

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. **SB-11-CRM-0304**

-versus-

Present:
Herrera, Jr. J.
Musngi, J. &
Pahimna, J.

PO3 MICHAEL ALBARICO
GERAL, ET AL.,

Accused.

Promulgated:

September 25, 2019

X-----X

RESOLUTION

HERRERA, JR., J:

For resolution of the Court is an ***Omnibus Motion For 1.) Reconsideration Of The October 25, 2018 Order With Motion For Leave Of Court To Submit Belated Notice Of Hearing For The November 29, 2018 Motion For Reconsideration 2.) Reconsideration Of The January 18, 2019 Resolution And 3.) Re-Opening Of Trial, Or In The Alternative 4.) To Allow Accused To Formally Offer Exhibits***¹ dated August 28, 2019, filed by accused Michael Geral (Movant), through counsel, to which the plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Comment/Opposition To Accused Michael Geral's Omnibus Motion Dated August 28, 2019.***²

After a careful study, the Court finds that movant's instant ***Omnibus Motion, etc.*** is unwarranted and must necessarily be denied.

In the ***Order***³ dated October 25, 2018, the Court ruled that movant is deemed to have waived further presentation of evidence and considered the case submitted for decision, because of failure of movant and counsel

¹ Record, Vol. 2, pp. 1024-1032

² Id, pp. 1034-1039

³ Id, p. 1004

to appear on said date for further presentation of defense evidence despite notice.

Movant, in his instant ***Omnibus Motion, etc.***, admits that he received a copy of the ***Order*** dated October 25, 2018 on November 21, 2018. Movant filed a ***Motion for Reconsideration***⁴ dated November 29, 2018 on the same day, which is beyond the mandatory non-extendible period of five (5) days from receipt of the ***Order*** sought to be reconsidered, and which should be denied outright, pursuant to ***A.M. No. 15-06-10-SC***, or the ***Revised Guidelines For Continuous Trial Of Criminal Cases***, the pertinent portions of which reads:

“The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment.

Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.”

Moreover, the aforementioned ***Motion For Reconsideration*** was not set for hearing and therefore non-compliant with ***Sections 4, 5 and 6, Rule 15 of the Rules of Court***. Hence it is to be treated as a mere scrap of paper.⁵

In the ***Resolution***⁶ of January 18, 2019, the Court thus denied movant’s ***Motion for Reconsideration***.

The instant ***Omnibus Motion, etc.***, where movant prays for reconsideration of the ***Order*** dated October 25, 2018 and ***Resolution*** dated January 18, 2019, partakes of the nature of a second motion for

⁴ Id, pp. 1005-1015

⁵ Bank of P.I. v. Far East Molasses, 198 SCRA 689; Gutierrez v. Cabrera, 452 SCRA 521

⁶ Record, Vol. 2, pp. 1017

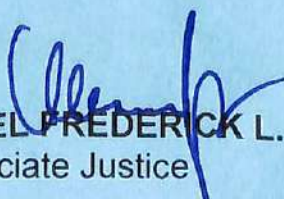
reconsideration which is prohibited under the **Rules**. Moreover, it was likewise filed way beyond the mandatory non-extendible period of five (5) days from receipt of the **Resolution**.

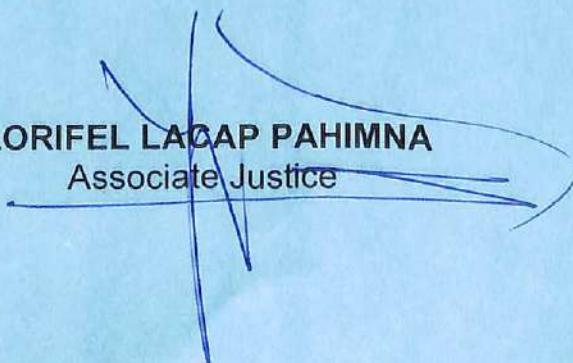
Movant, through counsel, admittedly received a copy of the **Resolution** dated January 18, 2019 on February 8, 2019. Yet, the instant **Omnibus Motion, etc.** dated August 28, 2019 was filed, through mail, only on August 30, 2019, or six (6) months following receipt of a copy of the subject **Resolution**. Movant's counsel claims that he came to know about the said **Resolution** only on August 23, 2019, because of resignations by members of her staff. But even if the period for filing were to be reckoned from August 23, 2019, its filing on August 30, 2019 was also beyond the reglementary period within which to do so, warranting outright denial under the **Revised Rules on Continuous Trial of Criminal Cases**.

WHEREFORE, premises considered, the **Omnibus Motion For 1) Reconsideration Of The October 25, 2018 Order With Motion For Leave Of Court To Submit Belated Notice Of Hearing For The November 29, 2018 Motion For Reconsideration 2) Reconsideration Of The January 18, 2019 Resolution And 3) Re-Opening Of Trial, Or In The Alternative 4) To Allow Accused To Formally Offer Exhibits** dated August 28, 2019, filed by accused Michael Geral, through counsel, is hereby denied.


OSCAR O. HERRERA, JR.
Chairperson

We Concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


LORIFEL LACAP PAHIMNA
Associate Justice