



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0350

For: Malversation of Public
Property

-versus-

Present:

CABOTAJE-TANG, A.M. P.J.,
Chairperson,
FERNANDEZ, B.R., J. and
MORENO, R.B. J.

EDWARD SOLON HAGEDORN.

Accused.

Promulgated:

June 30, 2023 *JL*

X-----X

DECISION

Moreno, J.:

This case stemmed from the *Complaint-Affidavit*¹ dated January 8, 2016, of then Mayor Lucio R. Bayron (“Bayron”) of Puerto Princesa City, Palawan against accused EDWARD SOLON HAGEDORN (“Hagedorn”) for Malversation of Public Property under Article 217 of the Revised Penal Code (“RPC”).

The *Complaint-Affidavit* alleged that after conducting a physical inventory of its firearms, the City General Services Office (“GSO”) of Puerto Princesa City discovered that out of twenty (20) units of refurbished armalite rifles issued to and received by accused Hagedorn, as then City

¹ Record, Vol. I, pp. 13-21.

X-----X

Mayor of Puerto Princesa City, only six (6) were turned-over at the end of his term on June 30, 2013, leaving fourteen (14) units in his custody. The said units are more particularly described with serial numbers as follows: 238383; 213536; 171858; 229071; 9058310; 220420; 054233; 201761; 203588; 9014982; 171230; 4912083; 9058027; and 111467 (“subject firearms”).

In his *Counter-Affidavit*² dated April 21, 2016, accused Hagedorn argued that he did not appropriate or take the subject firearms for his personal use. According to him, he is still trying to recover the units under the custody of his former security personnel while the other units were already declared missing.

Acting on the *Complaint-Affidavit* and the *Counter-Affidavit*, the Office of the Ombudsman promulgated its *Resolution*³ dated August 15, 2016, finding probable cause to indict accused Hagedorn for Malversation of Public Property. The Office of the Ombudsman, in its *Order*⁴ dated September 7, 2017, likewise denied the *Motion for Reconsideration* subsequently filed.

An *Information*⁵ dated January 10, 2018, was thereafter filed before the Court charging accused Hagedorn of the crime of Malversation of Public Properties, defined and penalized under Article 217 of the RPC. The information reads as follows:

That on July 1, 2013, or sometime prior or subsequent thereto in Puerto Princesa City, Palawan, and within the jurisdiction of this Honorable Court, accused EDWARD SOLON HAGEDORN, a high-ranking public officer being then the City Mayor of Puerto Princesa, in such capacity, while in the performance of his administrative and/or official functions and committing the offense in relation to office, taking advantage of his official position, and who, by reason of his duties and position was accountable and had custody of the fourteen (14) Armalite rifles, valued at PhP490,000.00, with the following serial numbers: 238383, 213536, 171858, 229071, 9058310, 220420, 054233, 201761, 203588, 9014982, 171230, 4912083, 9058027, 111467, all public properties placed under his control and care, did then and there willfully, unlawfully and feloniously appropriate, take, misappropriate or consent or permit another person to take for his own personal use and benefit the said rifles by failing to return the same, after his term as City Mayor, to the prejudice and damage of the government.

CONTRARY TO LAW.

² Record, Vol. I, pp. 22-24.

³ Record, Vol. I, pp. 5-8.

⁴ Record, Vol. I, pp. 9-11.

⁵ Record, Vol. I, pp. 1-2.

Handwritten signatures and initials in black ink, including a large signature and a set of initials.

x-----x

After a review of the records, the Court promulgated its *Resolution*⁶ dated May 7, 2018, finding the existence of probable cause and ordering the issuance of a warrant of arrest⁷ and Hold Departure Order (“HDO”)⁸ against accused Hagedorn. On May 22, 2018, accused Hagedorn was allowed provisional liberty upon approval of his cash bail bond.⁹

On June 27, 2018, accused Hagedorn filed his *Omnibus Motion to Quash Information, Hold in Abeyance Further Proceedings, and Recall of Warrant of Arrest*.¹⁰ In response thereto, the prosecution filed its *Opposition*¹¹ on July 10, 2018. Acting on the foregoing, the Court promulgated its *Resolution*¹² dated August 31, 2018, denying accused Hagedorn’s *Omnibus Motion* for lack of merit.

Aggrieved, accused Hagedorn filed on September 11, 2018, his *Motion for Reconsideration*¹³ to the *Resolution* dated August 31, 2018. On September 19, 2018, the prosecution filed its *Opposition*¹⁴ to accused Hagedorn’s *Motion for Reconsideration*. On October 18, 2018, the Court promulgated its *Resolution*¹⁵ denying accused Hagedorn’s *Motion for Reconsideration* for lack of merit.

On December 14, 2018, accused Hagedorn entered his “not guilty” plea before the Court.¹⁶ As his request for plea bargaining was denied, the parties agreed to terminate the pre-trial.¹⁷ On July 1, 2019, the parties submitted their *Joint Stipulation of Facts*¹⁸ wherein they jointly agreed to stipulate the following:

I. STIPULATED FACTS

1. Edward Solon Hagedorn is the same Edward Solon Hagedorn charged in, and arraigned under, the *Information* in Criminal Case No. SB-18-CRM-0350.
2. Edward Solon Hagedorn was a public officer, being the Mayor of Puerto Princesa City, Palawan from year 2004 until 2013.

⁶ Record, Vol. I, p. 25.

⁷ Record, Vol. I, p. 27.

⁸ Record, Vol. I, p. 26.

⁹ Order dated May 22, 2018; Record, Vol. I, p. 32.

¹⁰ Record, Vol. I, pp. 42-55.

¹¹ Record, Vol. I, pp. 85-91.

¹² Record, Vol. I, pp. 110-115.

¹³ Record, Vol. I, pp. 119-124.

¹⁴ Record, Vol. I, pp. 128-132.

¹⁵ Record, Vol. I, pp. 146-150.

¹⁶ *Certificate of Arraignment* dated December 14, 2018. Record, Vol. I, p. 165.

¹⁷ Order dated May 30, 2019. Record, Vol. I, p. 223.

¹⁸ Record, Vol. I, pp. 226-233.

Handwritten signatures and initials in black ink, including a large signature that appears to be 'Hagedorn' and another signature to its right, with some initials above them.

x-----x

3. The case subject of the *Information* falls within the jurisdiction of this Honorable Court.
4. The fourteen (14) firearms, subject of this case, have the following serial numbers:

238383	203588
213536	9014982
171858	171230
229071	4912083
9058310	111467
220420	201761
054233	9058027

IV. ISSUE/S TO BE TRIED

A. For both parties

1. Whether accused Edward S. Hagedorn is liable for the crime of Malversation of Public Property under Article 217 of the Revised Penal Code.

B. For the accused.

2. Whether or not Accused is an accountable officer with regard to the subject rifles.
3. Whether or not Accused appropriated, took, or misappropriated the subject firearms.
4. Whether or not all subject firearms were already surrendered to the government authorities.

