



Republic of the Philippines

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 23 November 2023.

Present:

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

Justice ZALDY V. TRESPESES ----- Associate Justice

Justice EDGARDO M. CALDONA ----- Associate Justice*

Crim. Case No. SB-16-CRM-0249 to 0250 - People vs. ROZZANO RUFINO B. BLAZON, et al.,

This resolves the following:

1. The prosecution's "Motion to Revive the Criminal Cases Against Accused Zenaida G. Cruz-Ducut" dated 27 October 2023;¹ and
2. Accused Zenaida Cruz-Ducut's "Opposition (to: Motion to Revive the Criminal Cases Against Accused Zenaida G. Cruz-Ducut)" dated 6 November 2023.²

TRESPESES, J.

Submitted for the court's consideration is the prosecution's "Motion to Revive the Criminal Cases Against Accused Zenaida G. Cruz-Ducut" dated 27 October 2023, as well as accused Zenaida Cruz-Ducut's opposition thereto.

BRIEF BACKGROUND

Following accused Zenaida Cruz-Ducut's motion to suspend proceedings against her, various exchange of pleadings, medical reports and test results, as well as testimonies of attending doctors, were presented to the court. As a result thereof, Ducut's motion was granted by this court in its 14 June 2022 Resolution,³ the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the "Motion for Suspension of Proceedings" filed by accused Zenaida Cruz-Ducut is **GRANTED**.

Finding accused Zenaida Cruz-Ducut to be incompetent to stand trial, SB-16-CRM-0249 to 0250 is hereby **ARCHIVED** as to accused

*Per A.O. NO. 294-2023 dated November 23, 2023.

¹ Record, Vol. 19, pp. 233-246.

² Id. at 252-258.

³ Record, Vol. 15, pp. 466-486.

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Zenaida Ducut, to be revived upon showing that accused's mental condition shall have adequately improved for the purpose of proceeding with the trial of the case.

Dr. Neil Michel Apollo Santos, Medical Specialist III or any medical specialist of the National Center for Mental Health, is hereby **DIRECTED** to conduct mental examination of accused Zenaida Ducut within the month of June of every year, and to forthwith submit a copy of the resulting medical report to the Court.

SO ORDERED.

The prosecution then sought modification of the phrasing of above quoted dispositive portion of the Resolution, in response to which, the court issued its 11 July 2022 Resolution,⁴ modifying the penultimate paragraph of the earlier Resolution as follows:

Accused Zenaida Cruz-Ducut is hereby **DIRECTED** to submit herself to annual medical examination within the month of June every year before the National Center for Mental Health, while her counsel is **DIRECTED** to forthwith submit a copy of all the resulting medical reports, including all the results of the tests conducted, to the Court, copy furnished the prosecution.

In its 27 June 2023 Order,⁵ the court reminded accused Ducut to comply with the foregoing directive.

Accused Ducut's consequent "Compliance" dated 3 July 2023, which was opposed by the prosecution, was deemed insufficient by the court in its 25 July 2023 Resolution,⁶ the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, accused Zenaida Cruz-Ducut's prayer in her Compliance for the medical report attached therein to be deemed sufficient is **DENIED**.

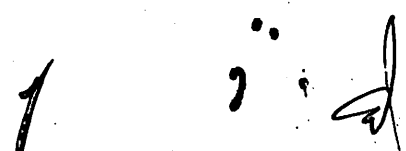
Considering that the Court's directives dated 27 June 2023 and 14 June 2022 (as amended by its Resolution dated 4 July 2022) were not complied with, accused Ducut and her counsel are directed to explain within 72 hours from notice why failure to comply with the directives of the court should not cause the reinstatement of the criminal cases pending against accused Ducut.

SO ORDERED.

⁴ Record, Vol. 16, pp. 36-38.

⁵ Record, Vol. 18, pp. 534-535.

⁶ Record, Vol. 19, pp. 23-29.



Accused Ducut accordingly filed an "Explanation (With Motion" dated 28 July 2023. Acting thereon, the court issued its Resolution dated 11 August 2023,⁷ the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the court **NOTES** accused Zenaída Cruz-Ducut's Explanation (with Motion).

The court **GRANTS** accused Ducut's prayer to transfer, from June to August of every year, the month when she is required to submit herself to NCMH for her yearly medical examination and to submit the required medical documents on her present condition.

The court **DENIES** accused Ducut's prayer to direct the NCMH to furnish the court and the prosecution the yearly medical reports on Ducut, including the results of all tests conducted on her. It **MAINTAINS** that it is Ducut's counsel who must yearly (henceforth, in August) submit to the court, copy furnished the prosecution, the corresponding medical report on her present condition, including the results of all tests conducted on her.

The court **DEFERS** resolution on accused Ducut's prayer for the cases against her to remain archived. To ascertain Ducut's present competence to stand trial, the court **DIRECTS** the concerned doctor/s of **National Center for Mental Health** who administered the tests on her to testify on **October 24, 2023, at 8:30 a.m.** at the Fourth/Seventh Division Courtroom.

Let a copy of this Resolution be furnished the National Center for Mental Health for its information and guidance.

SO ORDERED.

Thereafter, accused Ducut filed her Compliance dated 18 September 2023,⁸ attaching thereto the medical report on her dated 4 September 2023 issued by the NCMH and addressed to the Seventh Division for the instant cases.⁹

The Medical Report was signed by Drs. Romielyn N. Noche, M.D. (Medical Officer III), Noelle D.J. De Leon, M.D. (Medical Officer IV), Liel O. Lee, M.D., FPPA, MMHoA (Medical Specialist III), Neil Michel Apollo S. Santos, M.D., FPPA, MMHoA (Medical Specialist III), Wesley Peter A. Quimbo, M.D., FPPA, MMHoA (Medical Specialist IV) and Edison C. Galindez, M.D., FPPA (Life) (Medical Specialist IV). The body of the report reads:

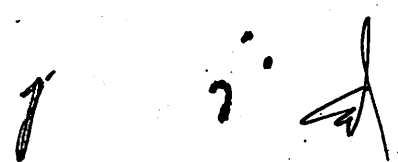
LATEST MENTAL STATUS EXAMINATION: August 9, 2023

The patient was seen as an elderly female, of medium built, stands about 5'5" tall, with fair complexion, fairly kempt, clad in red long sleeves

⁷ Record, Vol. 19, pp. 65-72.

⁸ Id. at 113-126.

⁹ Id. at 119-120.



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and denim pants. She was calm and conversant, with good eye contact. Her mood was euthymic with appropriate affect. Her speech was spontaneous and normoproduative. She was unable to state the possible consequences of her cases. She was able to appraise court proceedings, identify the different courtroom personnel or state their respective functions. She denied perceptual disturbances. She was oriented to place and person. She had poor immediate and recent memory. She had fair fund of knowledge. She had fair impulse control. She had fair insight into her mental illness.

ASSESSMENT AND REMARKS:

Based on the history, mental examinations, observations and psychological test, the patient was found to be suffering from a **Neurocognitive Disorder classified as Vascular Dementia**. The nature and characteristics of this mental disorder have been described in the previous report dated July 2, 2021.

The patient has remained INCOMPETENT to stand the rigors of court trial.

RECOMMENDATIONS:

We recommend for the patient's periodic out-patient evaluation at our Center.

We will submit our follow-up report if and when the patient becomes competent to stand trial.

We also recommend that the patient continue her follow-up with her private physician (Neurologist/Dementia Specialist).

**TESTIMONIES OF DRS. ROMIELYN N. NOCHE
AND LIEZL O. LEE**

On 24 October 2023, Dr. Romielyn N. Noche was presented in court and the parties stipulated the following: 1) that she is one of the doctors who examined accused Ducut and that she can verify the Update Report dated September 4, 2023, in connection with the mental condition of the accused; 2) she can testify on the present mental condition of the said accused; and 3) existence, due execution and authenticity of the Update Report but not as to the contents thereof.

