



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on October 16, 2023.

Present:

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

The following resolution was adopted:

CRIMINAL CASE NOS. SB-20-CRM-0019 TO 0022

PEOPLE v. NARCISO B. NIETO, ET AL.

Before the Court are the following:

1. Prosecution's "FORMAL OFFER OF DOCUMENTARY EXHIBITS" dated August 30, 2023; AND
2. Accused Narciso B. Nieto's "COMMENT AND OPPOSITION (To the Formal Offer of Evidence)" dated September 14, 2023.

GOMEZ-ESTOESTA, J.:

Before this Court is the Prosecution's *Formal Offer of Documentary Exhibits*¹ and the *Comment and Opposition* filed by accused Nieto.²

Complaint dated June 24, 2016 – Exhibit "A", "A" (pages 1 to 39)

ADMIT Exhibit "A", "A" (pages 1 to 39), having been duly authenticated by its affiant.³ Accused Nieto's objection that it is irrelevant and immaterial to the purposes for which it was offered touch upon the

¹ Records, Vol. 3, pp. 403-457.

² Records, Vol. 3, pp. 461-464.

³ As stipulated – Order dated June 1, 2022, Records, Vol. 3, pp. 76-77.

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probative value, instead of the admissibility of this document, and shall be fully evaluated in the ultimate disposition of the cases.

Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue.⁴ For purposes of resolving this Formal Offer of Evidence, this court will evaluate only the admissibility of the documents offered.

Its attachments, *i.e.*, Exhibits “A” (page 40) to “A” (page 471) are admitted only as part of the Complaint, subject to the dispositions below.

Attachments to the Complaint dated June 24, 2016 – Exhibits “A” (pages 40 to 471)

On the documents attached to the Complaint, this court resolves to:

ADMIT Exhibits “A” (pages 45 to 50), “A” (pages 51 to 52),⁵ “A” (pages 223 to 275), “A” (pages 284 to 310) and “A-390a” in view of accused Nieto’s manifestation that he has no objection to their admissibility. The court likewise notes that accused Nieto interposed no objection to the admissibility of Exhibits “A-410a”, “A-422a”, and “A” (page 444), which are thus ADMITTED. Evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment, even if by its nature, the evidence is inadmissible and would have surely been rejected if it had been challenged at the proper time.⁶

ADMIT Exhibits “A” (pages 74 to 75); “A” (pages 76 to 80); “A” (pages 81 to 86); “A” (page 87); “A” (page 89); “A” (page 90); “A” (page 91); “A” (page 92); “A” (pages 93 to 94); “A” (pages 95 to 101); “A” (pages 102 to 105); “A” (pages 106 to 109); “A” (pages 110 to 113); “A” (pages 115 to 118); “A” (pages 120 to 123); “A” (pages 126 to 128);⁷ “A” (pages 129 to 132); “A” (pages 133 to 136); “A” (pages 138 to 141); “A” (pages 144 to 147); “A” (pages 150 to 153); “A” (page 156); “A” (pages 157 to 207); and “A” (pages 208 to 222), having been duly attested by their legal custodian, Atty. RJ Bernal,⁸ over accused Nieto’s objection that they are irrelevant and

⁴ *Buencamino v. People, et al.*, G.R. Nos. 216745-46, November 10, 2020.

⁵ There are two (2) documents marked as Exhibit A (page 52) – the second page of accused Nieto’s Service Record and the GIS of Workphil for 2011. This admission is understood to pertain to the second page of accused Nieto’s Service Record, as offered by the prosecution.

⁶ *Vide: Spouses Enriquez v. Isarog Line Transport, Inc.*, G.R. No. 212008, November 16, 2016; *Heirs of Marcelino Doronio v. Heirs of Fortunato Doronio*, G.R. No. 169454, December 27, 2007

⁷ No document marked as Exhibit “A” (page 125) was submitted.

⁸ Judicial Affidavit dated March 2, 2023, JA Folder 3, pp. 140-303. Accused Nieto stipulated that the witness could identify the exhibits attached to his Judicial Affidavit (TSN dated March 16, 2023, p. 4).

Rule 132, Section 24. Proof of Official Record. — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his or her deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody.

immaterial to the purposes stated, as these relate to the probative value of these documents, which will be considered in the ultimate disposition of the cases;

The Court NOTES that the prosecution offered two (2) sets of Exhibit "A" (pages 76 to 80), namely: (a) Articles of Incorporation of Workphil Foundation, Inc., and (b) Reservation Payment Confirmation. The actual Exhibit "A" (pages 76 to 80) offered and admitted is the Articles of Incorporation of Workphil Foundation, Inc.

