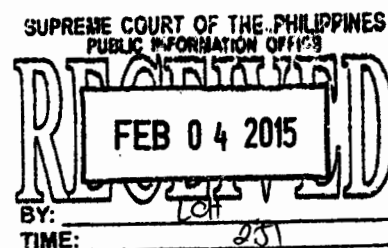




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 3, 2014** which reads as follows:*

“G.R. No. 203564 – EDUARDO G. VARELA, Petitioner, v. SANDIGANBAYAN, Fifth Division, Respondent.

The petitioner was charged in an information dated April 15, 2010 with a violation of Section 4 of Republic Act No. 6656 (*An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization*),¹ docketed as Criminal Case No. SB-11-CRM-0084 of the Sandiganbayan.

The petitioner filed a Motion to Quash,² alleging the lone ground that-

THE LONG DELAY IN THE TERMINATION OF THE PRELIMINARY INVESTIGATION CONDUCTED BY THE OMBUDSMAN, VISAYAS, HAS DEPRIVED THE ACCUSED OF HIS CONSTITUTIONAL RIGHT TO DUE PROCESS AND SPEEDY DISPOSITION OF THE CASE FILED AGAINST HIM AMOUNTING TO THE LOSS OF JURISDICTION TO FILE THE INFORMATION.³

On November 28, 2011, the Sandiganbayan denied the petitioner’s Motion to Quash.⁴

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¹ *Rollo*, p. 73.

² *Id.* at 68-89.

³ *Id.* at 68.

⁴ *Id.* at 44-57; penned by Associate Justice Roland B. Jurado, and concurred in by Associate Justice Alexander G. Gesmundo and Associate Justice Alex L. Quiroz.

The petitioner then moved for reconsideration, but the Sandiganbayan denied the motion for reconsideration on July 30, 2012.⁵

The petitioner thus came to the Court by petition for review on *certiorari*,⁶ praying that the Sandiganbayan's resolutions of November 28, 2011 and July 30, 2012 be set aside, and the information be dismissed on the following ground:

The Respondent Sandiganbayan committed grave abuse of discretion amounting to lack of jurisdiction or in excess of jurisdiction when it denied petitioner's Motion To Quash as well as petitioner's subsequent Motion For Reconsideration when it ruled that:

1. there was no inordinate delay in the conduct of the preliminary investigation because the delay was only caused by the regular exercise of the Ombudsman of its investigatory powers, supervision and control;

2. the delay was caused by petitioner's exhaustion of administrative remedies as petitioner had filed with the Court of Appeals a Petition for Review; and

3. the judicial pronouncements made in the cases of Tatad, Angchanco, Duterte, Cervantes, Roque, and Perez are not applicable because of differences in factual scenario.⁷

The only issue to be resolved is whether the Sandiganbayan erred in denying the petitioner's Motion to Quash.

The petition for review is denied for its lack of merit.

To begin with, an order denying a motion to quash is a merely interlocutory, as distinguished from a final, order, and is, therefore, not appealable. Only a final order and judgment may be the subject of an appeal because the case is not yet completely resolved otherwise, rendering an appeal of the interlocutory order or judgment premature. If the rule were different, then there can result multiple appeals in one case, a situation that can cause the undue clogging of court dockets.

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⁵ Id. at 58-66.

⁶ Id. at 3-43.

⁷ Id. at 14.

Nor may the order denying the motion to quash be the subject of a petition for *certiorari*. Under Rule 65 of the Rules of Court, a petition for *certiorari* is a remedy that is available not only when there is lack or excess of jurisdiction, or grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the respondent judicial officer or court, or office or tribunal exercising judicial or quasi-judicial powers, and there is no appeal, nor any plain, speedy or adequate remedy in the ordinary course of law.⁸ Even if the denial is not subject of appeal, the petitioner should still not bring a petition for *certiorari* because his plain, speedy or adequate remedy in the ordinary course of law is to enter a plea to the information, and proceed to trial.