The foregoing stipulations were likewise expressed in the *Pre-Trial Order* dated May 20, 2019.¹⁹

Considering the failure of the parties to conclude a second plea bargaining agreement, the Court proceeded with the presentation of the evidence.²⁰

EVIDENCE FOR THE PROSECUTION

1. Testimony of witness Violeta M. Dalonos

On October 2, 2019,²¹ the prosecution called its first witness, in the person of **Violeta M. Dalonos** (“**Dalonos**”). Witness Dalonos testified on

¹⁹ Record, Vol. I, pp. 493-500.

²⁰ Record, Vol. I, p. 302.

²¹ TSN dated October 2, 2019.

X-----X

direct examination through her *Judicial Affidavit*²² dated August 1, 2019. At the time of her presentation as a witness, Dalonos is a Local Assessment Operations Officer IV of the City Assessor's Office of Puerto Princesa City but is currently designated at the City General Services Office ("GSO") as the Acting City General Services Officer since September 11, 2018.

The prosecution offered the testimony of witness Dalonos to establish the following: (1) that she has been the Acting City General Services Officer of Puerto Princesa City since September 2018; (2) that her duties and responsibilities include the supervision and maintenance of properties of the Local Government of Puerto Princesa City, the approval and signing of property clearance, property acknowledgment receipt, inventory, and safekeeping of official records on files; (3) that she has custody of the originals or official records on files of relevant documents previously marked as *Exhibits "E", "F", "G", "H", "A-8", and "A-5"* of the prosecution; (4) that she brought with her the official documents on file of the said exhibits; (5) that the subject firearms are public properties; (6) that accused Hagedorn signed the Memorandum Receipt dated May 12, 2006, issued to him by the City GSO of Puerto Princesa; (7) that the subject firearms were not yet surrendered to the City GSO of Puerto Princesa up to this date; and (8) that she can identify her Judicial Affidavit, her signature thereon as well as the documents attached thereto; and lastly (9) that she will testify on other relevant matters. The prosecution and the defense counsel stipulated on items 1, 2, and 3 of the offer of testimony.²³

Witness Dalonos identified the following documentary Exhibits:

Exhibit	Description
"E" ²⁴	Memorandum Receipt for Semi-Expendable and No-Expendable Supplies or Property dated May 12, 2006.
"E-1" ²⁵	Name of Edward S. Hagedorn.
"E-2" ²⁶	Designation as City Mayor.
"E-3" ²⁷	Signature of Edward S. Hagedorn.
"F" ²⁸	February 24, 2014, Letter of Roseville P. del Rosario addressed to Hon. Edward S. Hagedorn.
"F-1" ²⁹	Signature of Edward S. Hagedorn.
"F-2" ³⁰	Date below the signature "2-27-14".
"G" ³¹	April 7, 2014, Letter of Roseville P. del Rosario addressed to Hon. Edward

²² Record, Vol. I, pp. 348-363.

²³ TSN dated October 2, 2019, pp.6-7.

²⁴ Record, Vol. I, p. 358.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Record, Vol. I, p. 359.

²⁹ *Id.*

³⁰ *Id.*

³¹ Record, Vol. I, p. 360.

x-----x

	S. Hagedorn.
"G-1" ³²	Signature of Edward S. Hagedorn.
"H" ³³	November 4, 2015, Letter of Tiburcio B. Magay addressed to Hon. Edward S. Hagedorn.
"H-1" ³⁴	Signature of Tiburcio B. Magay.
"A-8" ³⁵	July 28, 2014, Letter of Edward S. Hagedorn addressed to Roseville P. del Rosario.

2. Testimony of witness Leonora M. Dagot.

On October 3, 2019,³⁶ the prosecution called into the witness stand its second witness, **Leonora M. Dagot ("Dagot")**. Witness Dagot testified on direct examination through her *Judicial Affidavit*³⁷ dated August 2, 2019. The prosecution offered the testimony of witness Dagot to prove the following: (1) that she is the Supervising Administrative Officer of the City GSO of Puerto Princesa City since July 2, 2012; (2) that as a Supervising Administrative Officer, her duties and responsibilities are to supervise the daily operation of the office staff and upon instruction by the Head of Office, prepare and sign certificates of clearance; (3) that to date, accused Hagedorn has not been cleared from the City GSO of his property accountability and thus remains accountable to the fourteen (14) firearms ("subject firearms"); (4) that she can identify her Judicial Affidavit including her signature thereon; and (5) that she will testify on other relevant matters. The defense counsel only stipulated on the position of witness Dagot.³⁸

3. Testimony of witness Roseville P. Del Rosario.

The prosecution called into the witness stand its third witness in the person of **Roseville P. Del Rosario ("Del Rosario")** on November 6, 2019.³⁹ Witness Del Rosario identified her *Judicial Affidavit*⁴⁰ dated August 3, 2019, which constitutes as her direct testimony. At the time of her presentation, witness Del Rosario is a retired Government Employee and the former City General Services Officer of Puerto Princesa City.

The testimony of witness Del Rosario was offered to prove the following: (1) that she was the City General Services Officer of Puerto Princesa City from May 29, 2012 to November 15, 2016; (2) that as City General Services Officer of Puerto Princesa, her duties and responsibilities include supervision of personnel, maintenance of all properties of the Local

³² *Id.*

³³ Record, Vol. I, p. 361.

³⁴ *Id.*

³⁵ Record, Vol. I, p. 362.

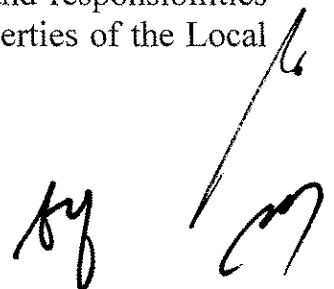
³⁶ TSN dated October 3, 2019.

³⁷ Record, Vol. I, pp. 309-314.

³⁸ TSN dated October 3, 2019, p. 6.

³⁹ TSN dated November 6, 2019.

⁴⁰ Record, Vol. I, pp. 367-380.



X-----X

Government and Puerto Princesa, directing the conduct of inventory of those properties and safekeeping of all official records on file; (3) that as a result of the inventory of properties conducted in 2014, it was discovered that there were properties unaccounted for including the firearms assigned to then Mayor Edward S. Hagedorn on May 12, 2006; (4) that accused Hagedorn received the firearms subject of this case; (5) that, through a letter dated February 24, 2014, she required accused Hagedorn to surrender the firearms assigned to him; (6) that despite receipt of the letter dated February 24, 2014, accused Hagedorn failed to return the subject firearms; (7) that, in her letter dated April 7, 2014, which was personally received by accused Hagedorn, she reiterated her previous demand to immediately return the subject firearms; (8) that as of May 19, 2015, despite the demands to return, the subject firearms were still not turned-over; (9) that she can identify her *Judicial Affidavit*, the documents attached thereto as well as her signature appearing on *Exhibits "F" and "G"* of the prosecution; and (10) that she will testify on other matters relevant to the allegation in the *Information*.⁴¹ Witness Del Rosario likewise identified exhibits "*E*", "*E-1*", "*E-2*", "*E-3*", "*F*", "*F-1*", "*F-2*", "*G*", "*G-1*", and "*A-8*" previously identified by witness Dalanos.