ADMIT Exhibits "A-392a", "A-393a", duly-attested public documents,⁹ and Exhibits "A" (page 394), "A-394a", "A" (page 395), "A-395a", "A" (page 396), notwithstanding that they are mere photocopies, there being no objection on this ground. Accused Nieto's objection that they are irrelevant and immaterial to the purposes stated pertains to the probative value of these documents to be considered in the ultimate disposition of the cases;

ADMIT Exhibits "A" (pages 397 to 401), and "A-424a" to "A-428a", notwithstanding that they are mere photocopies of public documents, there being no objection on this ground. Accused Nieto's objection that these are irrelevant and immaterial to the purposes stated, being mere conclusions of law, will be considered in the ultimate disposition of the cases;

ADMIT Exhibits "A-402a" to "A-408a", a duly-attested public document,¹⁰ over the objection of accused Nieto that it is irrelevant and immaterial to the purposes stated, being mere conclusions of law, which will be considered in the ultimate disposition of the cases;

ADMIT Exhibit "A-409a", notwithstanding that it is a mere copy of a public document that was not properly attested by its official custodian, there being no objection on this ground. Accused Nieto's objection that it is irrelevant and immaterial to the purposes stated relates to its probative value, which will be considered in the ultimate disposition of the cases;

ADMIT Exhibits "A" (pages 412 to 418);¹¹ and "A" (pages 438 to 443),¹² duly-authenticated sworn statements and certification, over accused Nieto's objection that they are self-serving, irrelevant and immaterial to the purposes stated, which objections will be considered in the ultimate disposition of the cases;

ADMIT Exhibits "A-419a", "A-420a", "A-421a", "A" (page 445), "A" (page 446), "A" (page 447), "A" (page 448), "A" (page 449), and "A" (page 450), which are self-authenticating public documents, over accused Nieto's objection that they are self-serving, this being properly addressed in the ultimate disposition of the cases;

⁹ Judicial Affidavit of Hasel Anne Flameño, JA Folder 4, pp. 6-121.

¹⁰ Judicial Affidavit of Hasel Anne Flameño, JA Folder 4, pp. 6-121.

¹¹ Judicial Affidavit of Rosendo P. Cumigad, JA Folder 3, pp. 74-80.

¹² Judicial Affidavit of Manuel Tio, JA Folder 3, pp. 121-139.

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ADMIT Exhibits “A-429a” to “A-435a”, self-authenticating public documents, over accused Nieto’s objection that they are irrelevant and immaterial to the purposes stated, being mere conclusions of law, this being properly addressed in the ultimate disposition of the cases;

ADMIT Exhibits “A” (page 454 to 471), duly authenticated and attested public documents,¹³ and “A-470a” to “472a”, notwithstanding that these are mere photocopies of public documents, there being no objection on this ground. This is over accused Nieto’s objection that these are irrelevant, immaterial and self-serving, which are matters properly addressed in the ultimate disposition of the cases. The court NOTES that Exhibit “A” (page 471) has a torn portion at the lower right of the page.

The court NOTES that Exhibits “A” (pages 328 to 367), “A” (pages 368 to 388), and “A” (pages 467 to 469), which accused Nieto objected to for not having been presented, have not been offered by the Prosecution and will thus not be considered in resolving these cases. Additionally, the following attachments to the Complaint were not specifically offered: Exhibits “A”, pages 40 to 44; 53 to 73; 88; 114; 119; 124; 137; 142; 143; 148; 149; 154; 155; 276 to 283; 311 to 327; 389; 390; 391, 392, 393, 402 to 408, 409, 410, 411, 419, 420, 421, 422, 423, 424 to 428, 429 to 435, 436, 437, 451, 452, 453, “A-397a” to “A-401a”, and “A-411a”.

Exhibits “A-472” to “A-490”

ADMIT Exhibits “A-472” to “A-485” and Exhibit “A-485” to “A-490”, being self-authenticating public documents, over accused Nieto’s objection that these are irrelevant and immaterial to the purposes, being mere conclusions of law, which objections will be considered in the ultimate disposition of the cases;

The Court NOTES that the last page of Exhibits “A-472” to “A-485” and the first page of Exhibits “A-485 to “A-490” are both marked Exhibit “A-485”.

Exhibit “B”

Exhibit “B” is ADMITTED, being a matter of judicial notice,¹⁴ over accused Nieto’s objection that it is irrelevant, immaterial and self-serving.

The court NOTES that the prosecution did not submit a copy of Exhibit “B”.

¹³ Judicial Affidavit of Nenita Rendon, JA Folder 1, pp. 58-83B; Judicial Affidavit of Aileen Maqueda, JA Folder 2, pp. 18-100.

¹⁴ Pre-Trial Order dated January 10, 2022, Records, Vol. 3, pp. 20-28.

Exhibit "C"

Exhibit "C" is ADMITTED, being a matter of judicial notice.¹⁵ Accused Nieto likewise had no objection to the admissibility of Exhibit "C".

Exhibit "D"

Exhibit "D" is ADMITTED, being a duly-attested¹⁶ public document likewise not objected to by accused Nieto.

The parties are reminded of the setting on ***October 25, 2023 at 8:30 in the morning*** at the Seventh / Fourth Division Courtroom, Sandiganbayan Building, for the presentation of evidence for the accused.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

¹⁵ Pre-Trial Order dated January 10, 2022, *Records*, Vol. 3, pp. 20-28; Resolution dated September 5, 2023, *Records*, Vol. 3, p. 458.

¹⁶ Judicial Affidavit of Marissa Santos, JA Folder 3, pp. 108-115.