



Republic of the Philippines  
**Sandiganbayan**  
Quezon City  
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**SEVENTH DIVISION**

*MINUTES of the proceedings held on 13 September 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:*

***Crim. Case No. SB-09CRM-0040-42, 0045-46, 0048-50, 0054-55, 0058-61, and 0068-69 - People vs. ANTONIO P. BELICENA, et al.***

This resolves the following:

1. Prosecution's "EX PARTE MANIFESTATION" dated and received on August 29, 2023.<sup>1</sup>

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**TRESPESES, J.**

Before this court is the *Ex Parte* Manifestation dated 29 August 2023 filed by the Prosecution, relative to the court's Order dated 24 August 2023 directing them to show cause and explain why they should not be cited for indirect contempt of court.

**THE ANTECEDENTS**

The continuation of the presentation of defense evidence in the three Belicena cases was set on 16 August 2023. However, on said date, Atty. Lazaro S. Galindez, Jr., counsel for accused Asuncion Magdaet, filed a *Most Respectful Consolidated Motion to Cancel Hearing* because he was suffering from bacterial conjunctivitis. Attached to the motion was the medical certificate of Atty. Galindez, Jr.

In the two other Belicena cases, the prosecutor assigned indicated a willingness to give Atty. Galindez, Jr. one more chance to present his witnesses if he complies with the manifestation and motion he previously filed regarding the witnesses whose testimonies he is adopting, which he has not yet done. However, in the instant cases, Prosecutor Joshua Tan strongly

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<sup>1</sup> Record, Vol. 13, pp. 121-132.

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opposed the motion of Atty. Galindez, Jr. and requested that the doctor who issued the medical certificate be brought to court. Prosecutor Tan's request was denied because the court believes that it would be too burdensome for the doctor to appear in court and instead chose to give the doctor who issued the medical certificate and its notarization the presumption of regularity.

Subsequently, the court received a *Most Respectful Consolidated Motion to Quash Subpoena dated August 16, 2023* from Atty. Galindez, Jr. He alleged that the subpoena subject of the motion was issued by the Office of the Special Prosecutor (OSP) and signed by Prosecutor Tan directing Doc. Esmael A. Abdul, MD, MMPA, FPSV, to "APPEAR on August 23, 2023 at 10:00 a.m. for a Case Conference before the undersigned Prosecutor at the Office of the Ombudsman, 5<sup>th</sup> Floor, Office of the Special Prosecutor (OSP) Holding Area, Sandiganbayan, Commonwealth Avenue, Quezon City." Atty. Galindez, Jr. contended that the subpoena should not have been issued because this court had already denied in open court the prosecution's motion to subpoena the doctor who issued his medical certificate.

On 23 August 2023, a *Manifestation* was filed by the prosecution through Prosecutor Tan, Prosecution Bureau XIV Assistant Ombudsman/Acting Deputy Special Prosecutor Leilani Bernadette C. Cabras, Assistant Special Prosecutor I A.D. Vincent B. Salvani IV, and Assistant Special Prosecutor I Maricel C. Pintucan. They argued that the subpoena was "strictly confidential" and questioned how Atty. Galindez, Jr. obtained a copy of the same because it was not intended for him. They further claimed that the Office of the Ombudsman has the authority to issue subpoenas in connection with the exercise of its investigative authority under R.A. No. 6770 when it has doubts regarding submissions made to its office.

On 24 August 2023, the court issued a resolution holding that the prayer for the quashal of the subpoena was futile from the beginning since it was not issued by the court and hence, cannot be the subject of a motion to quash. The court observed, however, that because the subpoena was issued by the OSP after the motion had already been denied in open court, the court finds such action of the prosecution as an indirect act to circumvent a ruling it had already made. As a result, the prosecutors were directed to show cause and explain within 72 hours from notice why they should not be cited for indirect contempt of court for violating the tenor of the Order of 16 August 2023 since they issued a subpoena despite its denial in open court.

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### **PROSECUTION'S EX PARTE EXPLANATION**

On 29 August 2023, the prosecution filed their *Ex Parte Explanation* and claims that it was never their intention to undo the tenor of the court's order.

The prosecution alleges that they received via email a copy of Atty. Galindez, Jr.'s *Most Respectful Motion to Cancel Hearing* and the attached medical certificate only about an hour before the hearing. As a result, they did not have time to review the motion to reset and the subject medical certificate, or to adequately compose and file their written opposition thereto. Since it was not the first time that Atty. Galindez, Jr. has filed a resetting days before or on the same date as the scheduled hearing, the prosecution, through Prosecutor Tan, questioned the propriety of resetting the hearing and the possibility of inquiring as to its reason. Thus, he requested that the doctor who issued the medical certificate be subpoenaed.

The prosecution admits that when the court made the ruling, they had deferred to the court's discretion that they would not compel Atty. Galindez, Jr.'s doctor to appear in court. They maintain that they did not formally contest or seek to overturn the Order dated August 16, 2023. However, after reviewing the medical certificate and evaluating what happened during the hearing, the prosecution's misgivings about it grew. The prosecution contends that Atty. Galindez, Jr. lives in Filinvest 2, Quezon City, but he traveled to Dr. Abdul's clinic in Kasiglahan Village, Rodriguez, Rizal, to seek help with his urgent medical condition. Dr. Abdul would then have had to go in the opposite direction from his clinic, far beyond Atty. Galindez, Jr.'s residence simply to take an oath before a notary public in Malakas Street, Quezon City.

The prosecution also describes various scenarios in which Atty. Galindez, Jr. received a copy of the medical certificate and claims that the possibilities are not consistent with common human experience considering various factors. In terms of convenience and practicality, the prosecution maintains that there are numerous hospitals around Filinvest 2, Quezon City, which Atty. Galindez, Jr. could have visited to seek immediate medical attention. Assuming that Atty. Galindez, Jr. was in Kasiglahan Village, Rodriguez, Rizal when he had his medical emergency, there is no reason for him to travel to Quezon City to have the medical certificate notarized because there are four notarial services close to Dr. Abdul's clinic. Also, assuming that they were both in Quezon City, it is ludicrous that the only doctor encountered by Atty. Galindez, Jr. was a doctor whose declared clinic was in Rizal, not Diliman. Malakas Street, where the medical certificate was notarized, is also close to more than ten (10) hospitals.

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The prosecution claims that they were unable to raise these matters and/or circumstances during the hearing due to lack of time to review the motion to reset. With the court's denial of the motion to issue a subpoena, the only option for the prosecution was to summon the doctor to a conference to shed light on the matter.

In evaluating what happened during the hearing and the circumstances surrounding the issuance of the medical certificate, the prosecution asserts that they attempted to subdue its own questions and doubts while also seeking the truth by clarifying some points with the doctor who provided the medical certificate. Although the court had already given credence to the medical certificate, the prosecution alleges that they needed to find out the truth for their own peace of mind and as part of the overall casework, and that the issuance of the subpoena is not in any way contemptuous. It was never made with the intention to defy the court and the prosecution did not assume that the Order barred it from seeking Dr. Abdul in other ways or issuing its own process.

Finally, the prosecution explains that the term "case conference" is *pro forma* that incorporates all discussions relating to all submissions in connection with a case. It includes all materials acquired or presented to the Ombudsman in relation to a certain case. Here, the medical certificate is a submission in these cases as justification for resetting a hearing. The prosecution submits that the term "case conference" was not used as an excuse or to discredit matters that have been ruled upon during the hearing on 16 August 2023.

**OUR RULING**

Contempt of court is defined as disobedience to the court by acting in opposition to its authority, justice, and dignity. It signifies not only a willful disregard or disobedience of the court's orders but also conduct tending to bring the authority of the court and the administration of law into disrepute or, in some manner, to impede the due administration of justice.<sup>2</sup>

The power to cite people for contempt is a necessary component of judicial authority. For the sake of "enforcing their authority, preserving their integrity, maintaining their dignity, and ensuring the effectiveness of the administration of justice," all courts have the inherent authority to penalize for

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<sup>2</sup> *Siy v. National Labor Relations Commission*, G.R. No. 158971 (Resolution), 25 August 2005 (505 Phil. 265-278).

*[Handwritten marks]*

contemp.<sup>3</sup> In *Lorenzo Shipping Corp. v. Distribution Management Association of the Philippines*,<sup>4</sup> the Supreme Court explained that:

The power to punish for contempt is inherent in all Courts, and need not be specifically granted by statute. It lies at the core of the administration of a judicial system. Indeed, there ought to be no question that courts have the power by virtue of their very creation to impose silence, respect, and decorum in their presence, submission to their lawful mandates, and to preserve themselves and their officers from the approach and insults of pollution. The power to punish for contempt essentially exists for the preservation of order in judicial proceedings and for the enforcement of judgments, orders, and mandates of the courts, and, consequently, for the due administration of justice. The reason behind the power to punish for contempt is that respect of the courts guarantees the stability of their institution; without such guarantee, the institution of the courts would be resting on a very shaky foundation.<sup>5</sup>

Contempt of court can be classified as either direct or indirect contempt. Direct contempt is committed when a person is guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so.<sup>6</sup> On the other hand, there is indirect contempt when any of the acts enumerated in Section 3, Rule 71 of the Rules of Court<sup>7</sup> has been committed.<sup>8</sup>

During the hearing held on 16 August 2023, the court denied Prosecutor Tan's request to subpoena the doctor who issued the medical certificate to Atty. Galindez, Jr. The pertinent portion of the 16 August 2023 Joint Resolution reads:

<sup>3</sup>*Webb v. Gatdula*, G.R. No. 194469 (Resolution), 18 September 2019.