On question propounded by the Court, witness Del Rosario testified that she personally delivered the letters dated February 24, 2014, and April 1, 2014, to accused Hagedorn himself and that the latter personally received the said letters. Witness Del Rosario also recalled that at the time she delivered the letters to accused Hagedorn, the latter made a remark to the effect that he does not remember to whom the firearms were given.⁴²

4. Testimony of witness Tiburcio B. Magay.

On November 7, 2019, the Prosecution presented its fourth witness, in the person of **Tiburcio B. Magay ("Magay")**.⁴³ His direct testimony was by way of his sworn *Judicial Affidavit*⁴⁴ dated August 2, 2019. At the time of the offer of testimony, witness Magay is a retired government employee and the former Acting General Services Officer II of Puerto Princesa City.

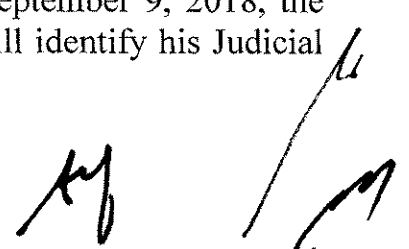
The testimony of witness Magay was offered to prove the following: (1) that he was designated as Acting General Services Officer II of Puerto Princesa, Palawan from April 29, 2014, up to July 13, 2017; (2) that as Acting General Services Officer II, he sent a letter to accused Hagedorn on November 4, 2015, which served as the last and final notice to return the subject firearms; (3) that at the time he retired on September 9, 2018, the subject firearms were still not returned; (4) that he will identify his Judicial

⁴¹ *Id.*, p. 367-368.

⁴² TSN dated November 6, 2019, p. 16.

⁴³ TSN dated November 7, 2019.

⁴⁴ Record, Vol. 1, pp. 435-442.



x-----x

Affidavit, his signature thereon, and the documents attached thereto; and (5) that he will testify on other matters relevant to the material allegations in the *Information*.⁴⁵ Witness Magay also identified exhibits “E”, “E-1”, “E-2”, “E-3”, “H”, and “H-1” previously identified by witness Dalanos.

During his cross-examination, witness Magay admitted that contrary to the statement in his *Judicial Affidavit*, accused Hagedorn indeed replied to his letter dated November 4, 2015.⁴⁶ However, upon clarificatory question propounded by the Court, witness Magay explained that what he recalled was the reply letter dated July 28, 2014, of accused Hagedorn to the letter dated April 7, 2014, of witness Del Rosario.⁴⁷

5. Testimony of witness Merlin C. Pineda.

The prosecution called to the witness stand its fifth witness **Police Major Merlin C. Pineda (“Pineda”)** on November 21, 2019.⁴⁸ Witness PMAJ Pineda identified his *Judicial Affidavit*⁴⁹ dated October 28, 2019, which also constitutes as his direct testimony. At the time of his presentation as witness, Pineda is the Chief of Firearms and Ammunition Department, Supply Management Division of the Philippine National Police (“PNP”).

The prosecution offered the testimony of witness Pineda to prove the following matters: (1) that he is the Chief of Firearms and Ammunition Department, Supply Management Division of the PNP; (2) that he has custody of Supply Directive 0604C-2-129 dated April 11, 2006; (3) that the original of the Supply Directive 0604C-2-129 could no longer be found despite intelligent efforts to locate the same; (4) that he submitted to the Office of the Special Prosecutor the certified true copy of the Supply Directive 0604C-2-129; (5) that the unreturned 14 firearms (“subject firearms”) are covered by the said supply directive; (6) that the unreturned 14 firearms (“subject firearms”) are public properties, being the properties of the PNP; (7) that the respective serial numbers of the 50 refurbished firearms, including the firearms subject of the case, should remain the same because the Mountain Clark Gunsmith is not authorize to tamper, obliterate, or alter the serial numbers; (8) that he will identify his *Judicial Affidavit*, his signature thereon and the attached documents; and (9) that he will testify on other matters relevant to the material allegation in the *Information*.⁵⁰ Witness Pineda identified *Exhibit “K”*⁵¹ which is the Supply Directive NR: 0604C-2-129-PNP dated April 11, 2006.

⁴⁵ TSN dated November 7, 2019, pp. 5-6.

⁴⁶ *Id.*, pp. 13-15.

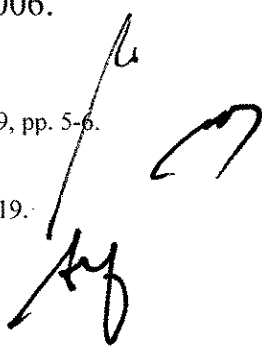
⁴⁷ *Id.*, pp. 20-21.

⁴⁸ TSN dated November 21, 2019.

⁴⁹ Record, Vol. I, pp. 460-469.

⁵⁰ *Id.*, p. 460-461.

⁵¹ Record, Vol. I, p. 468.



x-----x

For the purposes of expediency, the prosecution offered for stipulation the purposes for which the intended witness is called to testify. The defense agreed to stipulate for purposes 1 to 9 except for 5 and 6 wherein the prosecution deleted the word “unreturned.” The counsels likewise stipulated that witness PMAJ Pineda has no personal knowledge as to the facts and circumstances leading to the issuance of Supply Directive 0604C-2-129 dated April 11, 2006, which the prosecution marked as *Exhibit “K”*, and adopted by the defense as *Exhibit “23”*, as well as the last paragraph as *Exhibit “23-A”*. The counsels further made stipulations that the subject firearms were issued for the use of the Palawan Police Office and that the Supply Directive is just a mere photocopy.⁵²

6. Testimony of witness Dante C. Gapulao.

On November 21, 2019, the prosecution called to testify its sixth witness in the person of **Dante C. Gapulao (“Gapulao”)**.⁵³ Witness Gapulao identified his *Judicial Affidavit*⁵⁴ dated October 17, 2019, which constitutes as his direct testimony. At the time of his presentation as witness, Gapulao is a Storekeeper III of the City GSO of Puerto Princesa City.

The testimony of witness Gapulao was offered to establish the following: (1) that he a storekeeper III of the City GSO of Puerto Princesa City since 2017; (2) that in 2006, he was a Storekeeper I in the same office; (3) that on April 21, 2006, he inspected fifty (50) refurbished M16 firearms converted to infant at the residence of accused Hagedorn; (4) that after the inspection, he signed a Supply Directive 0604C-2-129 dated April 11, 2006; (5) that he will identify his Judicial affidavit, his signature thereon and the attached documents; and (6) that he will testify on other matters relevant to the material allegation in the *Information*.⁵⁵ For purposes of expediency, the parties stipulated purposes 1 to 6.⁵⁶

7. Testimony of witness Carlos P. Palanca.

The prosecution presented **Carlos P. Palanca (“Palanca”)** as its seventh witness on December 2, 2019.⁵⁷ His direct testimony was by way of his sworn *Judicial Affidavit*⁵⁸ dated October 30, 2019. At the time of his testimony, witness Palanca is a retired government employee and a former Storekeeper III of the City GSO of Puerto Princesa City.