And, secondly, we find no error in the resolutions being assailed, considering that the Sandiganbayan found no inordinate delay on the part of the Ombudsman in filing the information against the petitioner. Based on the resolution of November 28, 2011, the delays had resulted from the petitioner's availment of his other legal remedies and the Prosecution's regular exercise of its investigatory powers, *viz*:

Based on the chronology of events, this Court finds that the delay in the filing of the Information in the instant case is not inordinate so as to warrant the dismissal thereof. Clearly, the delay was caused by the temporary closing and termination of OMB-Vis-Crim-99-0739 to 0747 because of the pendency of Varela's Petition for Review before the Court of Appeals. The Petition for Review was only decided on 16 July 2002, became final and executory on 19 August 2002 and was received by the Office of the Ombudsman on 30 January 2003. After receipt of said Decision, complainants, on 23 February 2003, moved to re-open/revive the temporarily closed and terminated cases. It was when the Memorandum dated 27 March 2003 of GIO II Acas was issued granting said motion to re-open/revive and assigned a new docket number in the said case. (sic) The Information for Violation of R.A. No. 6656 was thereafter filed pursuant to the Resolution dated 19 December 2003 by former Ombudsman Prosecutor II Venerando Ralph P. Santiago, Jr.[.] Varela even filed a Motion for Reconsideration of the 19 December 2003 Resolution, but the same was denied in an Order dated 15 June 2004.

When Varela stands (sic) charged before the First Division of the Sandiganbayan, in Criminal Case No. 28265, he filed his Motion to Quash dated 20 February 2006, which motion was granted by the said Court in a Resolution promulgated on 10 May 2006. It bears stressing that the First Division decided Varela's motion as to the content of the

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⁸ Section 1, Rule 65 of the *Rules of Court*.

Information and brushed aside Varela's allegation therein of "long delay in the termination of the preliminary investigation conducted by the Ombudsman Visayas". Further, the dismissal in the aforesaid case was made **WITHOUT PREJUDICE** to the prosecution's amendment of the Information based on Section 4, Rule 117 of the Revised Rules of Criminal Procedure.

x x x x

Evidently, the proceedings that transpired after the quashal of the Information in Crim. Case No. 28265 were all but an exercise of the prosecution's supervision and control over the preliminary investigation conducted by him. Absent any grave abuse of discretion tainting it, it is beyond the ambit of this Court to review the exercise of discretion of the Ombudsman in prosecuting or dismissing a complaint filed before it or in taking legal action on complaints filed before its office.

Lastly, the accused failed to present evidence to prove that the delay was due to an intentional, capricious, whimsical, or probable politically-motivated (as present in the *Tatad* case) delaying tactics employed by the prosecutors; or that accused has remained under cloud as the petitioner in the *Angchangco* case; or that accused could not have urged the speedy resolution of the case against him considering that he was completely unaware that the investigation against him was still ongoing, as what happened in the *Duterte* case; or that the initiatory pleading was filed six (6) years thereafter from the time the sworn complaint was filed, as present in the *Cervantes* case. To reiterate, the delays in the instant case were caused by the prosecution's regular exercise of its investigatory power and accused's exhaustion of available remedies. For this reason, the instant Motion to Quash necessarily fails.

PREMISES CONSIDERED, accused Eduardo G. Varela's Motion to Quash Information is **DENIED** for lack of merit.

SO ORDERED.⁹

WHEREFORE, the Court **DISMISSES** the petition for *certiorari* for lack of merit; affirms the resolutions of the Sandiganbayan issued on November 28, 2011 and July 30, 2012 in Criminal Case No. SB-11-CRM-0084; and orders the petitioner to pay the costs of suit.

The petitioner's motion for early resolution is **NOTED**.

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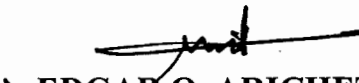

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⁹ *Rollo*, pp. 55-57.

The Court resolves to require petitioner to ***SUBMIT*** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed motion for early resolution pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court 
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