On cross-examination, Dr. Noche clarified that the 21 July 2021 Report is more extensive than the 4 September 2023 Update because the latter is just an update of the former, which is the initial report.¹⁰ They usually do the psychiatric test, psychological test, endocrinology test, clinical chemistry test, ECG, MRI and CT Scan on initial consult. For update follow up consults, they do not usually ask for those unless there is an indication. After her assessment

¹⁰ TSN, 24 October 2023, p. 22.

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of the patient, she only conducted the usual examination for follow-up consults for Ducut, particularly the mini mental state examination.¹¹

Dr. Noche explained that they had already diagnosed accused Ducut of vascular dementia. Vascular dementia is an irreversible disease so there is no need to further administer the examination. With the follow up consult, they only conduct a mental status examination to assess further cognitive deterioration.¹²

The mini mental state examination conducted on Ducut refers to an eleven-questionnaire exam which tests the patient's orientation, recognition, calculation, and recall. Ducut scored twenty out of thirty (20/30) on this test, which means she is suffering from mild cognitive dementia.¹³

Dr. Noche checked Ducut's previous mini mental state examination on 19 February 2020, where Ducut's score was 21/30. On 26 January 2021, Ducut's score was 20/30, which is the same as her score this year, 2023. In comparison, the normal score is 24 and above.¹⁴

She stressed that this four-point difference is very substantial. The mini mental state examination tests the severity of dementia. If the patient's score is 23, her condition is considered mild. If her score is below 19, her condition is moderate and if her score is below 13, her condition is already considered severe.¹⁵

Dr. Noche was asked by the prosecution to explain what changed, such that the July 2021 report stated that Ducut was not able to appraise the ongoing court proceedings against her, while the 4 September 2023 report stated that she was able to appraise said court proceedings. Dr. Noche responded that with vascular dementia, the patient would occasionally, but not always, be able to recall things. Hence, they assessed that there would be times when Ducut would be able to narrate her case and there will be times when she would not.¹⁶

The doctor asserted that the medications given to patients with vascular dementia just control the progression of symptoms but would not restore them back to complete functionality.¹⁷

The doctor's report which stated that Ducut was unable to state her cases but was able to narrate the circumstances that led to it was based on their question on what her case is about. Dr. Noche said that Ducut was not able to recall what her case was about, but she was able to tell her some instances

¹¹ TSN, 24 October 2023, p. 23.

¹² *Id.* at 24.

¹³ TSN, 24 October 2023, p. 25

¹⁴ *Id.*

¹⁵ *Id.* at p. 26.

¹⁶ *Id.*

¹⁷ *Id.* at p. 27.



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which are related to her case. According to Dr. Noche, Ducut told her that she approved a certain project with a person whose name she could not recall. After this, said person already used her name for every project that he/she is applying for. That was why she was charged with the case.¹⁸

Dr. Noche confirmed that they have the means to check whether the patient is malingering. In her assessment, Ducut was telling the truth. Ducut's examinations were consistent with her previous ones (also conducted at NCMH by their doctors) that she really was unable to recall the instances of her cases.¹⁹

Regarding the prosecution's query on whether Ducut's cognitive deterioration is part of the aging process, considering that she is already more than sixty years old, Dr. Noche explained that forgetfulness is not really a part of normal aging. She said that Ducut's stroke in 2019, caused brain damage and progressive deterioration of the brain.²⁰

Dr. Noche was not able to specifically ask if she personally knew of a particular individual, for instance, Cong. Rodolfo Rozzano B. Biazon, Janet Napoles, Evelyn Ditchon De Leon, Benhur Luy or Marina Sula.²¹ Dr. Noche reported however that Ducut said she could not recall the name of the persons which she transacted with, although she can recall the events.²²

Dr. Noche stated that Ducut was at the NCMH for follow up consultation when the former ascertained whether the latter was able to appraise court proceedings, identify different courtroom personnel or state their respective functions. She asked the patient if her understanding of what happens during a court proceeding and the persons involved therein. The doctor reported that Ducut was able to narrate what happens during a court proceeding and the persons she could see in court. Dr. Noche was not able to ask Ducut if she knew who her lawyer was. The doctor was aware that Ducut is a lawyer but did not ask her any specific matter about her being a lawyer.²³

During the said examination, Dr. Noche had a set of questions to ask Ducut, who was then accompanied by her son. It appeared to Dr. Noche that Ducut could comprehend the questions and intelligently answer them. The questions she cannot respond to are those which pertain to recollection. Nonetheless, Dr. Noche did not ask questions relating to this case for the purpose of the report.²⁴

¹⁸ TSN, 24 October 2023, p. 27.

¹⁹ Id. at 27-28.

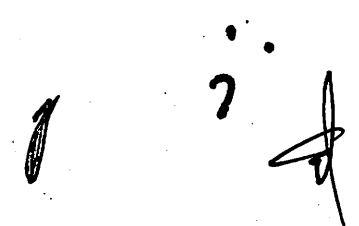
²⁰ Id. at 29.

²¹ Id.

²² Id. at 30.

²³ Id.

²⁴ Id. at 31.



Responding to questions from accused Ducut's counsel, Dr. Noche confirmed that conducting only a mini mental exam after initial evaluation of a patient with vascular dementia is a globally accepted procedure. She also confirmed that vascular dementia is no longer reversible. She also reiterated that the drugs used for dementia only control the progression of the symptoms but as of now, there is no drug that could really cure dementia.²⁵

Answering questions from the court, Dr. Noche opined that what Ducut needs now is not therapy but lifestyle changes such as exercise. The doctors monitor if she is suffering from hypertension, diabetes, etc. to prevent further damage to the brain.²⁶

After experiencing herself how it is to be on the witness stand and being asked questions by competent counsels, Dr. Noche stood by her report that Ducut would not be able to withstand this kind of activity because of problems with memory and concentration. Considering that patients with dementia have problems with short-term memory, it is still possible for her to forget even when she is trained or practiced for her possible answer.²⁷

The court asked Dr. Noche whether, in her present mental condition, Ducut would be able to comprehend the oath taken at the beginning of the testimony to say only the truth and nothing but the truth, and to maintain that kind of disposition throughout the series of questions and answers. Dr. Noche replied that Ducut could understand but her responses might be irrelevant, nonresponsive or she really could not recall.²⁸

Dr. Noche reported that Ducut would fail her test on recent memory, like what she had for breakfast. Ducut also failed to recall what her case was called. Ducut similarly failed her test for immediate memory, where Ducut was asked to memorize three words and after several questions, was asked to recall them. Dr. Noche concluded that it is very difficult for Ducut to recall short term memory.²⁹

Thereafter, the intended testimony of Dr. Liezl Ordoñez Lee, who was present during the hearing, was dispensed with after the following were stipulated by the parties: 1) that she is a Psychiatrist with the position of Medical Specialist III at NCMH; 2) that Dr. Lee supervised Dr. Noche in the conduct of the medical examination of accused Ducut and she likewise can verify the Update Report dated September 4, 2023; 3) that she can testify as to the medical condition of accused Ducut; and 4) the existence, due execution and authenticity of the said Update Report but not as to the contents thereof. Considering that Dr. Lee will testify on the same Update Report, Atty. Ceniza

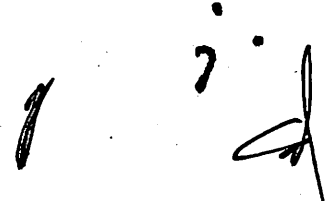
²⁵ TSN, 24 October 2023, p. 32.

²⁶ Id. at 33.

²⁷ Id. at 34.

²⁸ Id.

²⁹ Id. at 35.



and Prosecutor Dela Torre also stipulated that the witness agrees to all the answers of Dr. Noche during the conduct of the latter's testimony when presented on the witness stand.

THE PROSECUTION'S MOTION

In its motion, the prosecution recaps that per the 14 June 2022 Resolution, the court ordered the archiving of the criminal cases against accused Ducut, with the qualification that these be "revived upon showing that Ducut's medical condition shall have adequately improved for the purpose of proceeding with the trial of the case."