⁵² TSN dated November 21, 2019, p. 16.

⁵³ TSN dated November 21, 2019.

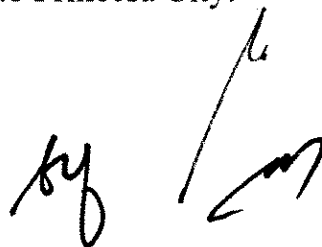
⁵⁴ Record, Vol. I, pp. 470-477.

⁵⁵ *Id.*, p. 470-471.

⁵⁶ TSN dated November 21, 2019, p. 32.

⁵⁷ TSN dated December 2, 2019.

⁵⁸ Record, Vol. I, pp. 485-492.



x-----x

The prosecution offered the testimony of witness Palanca to prove the following: (1) that he was Storekeeper III of the City GSO of Puerto Princesa City from 1992 up to February 2013; (2) that as Storekeeper III, he was tasked to inspect incoming deliveries of supplies and to sign the Inspection Report; (3) that in 2006, he inspected fifty (50) refurbished M16 firearms converted to infant at the residence of accused Hagedorn; (4) that after he inspected the fifty (50) firearms, he signed the Inspection and Acceptance Report (*Exhibit "N"* for the prosecution); (5) that he will identify his *Judicial Affidavit*, his signature thereon and the attached documents; and (6) that he will testify on other matters relevant to the material allegation in the *Information*.⁵⁹ Witness Palanca likewise identified the Inspection and Acceptance Report marked as *Exhibit "N"*.⁶⁰

On questions propounded by the Court, witness Palanca testified that he was instructed by the City General Services Officer, Ruben Fernandez, to inspect the firearms at the residence of accused Hagedorn. He and Dante Cabulao opened the boxes and inspected each of the fifty (50) firearms and recorded their respective serial numbers. After the inspection, witness Palanca returned to the GSO and signed the Inspection and Acceptance Report.⁶¹

8. Testimony of witness Ricardo M. Chu.

On January 15, 2020, the prosecution called to the witness stand its eighth witness, in the person of **Ricardo M. Chu** ("**Chu**").⁶² His direct testimony was by way of his sworn *Judicial Affidavit*⁶³ dated August 14, 2019.

The testimony of witness Chu was offered to prove that: (1) he used to manage Mountain Clark Gunsmith located at 15-29 Don Jose Street, Don Bonifacio Subdivision, Angeles, Pampanga; (2) Mountain Clark Gunsmith is engaged in repairing or reconditioning of firearms; (3) Sometime in 2006, Mountain Clark Gunsmith repaired fifty (50) units of M16 Armalite Rifle of the PNP; (4) the repair process conducted by Mountain Clark Gunsmith did not affect the serial numbers of the fifty (50) firearms; (5) he will identify his *Judicial Affidavit* and his signature thereon; and (6) he will testify on other matters relevant to the material allegations in the *Information*.⁶⁴

On cross-examination, witness Chu admitted that aside from the statements he made in his *Judicial Affidavit*, he does not have any

⁵⁹ *Id.*, p. 485-486

⁶⁰ Record, Vol. I, p. 491.

⁶¹ TSN dated December 2, 2019, pp. 22-40.

⁶² TSN dated January 15, 2020.

⁶³ Record, Vol. I, pp. 527-535.

⁶⁴ *Id.*, p. 528.

x-----x

documentary evidence to prove the following: (1) that he is engaged in the business of repairing firearms; (2) that he was issued a permit by the Firearms and Explosives Unit of the PNP; (3) that he signed a Memorandum of Agreement with the PNP for the repair of the fifty (50) firearms; (4) that the repair process did not affect the serial number of the firearms; and (5) that he signed a Memorandum of Agreement with the Local Government of Puerto Princesa City for the repair of the firearms and the payment of the repair cost in the amount of Php1,750,000.00 less withholding tax.⁶⁵

On questions propounded by the Court, witness Chu testified that Mountain Clark Gunsmith indeed entered into an agreement with the PNP and the Local Government of Puerto Princesa City with respect to the fifty (50) firearms. Under the terms of the said agreement, the firearms were given by the PNP to the Local Government of Puerto Princesa City. Thereafter, the Local Government of Puerto Princesa City sent the said firearms to Mountain Clark Gunsmith for repair and conversion. In return, the Local Government of Puerto Princesa City paid Mountain Clark Gunsmith the accompanying cost of the repair and conversion of the firearms. Notwithstanding the foregoing, the PNP maintains the ownership of the said firearms.⁶⁶

9. Testimony of witness Shirley C. Cortes.

On January 16, 2020, the prosecution offered in evidence the testimony of its ninth witness, in the person of **Shirley C. Cortes** ("**Cortes**").⁶⁷ Witness Cortes testified on direct examination through her *Judicial Affidavit*⁶⁸ dated December 19, 2019. At the time of her presentation as witness, Cortes is a Police Staff Sergeant assigned at Doctor Jose Rizal Municipal Police Station in Palawan.

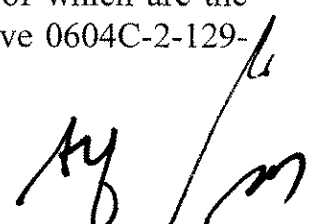
The testimony of witness Cortes was offered to prove the following matters: (1) that she is a Police Staff Sergeant assigned at Doctor Jose Rizal Municipal Police Station in Palawan since 2018; (2) that in 2006, she was designated as the Responsible Supply Officer of the City Police Station, Puerto Princesa City, Palawan; (3) that her duties and responsibilities include receiving and issuing of firearms to the members of the city police station and monthly monitoring of issued firearms and vehicles; (4) that sometime in 2006, she inspected and received thirty (30) units of refurbished M16 armalite rifle at the residence of accused Hagedorn in Barangay San Pedro, Puerto Princesa City; (5) that accused Hagedorn received twenty (20) units of the refurbished M16 armalite rifle, fourteen (14) of which are the subject of this case; (6) that she signed the Supply Directive 0604C-2-129-

⁶⁵ TSN dated January 15, 2020, pp. 6-8.

⁶⁶ *Id.*, pp. 8-11.

⁶⁷ TSN dated January 16, 2020.

⁶⁸ Record, Vol. I, pp. 536-546.



X-----X

PNP dated April 11, 2006 (*Exhibit "K"* for the prosecution); (7) that she will identify her *Judicial Affidavit*, her signature thereon and the attached documents; and (6) that she will testify on other matters relevant to the material allegation in the *Information*.⁶⁹ Witness Cortes also identified Exhibits "E", "E-1", "E-2", "E-3", and "K", previously identified by other witnesses for the prosecution, as well as *Exhibit "K-1"*⁷⁰ which pertains to the Supply Directive with encircled serial numbers and a highlighted serial number.

