



Republic of the Philippines
Sandiganbayan
 Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 17 October 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. Accused Asuncion Magdaet's "CONSOLIDATED EXPLANATION AND MOTION" dated September 24, 2023;¹ and
2. Prosecution's "COMMENT" dated October 2, 2023.²

TRESPESES, J.

This resolves the Consolidated Explanation and Motion filed by accused Asuncion Magdaet and the Prosecution's Comment thereto.

Accused Magdaet alleges that Charmelle P. Recoter is one of the accused in Crim. Case No. SB-09-CRM-0087, etc. She prays that Recoter be allowed to serve as a substitute witness in these cases in lieu of the witness/witnesses she named, notably the BOI representative. She claims that Recoter's testimony will not prejudice the prosecution because the DOF-OSS Center has already been abolished.

The Prosecution counters that the justification for failing to identify Ms. Recoter as a witness during the preliminary conferences is gravely insufficient. If her statement is vital, she should be named as a witness. Her name, however, was conspicuously omitted from the list of witnesses for accused Magdaet. The prosecution now moves that the presentation of accused Magdaet's evidence be closed and terminated.

The court resolves to **grant** the motion of accused Magdaet.

¹ Record, Vol. 13, pp. 132-195.

² Record, Vol. 13, pp. 187-190.

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Minute Resolution

People v. Antonio P. Belicena et al.

Crim. Case Nos. 09CRM-0040-42, 0045-46,
0048-50, 0054-55, 0058-61, and 0068-69

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The Court recognizes the importance of pre-trial proceedings in simplifying and expediting the resolution of disputes. However, as with all procedural regulations, it is merely a tool for ensuring the successful enforcement of substantive rights through the orderly and speedy administration of justice. Thus, when a strict application of the norms of process may tend to hinder rather than serve the greater purposes of substantial justice, the court may relax its application in the exercise of its equity jurisdiction.³

In these cases, the court notes that during pre-trial, accused Magdaet listed the following as witnesses:

- a. Asuncion Magdaet
- b. Raul de Vera
- c. The Chief, Accounts Receivables Division, Bureau of Customs
- d. The Director, Incentives Department of the BOI; and
- e. Majidi John R. Bola

Clearly, Recoter was not on the list. However, since Recoter is not one of the accused in the instant cases, she is not expected to testify as witness as she has in other cases where she was criminally charged. This explains why she was not included in the list of witnesses during the pre-trial.

Records also show that accused Magdaet only presented two witnesses: 1.) Carlo V. Baloloy who testified on the procedure being followed by the OSS Inter-Agency Tax Credit and Duty Drawback Center on the processing of tax credit applications at the time material to these cases, and; 2.) Agnes D. Padilla who testified on the result of the system audit by the Civil Service Commission. Given that Recoter was a Senior Tax Specialist designated as an evaluator at the DOF's OSS Duty Drawback Center, which has since been abolished, and given that she has previously testified in other cases particularly in SB-12-CRM-0151 to 0162 involving tax credits, the court finds good cause to allow her to testify as a substitute witness in these cases.

It should be noted that in criminal proceedings, the accused's liberty is at stake. Thus, parties should be given every opportunity to prove the merits of their action or defense, rather than losing life, liberty, or property due to technicalities. It is for this reason that the court deems it preferable to let the accused litigate her cases without resorting to a very strict construction of technicalities. In this regard, the court believes it best to allow the substitution

³ *People v. Pante*, G.R. No. 223166 (Notice), 3 March 2021.

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of witness so that the accused Magdaet is afforded the opportunity to show the merits of her defense.


As to the manifestation of accused Magdaet that she undertakes to file the necessary pleading similar to the pleading previously submitted in Criminal Case Nos. SB-09-CRM-0087, for the adoption of the testimonies of other witnesses and documents identified by the witnesses in Criminal Case Nos. SB-09-CRM-0087, etc. and SB-12-CRM-0151 to 0162 after securing the TSN in the criminal cases pending before the court, the same is merely **Noted**.

WHEREFORE, premises considered, accused Asuncion Magdaet's Motion is **GRANTED** and Charmelle P. Recoter is allowed to testify on November 22, 2023.

SO ORDERED.


ZALDY V. TRESPESES
Associate Justice

WE CONCUR:


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


GEORGINA D. HIDALGO
Associate Justice