



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-23-CRM-0158 to 0160**
Plaintiff, For: Violation of Section 3(e)
of Republic Act No. 3019


Present

- versus -

JOSE MARI G. PELAEZ,
Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

January 26, 2024 

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RESOLUTION

FERNANDEZ, SJ, J.

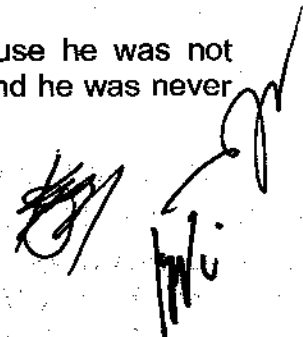
This resolves the *Ex Abudanti* [sic] *Cautela Omnibus Motion With Leave of Court (a) To Conduct Reinvestigation, (b) To Suspend Proceedings, and, (c) To Defer, Quash and/or Recall Warrant of Arrest and Hold Departure Order*¹ filed by accused Jose Mari G. Pelaez, and the prosecution's *Manifestation in Lieu of Comment (Re: Ex Abudanti* [sic] *Cautela Omnibus Motion)*.²

In his *Omnibus Motion*, the accused prays that the Court direct the Ombudsman to conduct a reinvestigation and to issue an order suspending the proceedings in these cases. He further prays that the Court defer the issuance of the warrant of arrest and hold departure order, or quash and recall the same if they had already been issued. He avers:

1. His right to due process was violated because he was not informed of the complaints filed against him and he was never

¹ Dated January 11, 2024; Record, pp. 68-94.

² Filed on January 22, 2024



RESOLUTION

People vs. Pelaez

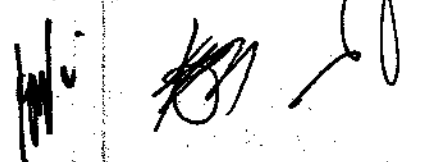
SB-23-CRM-0158 to 0160

Page 2 of 5

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given the opportunity to submit his counter-affidavit. Reinvestigation should be conducted to accord him his right to due process.

- a. On January 5, 2024, he requested his friend, Mr. Ronaldo L. Pengson, to apply, on his behalf, for a Sandiganbayan clearance because he intends to apply for a government post this year. When he was able to secure a copy of the said clearance, he was stunned when he found out that there are three pending criminal cases for violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019) against him because he never received a single subpoena from the Office of the Deputy Ombudsman for Mindanao.
- b. He requested Mr. Pengson to secure copies of the documents pertaining to these cases. In the Resolution dated May 30, 2023, it was stated that the Joint Order directing him to answer the charges was sent to the Office of the Vice Governor, then to his address in Mahayahay, Medina, Misamis Oriental.
- c. He could not have received notices or mail sent to the Office of the Vice Governor at the Provincial Capitol Compound after his term as vice governor ended on June 30, 2019.
- d. He also could not have received notices and mail sent to his family's ancestral house in Mahayahay, Medina, Misamis Oriental because he is presently residing at Barangay Camaman-an, Cagayan de Oro City and no one lives in his family's ancestral house to receive notices and mail.
- e. His present address was mentioned in the Affidavit of a certain Lowell Cajés Zarate and in the Salaysay of a certain Ricky G. Pagaran, which were the bases of the Resolution of the Deputy Ombudsman for Mindanao and the Informations filed with the Sandiganbayan.
- f. Despite the fact that his present address was indicated in the said Affidavit and Salaysay, the Office of the Deputy Ombudsman for Mindanao did not send the notices and communications to the said address.
- g. Even after his tenure as Vice Governor of Misamis Oriental from 2013 to 2019, he remains to be very public with his activities, advocacies, and whereabouts, especially in social media. He is also active in the Boy Scouts of the Philippines-Misamis Oriental Council located along Velez St., Cagayan de Oro City, and he is



RESOLUTION

People vs. Pelaez

SB-23-CRM-0158 to 0160

Page 3 of 5

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the Director and Vice Chairman of the Philippine Red Cross-Misamis Oriental/Cagayan de Oro Chapter located at the same compound as the Provincial Government of Misamis Oriental in Cagayan de Oro City.


- h. Had there been an intention to inform him of the charges against him, notices should have been sent to the mentioned locations.
 - i. Had he been given the opportunity to answer the allegations against him, he will be able to prove that these cases are politically-motivated and based on lies and revenge.
2. It is clear from the records that the evidence adduced by the complainant fails to establish probable cause for the commission of violation of R.A. No. 3019 to justify the issuance of the warrant of arrest and hold departure order against him.