During cross-examination, witness Cortes admitted that she has no documentary proof that she was employed as the responsible Supply Officer of the City Police Station of Puerto Princesa City.⁷¹

On questions propounded by the Court, witness Cortes testified that she was informed by the Chief of Police that fifty (50) firearms were to be delivered to the residence of accused Hagedorn. Thereafter, she was instructed to go to the said residence and inspect the firearms. During the inspection, she was only handed thirty (30) firearms, the serial numbers of which were duly encircled in the Supply Directive (*Exhibit "K-1"*). According to her, a certain Randy L. Suelo told her that the other twenty (20) firearms were retained in the residence of accused Hagedorn, the serial numbers of which were duly listed in the Memorandum Receipt (*Exhibit "E"*). The thirty (30) firearms were eventually delivered to the police station and issued to the police officers. Moreover, witness Cortes testified that during her stint in the City Police Station of Puerto Princesa City, the twenty (20) firearms retained in the residence of accused Hagedorn were never assigned to the police station.⁷²

After presenting its witnesses, the prosecution, on January 28, 2020, filed its *Formal Offer of Documentary Evidence*,⁷³ which provides the following, to wit:

Exhibit	Description of the Documents
A-8 ⁷⁴	Letter of Edward S. Hagedorn dated July 28, 2014.
E ⁷⁵	Memorandum Receipt for Semi-Expendable and Non-Expendable Supplies or Property signed by Edward S. Hagedorn on May 12, 2006.
E-1 ⁷⁶	Printed Name of Edward S. Hagedorn.
E-2 ⁷⁷	Designation of Edward S. Hagedorn.
E-3 ⁷⁸	Signature of Edward S. Hagedorn.

⁶⁹ *Id.*, p. 536-537.

⁷⁰ Record, Vol. I, P. 543.

⁷¹ TSN dated January 16, 2020, p. 7.

⁷² *Id.*, pp. 17-26.

⁷³ Record, Vol. I, pp. 554-571.

⁷⁴ Record, Vol. I, p. 564.

⁷⁵ Record, Vol. I, p. 565.

⁷⁶ *Id.*

⁷⁷ *Id.*

X-----X

F ⁷⁹	Letter dated February 24, 2014, from the City General Services officer, Roseville O. Del Rosario, addressed to Edward S. Hagedorn.
F-1 ⁸⁰	Signature of Edward S. Hagedorn on the February 24, 2014, Letter.
F-2 ⁸¹	Date "2-27-14" below the signature of Edward S. Hagedorn.
G ⁸²	Letter dated April 7, 2014, from the City General Services Officer, Roseville P. Del Rosario, addressed to Edward S. Hagedorn.
G-1 ⁸³	Signature of Edward S. Hagedorn on the April 7, 2014, Letter.
H ⁸⁴	Letter dated November 4, 2015, from the Acting City General Services Officer Tiburcio B. Magay to Edward S. Hagedorn.
H-1 ⁸⁵	Signature of the representative from the City Legal Officer dated November 6, 2015.
K ⁸⁶	Supply Directive Nr. 0604C-2-129-PNP dated April 11, 2006.
K-1 ⁸⁷	Supply Directive Nr. 0604C-2-129-PNP dated April 11, 2006, with encircled serial numbers.
N ⁸⁸	Inspection and Acceptance report of 50 units of Refurbished M16 Armalite Rifles.

The Court, taking into consideration accused Hagedorn's *Comment/Opposition (to Plaintiff's Formal Offer of Documentary Evidence dated January 24, 2020)*⁸⁹ filed on February 18, 2020, the Court resolved to admit the preceding exhibits for the prosecution.⁹⁰

On March 13, 2020, accused Hagedorn filed his *Motion for Leave of Court to File Demurrer to Evidence (with attached Demurrer to Evidence)*.⁹¹ On June 22, 2020, the Prosecution filed its *Opposition*⁹² to the aforementioned motion. Acting on the foregoing pleadings, the Court, in its *Resolution*⁹³ dated June 25, 2020, denied accused Hagedorn's *Motion for Leave of Court to File Demurrer to Evidence* for lack of merit.

Following the denial of his *Motion for Leave of Court to File Demurrer to Evidence*, accused Hagedorn filed his *Manifestation* stating that he will not pursue his demurrer to evidence and will proceed to adduce evidence on his defense.⁹⁴

78 *Id.*
 79 Record, Vol. I, p. 566.
 80 *Id.*
 81 *Id.*
 82 Record, Vol. I, p. 567.
 83 *Id.*
 84 Record, Vol. I, p. 568.
 85 *Id.*
 86 Record, Vol. I, p. 569.
 87 Record, Vol. I, p. 570.
 88 Record, Vol. I, p. 571.
 89 Record, Vol. I, pp. 578-583.
 90 Record, Vol. I, p. 590.
 91 Record, Vol. I, pp. 598-614.
 92 Record, Vol. I, pp. 633-641.
 93 Record, Vol. I, p. 653.
 94 Record, Vol. I, pp. 658-660.

Handwritten signature and initials, possibly 'L' and 'ky', are present in the right margin of the page.

EVIDENCE FOR THE DEFENSE

1. Testimony of witness Rogelio Roquid.

On March 23, 2021, the defense presented its first witness, in the person of **Rogelio Roquid** (“Roquid”).⁹⁵ During the hearing, he identified his *Judicial Affidavit*⁹⁶ dated March 10, 2021. The testimony of witness Roquid was being offered to prove that two (2) of the subject firearms with complete sets of accessories and bearing serial numbers 111467 and 9058027 were surrendered to Senior Police 2 Allan M. Aurelio of the Firearms Explosive Security Agencies and Guard Supervision (“FESAGS”), Puerto Princesa Police Office last September 10, 2017.⁹⁷ Witness Roquid identified *Exhibit “16”*⁹⁸, “16-1”,⁹⁹ which pertains to the *Affidavit of Turn Over* and his signature appearing therein, and *Exhibits “24”*¹⁰⁰ to “24-a”¹⁰¹ which are the photographs taken during the turn-over ceremony.

During his cross-examination, witness Roquid testified that sometime in 2016, he was asked by accused Hagedorn to retrieve the firearms in the possession of James Eda and Antonio Canlas, who were part of the security detail of accused Hagedorn. They met in C-5 in Parañaque. Thereafter, witness Roquid executed an *Affidavit of Turn Over* involving the retrieved firearms with serial numbers 111467 and 9058027. Sometime in 2017, witness Roquid saw the turn-over made by accused Hagedorn to SPO2 Allan M. Aurelio, involving five (5) firearms which include the retrieved firearms with serial numbers 111467 and 9058027, in CEO Suites, Makati City. During the turn-over, witness Roquid took pictures of accused Hagedorn and SPO2 Aurelio with the four (4) firearms. Witness Roquid used the phone of accused Hagedorn in taking the pictures.¹⁰²

On clarificatory questions propounded by the Court, witness Roquid testified that he was specifically instructed by accused Hagedorn to retrieve those two (2) firearms from Eda and Canlas since he is employed as the personal driver at that time. He was familiar with Eda and Canlas because they were also employees of accused Hagedorn. Upon retrieving the firearms, witness Roquid delivered the same to the residence of accused Hagedorn in Parañaque. During the turn-over ceremony, a man in civilian clothing introduced himself as SPO2 Aurelio, who received the five (5) firearms, including the retrieved firearms from Eda and Canlas. As recalled

⁹⁵ TSN dated March 23, 2021.

