

REPUBLIC OF THE PHILIPPINES
Court Of Tax Appeals
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, **C.T.A. CRIM. NO. O-194**
Plaintiff, (I.S. No. 2006-694)

For: Violation of Section 255 of the
NIRC of 1997 (Failure to File Income
Tax Return)

-versus-

Members:

BAUTISTA, Chairperson,
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ.

ROSALIE DAVID,
[Proprietor of Victory Talent
Promotion, 171 Neon Street, San
Francisco Floodway, Cainta, Rizal]
-AT LARGE-

Promulgated:

FEB 14 2012

AB Fernandez 11:10 a.m.

Accused.

X-----X

RESOLUTION

PALANCA-ENRIQUEZ, J.:

On December 15, 2010, an Information for Violation of *Section 255 of the NIRC of 1997, as amended*, was filed against accused Rosalie David with this Court by State Prosecutor Anjanette N. De Leon-Ortile.

On January 13, 2011, this Court made a determination of the existence of probable cause against the accused, and consequently ordered the issuance of a Warrant of Arrest against the accused.

Upon the “Return of the Warrant of Arrest” on February 16, 2011, Johnny Caguiat, Special Investigator III, Anti-Graft Division, National Bureau of Investigation, informed this Court that the neighbors and a certain Manuel Manio confirmed that accused Rosalie David had already passed away on January 10, 2010 and attached a copy of the Memorial Service Contract from St. Peter’s Chapel.

Thus, in our Resolution dated February 28, 2011, the prosecution was ordered to confirm whether accused Rosalie David had indeed passed away.

On May 4, 2011, this Court issued a show cause order against State Prosecutor Anjanette N. De Leon-Ortile for failure to comply with the Resolution dated February 28, 2011.

On May 20, 2011, Assistant State Prosecutor Mederlyn P. Mangalindan filed a “Manifestation and Motion” stating among others: that she is entering her appearance as substitute for former State Prosecutor Anjanette N. De Leon-Ortile who has joined the judiciary; that the NSO copy of the Death Certificate of accused Rosalie David is unavailable; that she also requested for a Certificate of Death of one Rosalina A. Victoria, the name indicated in the Memorial Service Contract attached to the Return of the Warrant of Arrest; that she was

able to secure a NSO copy of the Certificate of Death of one Rosalina Asenjo Victoria with the same occupation and address as that of accused Rosalie David; and moved that she be given more time to ascertain whether Rosalina Asenjo Victoria and Rosalie David are one and the same person.

In a Resolution dated June 23, 2011, Assistant State Prosecutor Mederlyn P. Mangalindan was ordered to verify whether deceased Rosalina Asenjo Victoria and herein accused Rosalie David are one and the same person, and if in the affirmative, to file the appropriate pleading.

On July 29, 2011, Assistant State Prosecutor Mederlyn P. Mangalindan filed her "Compliance" and manifested: that Ariel Salabsabin, Process Server of the National Prosecution Service of the DOJ, attested that per information from Purok Leader Isabel Garcia Abrenica (neighborhood of accused Rosalie David), Rosalina Asenjo Victoria and accused Rosalie David are mother and daughter, respectively, who both passed away; and that for lack of necessary information, Assistant State Prosecutor Mederlyn P. Mangalindan could not verify the statement of Johnny Caguiat in his Return of the Warrant.

Consequently, in our Resolution dated September 8, 2011, Assistant State Prosecutor Mederlyn P. Mangalindan was ordered to

submit a certified true copy of the death certificate or otherwise, a certification of no record of death from the NSO of accused Rosalie David.

In compliance thereto, on October 5, 2010, Assistant State prosecutor Mederlyn P. Mangalindan filed her “Compliance with Motion for Issuance of Bench Warrant of Arrest” stating that there is no record of death of accused Rosalie David as certified to by the NSO, hence, there is no sufficient basis to conclude that deceased Rosalina Asenjo Victoria and accused Rosalie David are one and the same person, and prayed for the issuance of a bench warrant of arrest against accused Rosalie David and the case be sent to the archives until the arrest of the accused.

On November 15, 2011, this Court granted the prosecution’s motion and ordered the issuance of an Alias Warrant of Arrest against Rosalie David and sent the case to the Archives, without prejudice to its reinstatement upon the apprehension of the accused.

However, on November 18, 2011, Assistant State Prosecutor Mederlyn P. Mangalindan filed a “Manifestation” stating that:

- 1) she conducted further verification regarding the relationship of herein accused Rosalie David with deceased Rosalina Asenjo Victoria, whose Memorial Service Contract dated January 10,

2010 with St. Peter Chapels was attached to the Return of Warrant of Arrest filed by Special Investigator Johnny Caguiat, Anti-Graft Division of the NBI;

- 2) she was able to locate and subpoena Rose Ann Victoria David, daughter of accused Rosalie David; and
- 3) she confirms, based on the attached affidavit and documents, that accused Rosalie David Victoria and deceased Rosalina Asenjo Victoria are one and the same person.

Together with the said “Manifestation”, Assistant State Prosecutor Mederlyn P. Mangalindan also submitted the following documents:

- 1) Affidavit of Rose Ann Victoria David (*Annex “A”*);
- 2) Photocopy of Birth Certificate of Rose Ann Victoria David (*Annex “A-1”*);
- 3) Photocopy of Death Certificate of Rosalina Asenjo Victoria (*Annex “B”*);
- 4) Photocopy of Philippine Passport of Rosalina Asenjo Victoria (*Annex “C”*);
- 5) Photocopy of Postal Identification Card of Rosalina Asenjo Victoria (*Annex “D”*); and

- 6) Photocopy of ABS-CBN Identification Card of Rosalie David
(Annex "E").

The prosecution's "Manifestation" is hereby **NOTED**.

After a careful examination of the records of this case, this Court finds:

- 1) that affiant Rose Ann Victoria David is the daughter of Rosalina Asenjo Victoria and a certain Dominador David, as evidenced by a photocopy of the Birth Certificate of Rose Ann Victoria David *(Annex "A-1")*;
- 2) that affiant Rose Ann Victoria David, deceased Rosalina Asenjo Victoria and herein accused Rosalie David have the same residential address at 171 Neon St. San Francisco Floodway, Cainta, Rizal;
- 3) that deceased Rosalina Asenjo Victoria is also known as Rosalie David, as evidenced by her ABS-CBN Identification Card *(Annex "E")*; and
- 4) that Rosalina Asenjo Victoria died on January 10, 2010 of cardio pulmonary arrest at the Capitol Medical Center.

We, therefore, find that the above documents submitted by the prosecution are clear and convincing to prove Assistant State Prosecutor

Mederlyn P. Mangalindan's Manifestation that accused Rosalie David Victoria and deceased Rosalina Asenjo Victoria are one and the same person.

WHEREFORE, considering Assistant State Prosecutor Mederlyn P. Mangalindan's Manifestation that accused Rosalie David Victoria and deceased Rosalina Asenjo Victoria are one and the same person, and the prosecution having established the fact of death of Rosalina Asenjo Victoria a.k.a. Rosalie David, as evidenced by a NSO copy of the Certificate of Death of Rosalina Asenjo Victoria (*Docket, pp. 50-51*), the above-captioned case is hereby **DISMISSED** due to the death of the accused.

SO ORDERED.


OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:


LOVELL R. BAUTISTA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice