



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
Quezon City

Maria Lourdes M. Lobiano-Alviola
MARIA LOURDES M. LOBIANO-ALVIOLA
Executive Clerk of Court II
COC Fourth Division, Sandiganbayan

FOURTH DIVISION

MINUTES of the proceedings held on 30 January 2019

Present:

JUSTICE ALEX L. QUIROZ
JUSTICE REYNALDO P. CRUZ
JUSTICE BAYANTH JACINTO

Chairperson
Member
Member

The following resolution was adopted:

CRIMINAL CASE NO. SB-18-CRM-0406 - PEOPLE v. LUIS
RAYMUND LAVIS VILLAFUERTE, JR., ET AL.

This resolves the following:

1. *Compliance (Re Show Cause Order)* dated 7 December 2018 by
accused Villafuerte, Jr.

Accused Villafuerte, Jr. is the incumbent Representative of the 2nd
District of Camarines Sur. He is charged with violation of Section 3(c) of
Republic Act (R.A.) No. 3019 in connection with acts he allegedly
committed when he was Governor of Camarines Sur.

On 12 October 2018, the Court ordered him to show cause why he
should not be suspended *pendente lite* pursuant to Sec. 13 of RA 3019,
which provides:

SEC. 13. Suspension and loss of benefits. Any incumbent public
officer against whom any criminal prosecution under a valid information
under this Act or under Title Seven Book II of the Revised Penal Code or
for any offense involving fraud upon government or public funds or
property, whether a simple or a complex offense and in whatever
stage of execution and mode of participation is pending in court, shall be
suspended from office.

[Handwritten signature]

On 23 October 2018, he submitted his *Compliance*³ and the prosecution submitted its *Comment*⁴ thereto on 13 November 2018. However, the Court withheld its resolution pending his regular arraignment.⁵

Following his arraignment on 27 November 2018, the Court once again required him to explain why he should not be suspended *pendete lite*. On 10 December 2018, he filed his *Compliance [Re: Show Cause Order]*.

Accused argues that the dangers sought to be avoided by placing him under preventive suspension no longer obtain as he is no longer the incumbent governor of Camarines Sur. As such, he can neither obstruct nor influence the prosecution's efforts to secure evidence. He maintains that there is no proof that he ever attempted to frustrate the prosecution's request for documents, to tamper with documentary evidence, and to intimidate its witnesses.

He argues that the possibility that he might commit other acts of malfeasance as a member of the House of Representatives is a mere speculation, which does not support the issuance of a preventive suspension order. He adds that the House of Representatives has sufficient plenary disciplinary power. He also emphasizes that the prosecution did not seek his preventive suspension; thus, the prosecution does not treat his current position as a threat to the prosecution of the present case.

Accused also argues that a preventive suspension presupposes a valid Information. While the Court may have denied his *Motion to Quash*, he maintains that the said issue has not yet attained finality, as he still has the right to avail of other remedies before the Supreme Court. He likens a preventive suspension to a penalty, and claims that its imposition will violate his right to be presumed innocent until proven guilty. Finally, accused argues that his suspension would be a disservice to his constituents whose needs will be put on hold pending his suspension. He thus asks the Court not to place him under preventive suspension.

In its *Comment*⁶ dated 27 December 2018, the prosecution submits that the issuance of an order for preventive suspension is mandatory in nature, as clearly provided in Sec. 13 of R.A. No. 3019 and prevailing jurisprudence.⁷ Because of this, the prosecution explains that it is not necessary to file a motion to place the accused under preventive suspension.

³ Dated 22 October 2018, Records, Vol. III, pp. 409-418.

⁴ Records, Vol. III, pp. 472-480.

⁵ 16 November 2018 Resolution, *Id.*, p. 482.

⁶ Records, Vol. 4, pp. 4-12.

⁷ See *Santiago v. Sandiganbayan*, G.R. No. 128055, 18 April 2001.

Citing *Bolastig v. Sandiganbayan*,⁸ the prosecution argues that upon finding that the Information is sufficient in form and substance, it becomes the ministerial duty of the Court to issue an order placing the accused under preventive suspension. Since the accused has already been arraigned, the Court is now mandated to issue an order for preventive suspension.

The prosecution further explains that the preventive suspension is not a penalty, and is merely a preventive measure to preclude the accused from using his influence to obstruct the prosecution's investigation. Finally, the prosecution maintains that while accused's constituents may be deprived of the services of a representative before the Lower House, the same is not enough reason to undermine the mandatory nature of the law. Thus, the prosecution urges the Court to place accused under preventive suspension.

The prevailing rule is that the suspension of an accused public official under Sec. 13 of R.A. No. 3019 is mandatory.⁹ The language of the law is clear and explicit, and leaves no room for interpretation.¹⁰ Thus, the duty of the Court to issue a suspension order is ministerial, and the Court neither has the discretion nor the duty to determine whether preventive suspension is necessary to stop the accused from using his office to frustrate his prosecution or to commit other acts of malfeasance.¹¹ That accused now holds a different position is also immaterial, as the term "office" as used in Sec. 13 of R.A. No. 3019 pertains to any position which the officer "might be currently holding and not necessarily the particular office in relation to which he is charged."¹²

There is likewise no merit in accused's argument that the validity of the Information has not yet been put to rest since he can still avail of other remedies before the Supreme Court. As held in *Aguinaldo v. Sandiganbayan*,¹³ "it is not within the Court's discretion to hold in abeyance the suspension of the accused officer on the pretext that the order denying the motion to quash is pending review before the appellate courts," more so when the accused merely anticipates seeking relief from the Supreme Court. In any case, the accused has already been arraigned under the present Information, and is deemed to have waived any other objection thereto, apart

⁸ G.R. No. 110503, 4 August 1994.

⁹ See *People v. Albano*, G.R. No. L-45376-77, 26 July 1988; *Gonzaga v. Sandiganbayan*, G.R. No. 96131, 6 September 1991; *Bunye, et al. v. Associate Justices Escareal, et al.*, G.R. No. 110216, 10 September 1993; *Bolastig*, G.R. No. 110503; *Aguinaldo v. Sandiganbayan*, G.R. No. 124471, 28 November 1996.

¹⁰ *Llhanian v. Sandiganbayan*, G.R. No. 112386, 14 June 1994

¹¹ *Bolastig*, G.R. No. 110503.

¹² *Segovia, et al. v. Sandiganbayan*, G.R. No. 124067, 27 March 1998.

¹³ See Note 9.

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from the exceptions provided under Sec. 9 of Rule 117 of the Rules of Court.

Finally, that his preventive suspension may deprive his constituents of representation before the Lower House is not compelling enough to disregard what is otherwise a mandatory provision of the law.

WHEREFORE, in view of the foregoing, accused **LUIS RAYMUND F. VILLAFUERTE, JR.** is hereby suspended from his position as Representative of the 2nd District of Camarines Sur, and from any other public office which he may now or hereafter be holding, for a period of **ninety (90) days** from receipt of this Resolution.

Let a copy of this *Resolution* be furnished the Office of the Honorable Speaker of the House of Representatives of the Philippines for the proper implementation of the order of preventive suspension on accused Luis Raymund F. Villafuerte, Jr. The said Office is requested to inform this Court of its action thereon within five (5) days from receipt hereof.

The suspension of the accused shall automatically be lifted upon expiration of the 90-day period from the implementation of this *Resolution*.

SO ORDERED.

QUIROZ, J., Chairperson

CRUZ, J.

JACINTO, J.