⁹⁶ Record, Vol. I, pp. 757-765.

⁹⁷ *Id.*, p. 757.

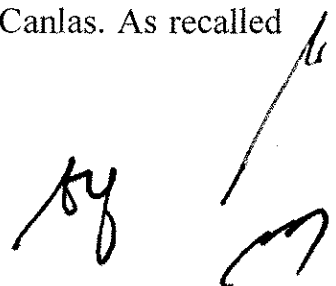
⁹⁸ Record, Vol. I, p. 763.

⁹⁹ *Id.*

¹⁰⁰ Record, Vol. I, p. 764.

¹⁰¹ Record, Vol. I, p. 765.

¹⁰² TSN dated March 23, 2021, p. 19-35.



by witness Roquid, he remembered having seen accused Hagedorn and SPO2 Aurelio execute a document relative to the five (5) firearms.¹⁰³

On further questions made by the Court, witness Roquid admitted that he fetched Eda and Canlas and accompanied them to the residence of accused Hagedorn to turn-over the firearms.¹⁰⁴

2. Testimony of witness Erzon Evangelista.

On October 15, 2021, the defense called to the witness stand its second witness in the person of **Erzon Evangelista (“Evangelista”)**,¹⁰⁵ who identified his *Judicial Affidavit*¹⁰⁶ dated October 8, 2021, which constituted as his direct testimony. His testimony was offered to prove the following matters: (1) that the three (3) firearms subject of this case bearing serial numbers 4912083, 201761, and 220420 alleged to be missing were under the custody or control of the witness from the year 2011 until September 10, 2017; (2) that he immediately turned-over the said firearms upon learning that accused Hagedorn was looking for them; (3) that the three (3) firearms were then surrendered by accused Hagedorn to SPO2 Aurelio on September 10, 2017; and (4) he will identify the documents in connection with the case.¹⁰⁷ Witness Evangelista likewise identified *Exhibits “17”*,¹⁰⁸ *“17-a”*,¹⁰⁹ which pertain to his *Affidavit of Turn Over* and his signature appearing therein, *Exhibits “14”*,¹¹⁰ *“14-a”*,¹¹¹ *“14-b”*,¹¹² which pertains to the Acknowledgment Receipt dated September 10, 2017, and the signatures appearing therein, as well as *Exhibits “24” and “24-a”*, previously identified by witness Roquid.

On cross-examination, witness Evangelista testified that he is the brother-in-law of Randy Suelo. According to him, Suelo was one of the security details of accused Hagedorn. Sometime on January 28 or 29, 2011, Suelo went to his house informing him that they are going to look for the killer of Dr. Ortega. On February 2, 2011, upon catching the killer of Dr. Ortega, Suelo returned and left the three (3) firearms in the custody of witness Evangelista. Sometime in 2017, a certain Macapagal called him to ask about the whereabouts of Mr. Suelo and informed him that accused Hagedorn is looking for firearms. On September 10, 2017, witness

¹⁰³ *Id.*, p. 36-48.
¹⁰⁴ *Id.*, p. 48-56.
¹⁰⁵ TSN dated October 15, 2021.
¹⁰⁶ Record, Vol II, pp. 44-54.
¹⁰⁷ *Id.*, p. 44.
¹⁰⁸ *Id.*, p.51.
¹⁰⁹ *Id.*
¹¹⁰ *Id.*, Vol II, p.52.
¹¹¹ *Id.*
¹¹² *Id.*

Handwritten signatures and initials in black ink. On the left, there are initials that appear to be 'Ry'. On the right, there is a signature that looks like 'Suelo' with a long, sweeping line extending upwards and to the right.

X-----X

Evangelista turned over the firearms to accused Hagedorn, and the same was turned over by accused Hagedorn to SPO2 Aurelio in CEO Suites, Makati.

3. Testimony of Police Chief Master Sergeant Allan Malicad Aurelio.

The defense presented its third witness in the person of **Police Chief Master Sergeant Allan Malicad Aurelio (“Aurelio”)** on November 15, 2021.¹¹³ Witness Aurelio identified his *Judicial Affidavit*¹¹⁴ dated November 11, 2021, which constituted as his direct testimony.

The testimony of witness Aurelio was offered to prove the following:

- (1) that he was assigned as Police Non-Commission Officer at the Firearms Explosive Security Agencies & Guard Section (“FESAGS”) Puerto Princesa Police Office from November 15, 2013, to February 7, 2018;
- (2) that as Police Non-Commission Officer of FESAGS, his duties and responsibilities include the following: (i) to receive directives from higher headquarters pertaining to Oplan Katok, matters on security agencies and guards and to act on the same, as appropriate; (ii) to receive and act as custodian of firearms subject for deposit, or firearms considered to have been recovered, lost, surrendered, or subject to renewal; (iii) to submit appropriate reports; and (iv) perform other tasks as directed;
- (3) that on March 20, 2017, accused Hagedorn turned over to him at the Office of the City Mayor two (2) firearms, as follows: (i) One (1) unit refurbished cal. 5.56 RFL/Elisco bearing serial number RP 213536 with two (2) short magazines for M16; and (ii) One (1) unit refurbished cal. 5.56 RFL/Elisco with defaced serial number;
- (4) that on September 5, 2017, accused Hagedorn turned over to him at the Montessori Compound, Brgy. Tiniguiban, Puerto Princesa City, Palawan, seven (7) firearms, as follows: (i) Three (3) units of refurbished cal. 5.56 rifle/Colt converted into infant bearing serial numbers 054233, 171230, and 9014982; (ii) Four (4) units refurbished cal. 5.56 rifle/Elisco with serial numbers 229071, 171858, 238383, and 9058310;
- (5) that on September 10, 2017, accused Hagedorn turned over to him at the CEO Suites, Makati City, five (5) firearms, as follows: Five (5) units of refurbished Armalite rifle bearing serial numbers 111467, 4912083, 220420, 201761, and 9058027; and

¹¹³ TSN dated November 15, 2021.
¹¹⁴ Record, Vol II, pp. 233-248.

X-----X

- (6) that witness will also identify documents in connection with the case.¹¹⁵

In his *Judicial Affidavit*, witness Aurelio identified the following Exhibits:

Acknowledgment Receipt dated March 20, 2017, (*Exhibits "19" and "19-a"*¹¹⁶); Memorandum with No. FESAGSS-2017-0320-01 dated March 21, 2017, (*Exhibits "20-a"*¹¹⁷, and "*20-b"*¹¹⁸); Acknowledgment Receipt dated September 5, 2017, (*Exhibit "10"*¹¹⁹); Memorandum with No. FESAGS-2017-0906-06 dated September 6, 2017 (*Exhibit "21-a"*¹²⁰); photographs taken during the turn-over ceremony on September 5, 2017, (*Exhibits "1" to "9"*¹²¹); Acknowledgment Receipt dated September 10, 2017, (*Exhibits "14" - "14-c"*¹²²); Memorandum with No. FESAGS-2017-0914-07 dated September 14, 2017, (*Exhibit "22-a"*¹²³); photographs taken during the turn-over ceremony on September 10, 2017, (*Exhibits "24" - "24-a"*¹²⁴); Letter Request of accused Hagedorn (*Exhibit "11"*¹²⁵); Certification with FESAGS-2017-0904-3 dated September 4, 2017, (*Exhibits "12" - "12-d"*¹²⁶); Request for Transport Permit dated September 4, 2017, (*Exhibit "13"*¹²⁷); Supply Directive No. 0604C-2-129-PNP dated April 11, 2006; and Permit to Transport (*Exhibit "23"*¹²⁸).

On cross-examination, witness Aurelio testified that the reason why the Acknowledgment Receipt (*Exhibit "19"*) is handwritten was that he failed to bring with him the typewritten form when the two (2) caliber firearms were turned over to him. As for the turn-over of firearms on March 20, 2017, witness Aurelio stated that he received the firearms from the GSO, who previously received the same from accused Hagedorn. When confronted with the documents being referred to in his *Judicial Affidavit*, witness Aurelio admitted that the originals of these documents are in his possession despite the fact that he is not the official custodian thereof.¹²⁹ Anent the printouts of the photographs relating to the supposed turn-over on September 10, 2017, witness Aurelio admitted that he is no longer in possession of the original soft copies of the said filed since his phone was corrupted.¹³⁰

¹¹⁵ *Id.*, pp. 233-235.

¹¹⁶ Record, Vol II, p. 215.

¹¹⁷ Record, Vol II, pp. 217-218.

¹¹⁸ Record, Vol II, p. 218.

¹¹⁹ Record, Vol II, p. 191.

¹²⁰ Record, Vol II, pp.220-221.

¹²¹ Record, Vol II, pp. 187-190. As further amended by accused Hagedorn's *Manifestation and Motion* dated March 16, 2022, Record, Vol II, pp. 256-270.

¹²² Record, Vol II, p. 195.

¹²³ Record, Vol II, pp.223-224.

¹²⁴ Record, Vol II, p. 227.

¹²⁵ Record, Vol II, p. 192.

¹²⁶ Record, Vol II, p. 193.

¹²⁷ Record, Vol II, p. 194.

¹²⁸ Record, Vol II, pp. 225-226.

¹²⁹ TSN dated November 15, 2021, pp. 7-27.

¹³⁰ *Id.*, pp. 29-31.

As for the March 20, 2017 turn-over, witness Aurelio testified that he was contacted by a certain Jason Lapuz who mentioned that two (2) firearms are subject to turn-over at the Office of the City Mayor. Concerning the September 5, 2017 turn-over, witness Aurelio mentioned that he was contacted by a certain Vicky de Guzman, a former counselor, who informed him that seven (7) firearms are subject to turn-over in the Montessori Compound.¹³¹

During the turn-over on September 10, 2017, at the CEO Suites, Makati City, witness Aurelio testified that he received a total of five (5) firearms from accused Hagedorn. After securing the Transport Permit from Camp Crame, he and SPO2 Yolene Valdez took the retrieved firearms to the airport to be transported to Puerto Princesa City. He eventually collected the firearms from the Puerto Princesa Airport on September 13, 2017. As admitted by witness Aurelio, this was the first time that they retrieved firearms outside Puerto Princesa City under the Oplan Katok.¹³² According to him, accused Hagedorn paid for all the expenses relative to the said turn-over.¹³³

On questions propounded by the Court, witness Aurelio testified that he has been in possession of the documents he identified in his *Judicial Affidavit* even before he went to schooling in 2018. According to him, the reason why he kept these documents is to prevent them from being lost.¹³⁴ As admitted by witness Aurelio, the “COMU” Office is the official custodian of the said documents.¹³⁵ When confronted with the alleged PNP Scene of the Crime Operatives (“SOCO”) macro etching report, he admitted that he is not in possession of the said report.¹³⁶

4. Testimony of Former Vice Mayor Luis Marcaida III.

On December 10, 2021, the defense offered in evidence the testimony of its fourth witness in the person of **Former Vice Mayor Luis Marcaida III (“Marcaida”)**.¹³⁷ During the hearing, he identified his *Judicial Affidavit*¹³⁸ notarized on December 7, 2021, which constituted as his direct testimony. The testimony of witness Marcaida was offered to prove the following matters: (1) that he was the Vice Mayor of Puerto Princesa City, Palawan from June 30, 2016, to February 20, 2017; (2) that on February 21, 2017, he was sworn into office as mayor of Puerto Princesa City and held

¹³¹ *Id.* pp. 37-38.

¹³² *Id.* pp. 32-34.

¹³³ *Id.* p. 39.

¹³⁴ *Id.* pp. 28-29.

¹³⁵ *Id.* p. 51.

¹³⁶ *Id.* p. 60-62.

¹³⁷ TSN dated December 10, 2021.

¹³⁸ Record, Vol. II, pp. 133-144.

X-----X

office as mayor until June 20, 2017; (3) that as former mayor of Puerto Princesa City, his duties and responsibilities include the following: (a) enforcement of all laws and ordinances pertinent to the effective governance of the city; (b) exercise general supervision and control over all programs, projects, services, and activities of the local government; (b) exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance; (4) that on March 20, 2017, accused Hagedorn turned over at the Office of the City Mayor two (2) firearms, as follows: one (1) unit of refurbished cal. 5.56 RFL/Elisco bearing serial number RP 213536 with two (2) short magazines for M16 and one (1) unit of refurbished cal. 5.56 RFL/Elisco with defaced serial number; (5) that he will also identify documents in connection with the case. Witness Marcaida also identified the Acknowledgment Receipt dated March 20, 2017, (Exhibits "19" and "19-a"¹³⁹), the Memorandum dated November 7, 2017, (Exhibit "26"¹⁴⁰), and the Inventory of Long Firearms (Infant) as of December 6, 2021 (Exhibit "25"¹⁴¹).

During cross-examination, witness Marcaida admitted that it was someone from the GSO, in the person of Jason Lapuz, who verified that one of the two firearms was indeed the one being demanded by the city government from accused Hagedorn.¹⁴² Witness Marcaida likewise identified the Memorandum dated November 7, 2017, which he was able to secure from the PNP Puerto Princesa City.¹⁴³

After presenting their witnesses, accused Hagedorn filed his *Formal Offer of Documentary Evidence*,¹⁴⁴ offering the following documentary exhibits:

Exhibit	Description of the Documents
"1" to "9" ¹⁴⁵	Photographs taken during the turn-over ceremony for the return of firearms to the FESAGS Puerto Princesa Police Office at the Montessori Compound, Bgry. Tiniguiban, Puerto Princesa City, Palawan.
"10" ¹⁴⁶	Acknowledgement Receipt dated September 5, 2017, issued by Puerto Princesa Police Office.
"10-a" "10-b" "10-c" "10-d" ¹⁴⁷	Signature of Edward S. Hagedorn, SPO2 Allan Malicad Aurelio, SPO2 Yolene Valdez, and PO2 Caesar Falcunaya.
"11" ¹⁴⁸	Letter dated August 30, 2017, of Edward S. Hagedorn to Police Senior

¹³⁹ Record, Vol II, p. 215.