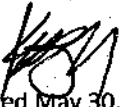
The prosecution did not oppose the accused's *Omnibus Motion*. Instead, it manifested that it will submit the matter to the sound discretion of the Court.


THE COURT'S RULING

The Court finds merit in the accused's motion to conduct reinvestigation and to suspend proceedings, and resolves to grant the same. However, the Court must deny his motion to defer, quash and/or recall warrant of arrest and hold departure order.

From the records, it appears that the Office of the Ombudsman's Joint Order dated September 13, 2022 directing the accused to answer the charges against him was sent to the Office of the Vice Governor of Misamis Oriental, but the same was returned because at the time, the accused was no longer the vice governor. Thereafter, the said Joint Order was sent to Mahayahay, Medina, Misamis Oriental, but it was returned because there was no one to receive the mail.³ The copy of the Resolution dated May 30, 2023 was also sent to Mahayahay, Medina, Misamis Oriental,⁴ but again, there was no one to receive the mail.⁵


³ Office of the Ombudsman's Resolution dated May 30, 2023, p. 5; Record, p. 12


⁴ Office of the Ombudsman's Resolution dated May 30, 2023, p. 10; Record, p. 17


⁵ Prosecution's Compliance (Re: Resolution Dated November 20, 2023), p. 1; Record, p. 52

RESOLUTION

People vs. Pelaez
SB-23-CRM-0158 to 0160

Page 4 of 5

X-----X

The prosecution has not shown proof that the accused actually received the said Joint Order dated September 13, 2022 and Resolution dated May 30, 2023. Hence, it appears that the accused was not given the opportunity to participate and explain his side during the preliminary investigation.

Due process is satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy or an opportunity to move for a reconsideration of the action or ruling complained of.⁶ The accused was not able to participate in the preliminary investigation and file his motion for reconsideration of the Office of the Ombudsman's Resolution because he did not actually receive notices from the Office of the Ombudsman. To afford him due process, he must be allowed to participate in the preliminary investigation to give him the opportunity to explain his side.

With respect to the accused's motion to defer, quash and/or recall warrant of arrest and hold departure order, he has not shown any valid ground for granting the same.

The Court already found that sufficient grounds exist for the finding of probable cause for the purpose of issuing a warrant of arrest against the accused, and ordered the issuance of the warrant of arrest against him.⁷ After the Court approved the cash bond he posted, the Court recalled the said warrant of arrest,⁸ so the matter is already moot.

On the other hand, the hold departure order is an exercise of the Court's inherent power to preserve and to maintain the effectiveness of its jurisdiction over the case and the person of the accused.⁹ The Court's finding that reinvestigation is warranted in no way affects its jurisdiction over these cases, as well as its jurisdiction over the person of the accused. Thus, there is no valid ground for lifting the said hold departure order.

WHEREFORE, the accused's *Omnibus Motion* is hereby **PARTIALLY GRANTED**

⁶ *Velasco v. Sandiganbayan*, G.R. No. 189253, February 20, 2013, citing *Redulla v. Sandiganbayan (First Division)*, G.R. No. 167973, February 28, 2007

⁷ Resolution dated January 8, 2024; Record, pp. 64-65

⁸ Resolution dated January 12, 2024

⁹ *Defensor-Santiago v. Vasquez*, G.R. Nos. 99289-90, January 27, 1993

RESOLUTION
People vs. Pelaez
SB-23-CRM-0158 to 0160

Page 5 of 5

X-----X

His motion to conduct reinvestigation and to suspend proceedings is **GRANTED**. The Office of the Ombudsman is **DIRECTED** to conduct a reinvestigation, and is further **DIRECTED** to inform this Court of its action thereon within a non-extendible period of sixty (60) days from receipt of this Resolution. The proceedings are **SUSPENDED** pending the conduct of the reinvestigation.

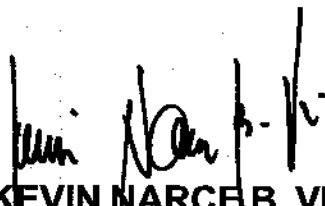
The accused's motion to defer, quash and/or recall warrant of arrest and hold departure order is **DENIED**.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice