifestation with Conformity to the Pretrial Order* dated May 23, 2023 was filed via e-mail. Accordingly, Atty. Gonzales-Alzate **is required to submit the original of the same** so that the certificate may form part of the records.

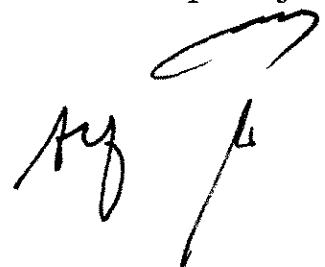
WHEREFORE, the Court [1] finds accused Cardenas’ *Motion and Manifestation with Conformity to the Pretrial Order* dated May 23, 2023, **MOOT** in light of the cancellation of the May 24, 2023 hearing. However, since the cancellation was due to the fault of accused Cardenas and his counsel, accused Cardenas is **REQUIRED TO PAY the postponement fee prescribed under Section 21 (b), Rule 141 not later than the next hearing date;** and [2] **PARTIALLY GRANTS** the prosecution’s *Manifestation with Motion* dated May 24, 2023.

Accordingly, accused Cardenas is **ORDERED** to submit an explanation on the following matters:

- a. **clarifying his actual medical status**, in light of the lack of actual medical certification that he indeed suffered a stroke and his counsel’s caveat that they used the term “mild stroke” colloquially

³⁶ *Republic v. Unabia*, 892 SCRA 270 (2019)

³⁷ p. 456, Record

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in their previous manifestations; and

- b. (2) **explaining** his absence at the May 24, 2023 hearing, despite notice and given evidence showing that he was already attending social functions as early as April 22, 2023.

Moreover, Atty. Gonzales-Alzate is required to **SUBMIT THE ORIGINAL** of the Medical Certificate dated May 23, 2023, issued by Dr. Romulo R. Monico, City Health Officer, of the City of San Fernando, La Union.

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