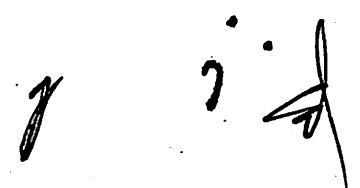
The prosecution cites *People v. Estrada*,³⁰ which identified two matters to be determined to test the defendant's competence to stand trial, to wit: (1) whether the defendant is sufficiently coherent to provide her counsel with information necessary or relevant to constructing a defense; and (2) whether he can comprehend the significance of the trial and her relation to it.

The prosecution then claims that Ducut failed to sufficiently substantiate that (1) she is not coherent enough to provide her counsel with the necessary/relevant information to construct her defense; and (2) she is unable to comprehend the significance of the trial and her relation to it.

In support of its contention, the prosecution points out that based on the medical report update from NCMH, which was further testified on during the October 24, 2023 hearing, accused Ducut is fit to stand trial. Ducut is perceptive, can comprehend, is responsive to the questions propounded to her and can intelligently answer the same questions propounded to her. Ducut's difficulty pertains to remembering recent memories and the minute details, like specific dates and recall of exact names, on the events or happenings in her family and business affairs. Accordingly, Ducut can definitely "consult with her lawyer to coherently provide her counsel with information necessary or relevant to constructing a defense" and "she is able to comprehend the significance of the trial and her relation to it."

The prosecution argues that the two Informations directly charge accused Ducut as the "go between" of her co-accused Cong. Rozzano Rufino B. Biazon (Biazon) and Janet Lim Napoles (Napoles). Based on prosecution evidence, the transaction happened on the last quarter of 2007, with Ducut submitting the PDAF-related documents of Biazon to Napoles, in exchange of which she allegedly received the rebate or kickback, for her and for Biazon, from Napoles at the latter's office in Pasig City. This single transaction was made on a specific date at a particular place, involving around four individuals. It is not a recent event, so Ducut can likely remember it. It is also a plain

³⁰ 389 Phil. 216-243 (2000).



allegation, so Ducut can rebut it with a direct defense, or by merely asserting the burden of proof rests upon the prosecution to prove her guilt beyond reasonable doubt.

The prosecution further avers that during the hearing on October 24, 2023, Dr. Romielyn N. Noche was asked by the prosecution whether accused Ducut can comprehend the questions propounded to her and intelligently answer the same. Dr. Noche answered both questions in the affirmative, without qualification. Answering a follow-up question, Dr. Noche added that Ducut's problem at the moment is difficulty in remembering details of recent memory.

When the prosecution asked Dr. Noche if she was able to ask Ducut questions on the identities of personalities related to these cases, said doctor answered that "she did not ask them or anything about this particular cases." For this reason, there is no way of knowing if accused Ducut can remember her co-accused or the transaction herein. However, Dr. Noche confirmed that Ducut remembers some of the transactions which led to her criminal cases. Thus, accused Ducut's claim that she is unfit to stand trial is not clearly or fully substantiated based on her own medical report.

The prosecution argues that the condition of accused Ducut has clearly improved. It notes that the previous medical report dated July 21, 2021 stated that "she was unable to appraise court proceedings, identify the different courtroom personnel or state their respective functions" back then. In comparison, the 2023 medical report and Dr. Noche's testimony showed that accused Ducut is sufficiently coherent to provide her counsel with information necessary or relevant to constructing a defense and that she can comprehend the significance of the trial and her relation to it.

The prosecution reiterates that, as explained in *Estrada*, incompetency to stand trial is not a defense to the underlying crime. The proceedings can continue normally, and it should once the defendant becomes competent again as in these circumstances. Not every mental health condition automatically means that the defendant is incompetent to stand trial.

The prosecution asserts that, notwithstanding the recommendation of the movant's witnesses, the court should evaluate competency on a case-by-case basis, and take its own observations into account. The court can consider accused Ducut's ability to understand the charges, understand the penalties that she may be facing, make decisions, and communicate with her attorney, among other indicators.

