REPUBLIC OF THE PHILIPPINES SANDIGANBAYAN

Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,

CRIM CASES NOS. SB-22-CRM-

Plaintiff, 0198 to SB-22-CRM-0212

- versus -

HADJI IBRAHIM A. MAROHOM,

et al.,

Present:

MUSNGI, J., Chairperson

PAHIMNA, J.

JACINTO, J.

JUL 18 2023

Promulgated

RESOLUTION

Accused.

MUSNGI, J.:

This court resolves the *Motion for Reconsideration*¹ filed on 04 July 2023 by counsel for accused Paisal A. Padate ("Padate") and the *Comment/Opposition (on the Motion for Reconsideration of accused Padate dated July 3, 2023.)*² filed on 07 July 2023 by the plaintiff.

The *Motion* begs the Court to reconsider and set aside the *Order* given in open court on 29 June 2023 that declared accused Padate to have waived the right to cross-examine the prosecution's witness, Atty. Ladeza. Padate prays that he be allowed to cross-examine the said witness on the next trial date.

The Comment/Opposition prays that the Motion be denied for failing to comply with Section 10 of the Judicial Affidavit Rule, which states that a counsel who fails to appear without valid cause despite notice shall be deemed to have waived his client's right to confront by cross-examination of the witness presented.

¹ Records, Volume 2, pages 396 to 408.

² Id. Pp. 523-526.

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In the case of *Cañaveras v. Judge Gamboa-Delos Santos*,³ the High Court ruled that the counsel's failure to attend the hearing because of health reasons was a valid cause. In this case, Supreme Court reminded the lower courts to be more circumspect in the exercise of discretion in the application of the rules of procedure and highlighted that procedural rules are conceived to aid the attainment of justice.⁴

In the present case, the counsel of accused Padate reasons that there was confusion as to whether the hearing date on 29 June 2023 would push through because he expected a Court Order to set the final dates for the prosecution's presentation of evidence and corresponding venue. Likewise, 28 June 2023 was declared a regular holiday throughout the country in observance of Eid'l Adha. The counsel points out that he had always made sure to appear before this Court despite his residence to be in Davao to represent his father-client.

While it is true that the substantive rights of the accused can be deemed waived for failure to follow the rules, the exception to this is if a valid cause exists. In this case, the Court, in the broader interest of justice, deems it proper to reconsider its ruling to afford the accused the opportunity to cross-examine prosecution witness, Atty. Ladeza.

WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* is hereby **GRANTED** with a stern warning that its recurrence shall not be tolerated by this Court.

SO ORDERED.

Quezon City, Philippines.

MICHAEL FREDERICK I. MUSNGI

Chairperson
Associate Justice

We concur:

LORIFEL LACAP PAHIMNA

Associate Justice

BAYANI H. JACINTO
Associate Justice

³ G.R. No. 241348. July 05, 2022.

4 Id