<sup>4</sup>G.R. No. 155849, 31 August 2011 (672 PHIL 1-20).

<sup>5</sup>Id.

<sup>6</sup>*Valmores-Salinas v. Salinas*, G.R. No. 218281 (Notice), 29 September 2021.

<sup>7</sup>(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1[, Rule 71 of the Rules of Court];

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served; [and]

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

<sup>8</sup>*Land Bank of the Philippines v. Reyes*, G.R. No. 217428, 25 March 2019.

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Insofar as SB-09-CRM-0040 et al. are concerned, prosecutor Tan vehemently objected to the resetting of these cases and even moved that the doctor who issued the medical certificate of Atty. Galindez, Jr. be brought to court. Much that this court wants, it is too much of a burden to the doctor to appear. The court instead opted to just give the presumption of regularity in the issuance of medical certificate by the doctor and in the notarization of said medical certificate.

Unknown to the court and in clear circumvention of the August 16, 2023 order, Prosecutor Tan issued a subpoena to Dr. Esmael A. Abdul, directing the latter to appear for a "case conference." This plainly demonstrates Prosecutor Tan's lack of respect and willful disobedience to the court's order.

Given that the request for a subpoena had previously been denied, it appears that the prosecution's action was carried out clandestinely in the expectation that such disobedience would not be discovered by the court. This was backed by the contention in the Manifestation<sup>9</sup> that the nature of a subpoena is strictly confidential. They also questioned how Atty. Galindez, Jr. managed to obtain a copy of it. But if Atty. Galindez, Jr. had not filed a motion to quash, the court would not have known that Dr. Abdul had been subpoenaed by the OSP, in contrast to what has been ruled in open court.

The subpoena was likewise issued under the guise of a "case conference," with the evident intent of interviewing Dr. Abdul about the circumstances surrounding the issuance of the medical certificate. The court believes that while the Office of the Ombudsman has the authority to investigate, this does not provide the prosecution with unrestricted authority to do so. The court maintains that the same should be exercised in accordance with R.A. No. 6770, otherwise known as "The Ombudsman Act of 1989", that is, to:

Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.<sup>10</sup>

In this case, it should be stressed that the prosecution has already completed the presentation of its evidence. It is now the turn of the defendants to present their evidence. The intended inquiry does not concern any act or omission of public officers/employees that appears to be illegal, unjust, improper or inefficient. Furthermore, Dr. Abdul is neither witness for the

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<sup>9</sup> Record, Vol. 13, pp. 110-113.

<sup>10</sup> Section 15 of R.A. No. 6770 otherwise known as "The Ombudsman Act of 1989"



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prosecution or the defense. He merely issued a medical certificate to Atty. Galindez, Jr. who cannot attend the August 16, 2023 hearing for medical reasons. Although it was a submission in relation to this case, it was not evidence that would necessitate prosecution's review or inquiry. It was also not defense evidence but merely a certification to support Atty. Galindez, Jr.'s motion to have that particular August 16, 2023 hearing postponed because he was suffering from conjunctivitis at that time. While such condition may not be serious, it is common knowledge that it is very uncomfortable to the one afflicted with it and highly contagious.

The prosecution argues that the subpoena was issued to clarify some matters with the doctor who provided the medical certificate. However, the court does not find it sufficient reason to defy its order given that the medical certificate and its notarization have already been given credence. The allegation that the subpoena was issued for the purpose of verifying the reason behind the motion to reset also failed to convince because such reason is already stated in the motion and in the medical certificate. Besides, what was the end goal of the prosecution after it had finished its inquiry on such matter, which in fact does not in any way affect the theory of their case nor that of the defense? It appears that such corollary matter was given too much attention and effort by the prosecution that it distracted them from its main task of prosecuting the case and serving the ends of justice.

The prosecution posits that they issued the subpoena to bring out the truth for their peace of mind. But what further truth does the prosecution seek to establish beyond what is stated in the documents? They even went out of their way to detail different possibilities of how Atty. Galindez, Jr. was examined, was issued a medical certificate and how it was sworn to before a notary public. To be sure, the circumstances leading to the issuance of the subject medical certificate are no longer relevant to the case that would require an investigation or questioning by the OSP because it is neither prosecution nor defense evidence.

The prosecution's allegation that it did not assume that the order barred it from issuing its own process and requiring Dr. Abdul to appear in its office for inquiry cannot also be given credence by the court. As an officer of the court, Prosecutor Tan is expected to know that the directives of the court are not a mere request but an order which should be complied with promptly and completely.<sup>11</sup> Thus, he bears a greater obligation than any other to protect the integrity of the courts and respect for their processes.

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<sup>11</sup> *Quijano v. Oh Jin Seok*, G.R. No. 220644 (Notice), 16 January 2023.

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In *Rodriguez-Manahan v. Flores*,<sup>12</sup> the Supreme Court made it clear that:

"(C)ourt orders are to be respected not because the judges who issue them should be respected, but because of the respect and consideration that should be extended to the judicial branch of the Government. This is absolutely essential if our Government is to be a government of laws and not of men. Respect must be had not because of the incumbents to the positions, but because of the authority that vests in them. Disrespect to judicial incumbents is disrespect to that branch of the Government to which they belong, as well as to the State which has instituted the judicial system."

The court observed that the prosecution, particularly Prosecutor Tan, was frustrated by the resetting. But just like the prosecutors in the two other *Belicena* cases, Prosecutor Tan could have also prayed for the forfeiture of dates allotted to the defense for failure of Atty. Galindez, Jr. to comply with his manifestation. The records would show that he did not, and instead resorted to a clandestine action that does not in any way affect the core issues in the case. While the prosecution is eager for a swift trial, its action subject of this resolution achieves the opposite. We cannot help but emphasize that the court is likewise striving towards the same goal. It is for this reason that the court has directed Atty. Galindez, Jr. to explain why he must use the three remaining dates granted to him since he has not submitted any judicial affidavits of his witnesses, failing which he is only permitted one more date to conclude the presentation of his evidence.

To be sure, the prosecution's interest in the continuous and speedy trial by opposing delays should not result in the disregard of court orders and processes. The prosecutors are reminded that, as officers of the court, they are duty bound to obey and respect court orders. As such, they should set a positive example by observing and maintaining judicial respect.

In *Villaflor v. Sarita*,<sup>13</sup> the Supreme Court held that:

As an officer of the court, it is the duty of a lawyer to uphold the dignity and authority of the court, to which he owes fidelity, according to the oath he has taken. It is his foremost responsibility "to observe and maintain the respect due to the courts of justice and judicial officers." *The highest form of respect to the judicial authority is shown by a lawyer's obedience to court orders and processes.*

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<sup>12</sup> *Rodriguez-Manahan v. Flores*, A.C. No. 8954 (Resolution), 13 November 2013 (721 PHIL 53-59)

<sup>13</sup> *Villaflor v. Sarita*, A.C. CBD No. 471 (Resolution), 10 June 1999 (367 Phil. 399-408)



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Further, in *Re: Bagabuyo*, it was held that:<sup>14</sup>

It is the duty of the lawyer to maintain towards the courts a respectful attitude. As an officer of the court, it is his duty to uphold the dignity and authority of the court to which he owes fidelity, according to the oath he has taken. Respect for the courts guarantees the stability of our democratic institutions which, without such respect, would be resting on a very shaky foundation.

It is settled that the power to declare a person in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold the administration of justice.<sup>15</sup> The court is mindful that contempt power, however plenary it may seem, must be exercised judiciously and sparingly with utmost self-restraint with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication.<sup>16</sup>

Notwithstanding the foregoing, the court resolves to be considerate to the prosecution team. The court understands that lawyers have the duty to assist in the speedy and efficient administration of justice.<sup>17</sup> Thus, while the prosecution's actions appear to be overeager, the court will interpret them as a result of their zeal in prosecuting the case and advancing their cause for a speedy trial. They are, however, reminded to focus on the core issues rather than distract themselves with matters that deviate from the speedy disposition of these cases. Future commission of the same or similar acts will not be tolerated, and this court will not hesitate to impose the appropriate sanctions as may be warranted under the circumstances.

**WHEREFORE**, premises considered, the court **ACCEPTS** the explanation proffered by Assistant Prosecutor I Joshua A. Tan, Assistant Ombudsman/Acting Deputy Special Prosecutor Leilani Bernadette C. Cabras, Assistant Special Prosecutor I A.D. Vincent B. Salvani IV, and Assistant Special Prosecutor I Maricel C. Pintucan. They are, however, **warned** that a repetition of a similar act will be dealt with more seriously.

**SO ORDERED.**

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<sup>14</sup> *Re: Bagabuyo*, A.C. No. 7006, 9 October 2007 (561 Phil. 325-341).

<sup>15</sup> *Spouses Placido v. Dizon*, A.M. No. RTJ-21-009 (Notice), 11 November 2021.

<sup>16</sup> *Britania v. Gepty*, G.R. No. 246995, 22 January 2020.

<sup>17</sup> Section 2, Canon III (Fidelity), A.M. No. 22-09-01-SC or the Code of Professional Responsibility and Accountability.

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**ZALBY V. TRESPESES**  
*Associate Justice*

WE CONCUR:



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



**GEORGINA D. HIDALGO**  
*Associate Justice*