The prosecution stresses that accused Ducut only needs to be able to make decisions for her defense and does not need to understand all the legal nuances of the legal proceedings to the extent that her defense attorney would.

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At this time, accused Ducut failed to prove the fact of her inability to consult with her lawyer to coherently provide her counsel with information necessary or relevant to constructing a defense and that she is unable to comprehend the significance of the trial and her relation to it. Hence, accused Ducut is not unfit to stand trial. For that reason, the criminal cases against her should be revived.

ACCUSED'S DUCUT'S OPPOSITION

In her Opposition, accused Ducut, through counsel, recalls that the case against her was suspended by the court on the ground that she has been rendered incompetent to stand trial due to her vascular dementia. Her condition, which is a degenerative illness, was confirmed by neurocognitive tests and MRI conducted by Dr. Emelie Cano of St. Luke's Medical Center, as well as by doctors from the NCMH.

Accused Ducut alleges that as part of her compliance with the court's order for her to regularly subject herself to medical examination at NCMH, she underwent follow up medical examination at NCMH on 8 February 2023, where she was found to still be incompetent to stand the rigors of court trial. Thereafter, on 9 August 2023, accused Ducut underwent follow up examination at NCMH, where the result remained unchanged – she is still not competent to stand trial.

Accused Ducut stresses that Dr. Romielyn N. Noche testified that the globally accepted practice in cases of patients suffering from vascular dementia is not to repeat other examinations aside from the mini mental state examination when there is no indication to do so.

According to Dr. Noche, Ducut's mental condition is progressive and irreversible and still has no known cure.

Accused Ducut adds that, according to Dr. Noche, while Ducut may be appraised in the proceedings against her, including counsel's advice on the consequences of her actions before she takes an oath, she may not be able to recall these by the time she testifies due to her impaired short-term memory.

She asserts that Dr. Noche found Ducut to be unable to remember details of her defense. Without remembering the details affecting her defense, she would not be able to communicate such to her counsel for the latter to construct a defense for her.

Ducut claims that while she can intelligently answer some questions, this is not tantamount to having complete understanding of the criminal proceedings she is facing. In fact, Ducut has consistently failed her mini

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mental state examination, has impaired memory, and inability to remember details.

Accused Ducut's condition has deteriorated since 2020 based on her latest mini mental state examination score. Her score of 21/30 in 2021 went down to 20/30 in 2023. Meanwhile, the normal MME score is 24 and above. The four-point difference between Ducut's score and the normal score is substantial in determining Ducut's competency to stand trial.

Accused Ducut thus prays for the denial of the prosecution's motion to revive the criminal cases against her and for the said cases to remain suspended and archived as to her.

OUR RULING

We **deny** the prosecution's motion to revive the archived cases against accused Ducut.

- 1. Based on the 2023 update medical report and corresponding testimony of the NCMH doctor, accused Ducut's condition has not improved from the time the cases against her were ordered archived.***

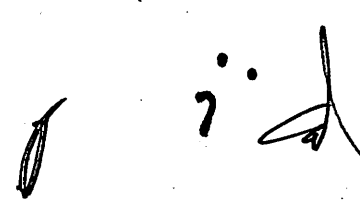
The court finds that accused Ducut's condition has not improved from the time the cases against her were archived.

In its 14 June 2022 Resolution,³¹ the court summarized the various medical reports, test results and testimonies of attending doctors pertaining to accused Ducut and found her to be suffering from vascular dementia, which impaired her cognitive functioning, including her memory.

It noted that Ducut could not do things that involves sequences, or complexities. While Ducut fully grasped some questions, she got confused with some and could find the word for what she wanted to say. Ducut also had difficulty remembering questions. With her impaired memory, she was not able to provide complete details about her personal information. Although her memory impairment was more marked for recent events, she had difficulty recalling details or specific circumstances and it was unpredictable whether she could remember certain events if asked.

The court then concluded that Ducut may not have a full understanding and comprehension of the criminal proceeding she is facing in court for her to be able to intelligently participate and defend herself. It held that her failure

³¹ Record, Vol. 15, pp. 466-486.



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to recall details and to coherently provide her lawyer with information necessary/relevant to constructing a defense also impairs her counsel's ability to defend her position or repel the other party's allegation. In fine, ruling that Ducut is unable to meaningfully consult with her lawyer and comprehend the significance of the trial and her relation to it, the court ordered the cases against Ducut to be archived, to be revived upon showing that accused's mental condition shall have adequately improved for the purpose of proceeding with the trial of the case.

In comparison to back then, we find that accused Ducut's current mental condition has not improved based on the testimony of Dr. Noche and the NCMH update medical report dated 9 August 2023.

At the outset, we note Dr. Noche's reiteration that Ducut's stroke in 2019 caused brain damage, which resulted in the progressive deterioration of her brain or vascular dementia. As a patient with vascular dementia, Ducut will not be restored to complete functionality and her medication only served to control the progression of her symptoms. Thus, the follow up consultation on Ducut merely focused on gauging the severity of Ducut's dementia by testing her orientation, recognition, calculation and recall in a test called mini mental state examination. Conducting only a mini mental exam after initial evaluation of a patient with vascular dementia is a globally accepted procedure.

The court takes notice of Dr. Noche's testimony that they subjected Ducut to mini mental state examination in 2020, 2021 and 2023. In 2020, Ducut's score therein was 21/30. In 2021, Ducut's score was 20/30, which is the same as her score this year, 2023. In comparison, the normal score is 24 and above and the four-point difference between the normal score and Ducut's current score represents a very substantial disparity.

We understand the prosecution's skepticism when it underscored that while Ducut was recorded by the doctors as not being able to appraise court proceedings in the NCMH's July 2021 report, she was documented to be able to appraise court proceedings in the NCMH's 2023 update medical report.

However, as explained by Dr. Noche, vascular dementia patients like Ducut may recall things at times and forget them at other times. We find this explanation to be consistent with the previous testimonies of the doctors at NCMH and Ducut's attending specialist in previous years.

In addition, Dr. Noche reiterated that they have the means to check if a patient is malingering and that in their assessment, Ducut was telling the truth. This matter has similarly been explained by the previous doctors who testified herein in the past years.

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Considering the above, we find that accused Ducut's condition has not improved from the time she was first found to be incompetent to stand trial.

2. Measured against the standard set in People v. Estrada, the evidence on record supports the conclusion that accused Ducut remains incompetent to stand trial.

As previously laid out in our 14 June 2022 Resolution, the archiving of the cases herein as to accused Ducut is founded on Section 14, Article III of our Constitution,³² which mandates that no person shall be held to answer for a criminal offense without due process of law and that in all criminal prosecutions, the accused shall have an impartial trial.

Pursuant thereto, the trial of an accused who is found incompetent to stand trial must be postponed, as explained in *People v. Estrada*:³³

The rule barring trial or sentence of an insane person is for the protection of the accused, rather than of the public. It has been held that it is inhuman to require an accused disabled by act of God to make a just defense for his life or liberty. To put a legally incompetent person on trial or to convict and sentence him is a violation of the constitutional rights to a fair trial and due process of law; and this has several reasons underlying it. For one, the accuracy of the proceedings may not be assured, as an incompetent defendant who cannot comprehend the proceedings may not appreciate what information is relevant to the proof of his innocence. Moreover, he is not in a position to exercise many of the rights afforded a defendant in a criminal case, e.g., the right to effectively consult with counsel, the right to testify in his own behalf, and the right to confront opposing witnesses, which rights are safeguards for the accuracy of the trial result. Second, the fairness of the proceedings may be questioned, as there are certain basic decisions in the course of a criminal proceeding which a defendant is expected to make for himself, and one of these is his plea. Third, the dignity of the proceedings may be disrupted, for an incompetent defendant is likely to conduct himself in the courtroom in a manner which may destroy the decorum of the court. Even if the defendant remains passive, his lack of comprehension fundamentally impairs the functioning of the trial process. A criminal proceeding is essentially an adversarial proceeding. If the defendant is not a conscious and intelligent participant, the adjudication loses its character as a reasoned interaction between an individual and his community and becomes an invective against an insensible object. Fourth, it is important

³² SECTION 14. (1) No person shall be held to answer for a criminal offense without due process of law. (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

³³ 389 Phil. 216-243 (2000).

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that the defendant knows why he is being punished, a comprehension which is greatly dependent upon his understanding of what occurs at trial. An incompetent defendant may not realize the moral reprehensibility of his conduct. The societal goal of institutionalized retribution may be frustrated when the force of the state is brought to bear against one who cannot comprehend its significance.

In the same case, the test for determining competence to stand trial is discussed as follows:

"Present insanity" is commonly referred to as "competency to stand trial" and relates to the appropriateness of conducting the criminal proceeding in light of the defendant's present inability to participate meaningfully and effectively. Xxx

In determining a defendant's competency to stand trial, the test is whether he has the capacity to comprehend his position, understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate, communicate with, and assist his counsel to the end that any available defense may be interposed. This test is prescribed by state law but it exists generally as a statutory recognition of the rule at common law. Thus:

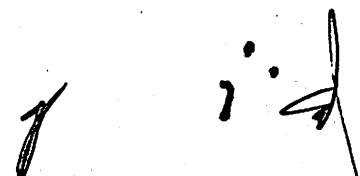
"[I]t is not enough for the ...judge to find that the defendant [is] oriented to time and place, and [has] some recollection of events, but that the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding-and whether he has a rational as well as factual understanding of the proceedings against him."

There are two distinct matters to be determined under this test: (1) whether the defendant is sufficiently coherent to provide his counsel with information necessary or relevant to constructing a defense; and (2) whether he is able to comprehend the significance of the trial and his relation to it. The first requisite is the relation between the defendant and his counsel such that the defendant must be able to confer coherently with his counsel. The second is the relation of the defendant vis-a-vis the court proceedings, i.e., that he must have a rational as well as a factual understanding of the proceedings.

Xxx (Underscoring supplied.)

Applying the above test to the findings of the NCMH doctors, we find that accused Ducut remains incompetent to stand trial.

Dr. Noche reported that during her last examination, Ducut was able to narrate what happens during a court proceeding and the persons she could see in court. Ducut was unable to state her cases, though she recalled that she was charged with the case because she approved a certain project who thereafter used her name for every project that he/she is applying for. However, Ducut could not recall the name of the persons which she transacted with. She



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appeared to comprehend the questions but could not respond to questions which pertain to recollection. Dr. Noche thus opined that Ducut would not be able to withstand testifying in court because of her problems with memory and concentration, even if she is trained or practiced for her possible answer. Ducut may not even be able to comprehend the oath taken at the beginning of the testimony. Ducut might understand the questions propounded to her but her responses might be irrelevant or nonresponsive, or she may not really recall matters.

Accordingly, as to the first aspect in determining competence to stand trial, we find that Ducut is not sufficiently coherent to provide her counsel with information necessary or relevant to constructing a defense. Regarding the second aspect, the court finds that Ducut may still not be able to sufficiently comprehend the significance of the trial and her participation in it.

Hence, this court maintains its earlier ruling that Ducut's failure to recall details and to coherently provide her lawyer with information necessary/relevant to constructing a defense impairs her counsel's ability to defend her position or rebut the other party's allegation.

Given the current state of accused Ducut's mental problem, she is still unable to intelligently participate and defend herself from the charges she is facing. Consequently, the charges against her must remain archived. However, this imposes a continuing obligation on the part of accused Ducut and her counsel to update this court of her medical condition at every instance she takes the necessary tests related to her medical condition.

WHEREFORE, in view of the foregoing, the prosecution's "Motion to Revive the Criminal Cases Against Accused Zenaida G. Cruz-Ducut" is **denied** for lack of merit.

SO ORDERED.


ZALDY V. TRESPESES
Associate Justice

WE CONCUR:


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


EDGARDO M. CALDONA
Associate Justice