¹⁴⁰ Record, Vol II, pp. 228.-232.

¹⁴¹ Record, Vol II, p. 228.

¹⁴² TSN dated December 10, 2021, pp. 15-17.

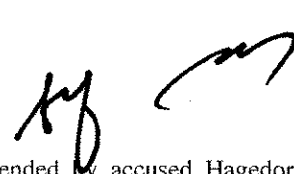
¹⁴³ *Id.*, pp. 21-24.

¹⁴⁴ Record, Vol II, pp. 170-255.

¹⁴⁵ Record, Vol II, pp. 187-190. As further amended by accused Hagedorn's *Manifestation and Motion* dated March 16, 2022, Record, Vol II, pp. 256-270.

¹⁴⁶ Record, Vol II, p. 191.

¹⁴⁷ *Id.*



X-----X

	Superintendent Ronnie Francis M. Cariaga.
“11-a” ¹⁴⁹	Signature of Edward S. Hagedorn.
“12” ¹⁵⁰	Certification FESAGS-2017-0904-3 dated September 4, 2017, issued by PNP Puerto Princesa City Police Office.
“12-a” “12-b” “12-c” “12-d” ¹⁵¹	Signature of SPO2 Allan M. Aurelio, SPO2 Yolene v. Valdez, PCINSP Arvin M. Peniones, and PSUPT Ronie S. Bacuel.
“13” ¹⁵²	Memorandum FESAGS 2017-0904-04 Request for Transport Permit dated September 4, 2017, issued by the National Police Commission-Philippine National Police Puerto Princesa City Police Office.
“13-a” ¹⁵³	Signature of PSUPT Ronie S. Bacuel.
“14” ¹⁵⁴	Acknowledgement Receipt dated September 10, 2017, issued by the National Police Commission-Philippine National Police Puerto Princesa City Police Office.
“14-a” ¹⁵⁵ “14-b” “14-c”	Signature of Edward S. Hagedorn, SPO2 Allan Malicad Aurelio, and SPO2 Yolene Valdez.
“15” ¹⁵⁶	Judicial Affidavit of Mr. Rogelio Roquid.
“15-a” ¹⁵⁷	Signature of Mr. Rogelio Roquid.
“16” ¹⁵⁸	Affidavit of Turn Over Government Issued Firearms of Rogelio Roquid.
“16-a” ¹⁵⁹	Signature of Mr. Rogelio Roquid.
“17” ¹⁶⁰	Affidavit of Turn Over Government Issued Firearms of Erzon Evangelista.
“17-a” ¹⁶¹	Signature of Mr. Erzon Evangelista.
“18” ¹⁶²	Judicial Affidavit of Mr. Erzon Evangelista.
“18-a” ¹⁶³	Signature of Mr. Erzon Evangelista.
“19” ¹⁶⁴	Acknowledgement Receipt dated March 20, 2017.
“19-a” ¹⁶⁵	Signature of SPO2 Allan M. Aurelio.
“20” ¹⁶⁶	Operation Branch Routing Slip.
“20-a” ¹⁶⁷	Memorandum FESAGSS-2017-0320-01 dated March 21, 2017, issued by the National Police Commission-Philippine National Police Puerto Princesa City Police Office.
“20-b” ¹⁶⁸	Signature of PSUPT Ronnie Francis M. Cariaga.

148 Record, Vol II, p. 192.
 149 *Id.*
 150 Record, Vol II, p. 193.
 151 *Id.*
 152 Record, Vol II, p. 194.
 153 *Id.*
 154 Record, Vol II, p. 195.
 155 *Id.*
 156 Record, Vol II, pp. 196-203.
 157 Record, Vol II, p. 200.
 158 Record, Vol II, p. 204.
 159 *Id.*
 160 Record, Vol II, p. 205.
 161 *Id.*
 162 Record, Vol II, pp. 206-212.
 163 Record, Vol II, p. 211.
 164 Record, Vol II, p. 215.
 165 *Id.*
 166 Record, Vol II, p. 216.
 167 Record, Vol II, pp. 217-218.

X-----X

“21” ¹⁶⁹	Operation Branch Routing Slip.
“21-a” ¹⁷⁰	Memorandum FESAGSS-2017-0906-06 dated September 6, 2017, issued by the National Police Commission-Philippine National Police Puerto Princesa City Police Office.
“21-b” ¹⁷¹	Signature of PSUPT Ronnie Francis M. Cariaga.
“22” ¹⁷²	Operation Branch Routing Slip.
“22-a” ¹⁷³	Memorandum FESAGSS-2017-0914-07 dated September 14, 2017, issued by the National Police Commission-Philippine National Police Puerto Princesa City Police Office.
“22-b” ¹⁷⁴	Signature of PSUPT Ronnie Francis M. Cariaga.
“23” ¹⁷⁵	Permit to Transport issued by the National Police Commission-Civil Security Group – Firearms and Explosives Office Camp Crame, Quezon City dated September 6, 2017, with Control Number 09-1022-17.
“23-a” ¹⁷⁶	Signature of Police Senior Superintendent Valeriano De Leon, Acting chief of Firearms and Explosives Office Camp Crame, Quezon City.
“24” “24-a” ¹⁷⁷	Photographs taken during the turn-over ceremony for the return of firearms on September 10, 2017, at the CEO Suites in Makati City.
“25” ¹⁷⁸	Inventory of Long Firearms (Infant) as of December 6, 2021.
“25-a” “25-b” “25-c” “25-d” ¹⁷⁹	Signatures of PSMS Yolene V. valdez and PLTCOL Arnel C. Bagona.
“26” ¹⁸⁰	Memorandum dated November 7, 2017, issued by the Philippine National Police of Puerto Princesa City Police Office.
“26-a” ¹⁸¹	Signature of PSUPT Ronnie Francis M. Cariaga.
“27” ¹⁸²	Judicial Affidavit of Allan Aurelio.
“27-a” ¹⁸³	Signature of Allan Aurelio.
“28” ¹⁸⁴	Judicial Affidavit of Luis Marcaida III.
“28-a” ¹⁸⁵	Signature of Luis Marcaida III.

The Court, taking into consideration the prosecution’s *Comment/Opposition (Re: Formal Offer of Evidence dated 11 March 2022)*,¹⁸⁶ issued its *Resolution*¹⁸⁷ dated March 22, 2022, resolved to admit the foregoing exhibits of accused Hagedorn.

¹⁶⁸ Record, Vol II, p. 218.
¹⁶⁹ Record, Vol II, p. 219.
¹⁷⁰ Record, Vol II, pp.220-221.
¹⁷¹ Record, Vol II, p. 221.
¹⁷² Record, Vol II, p. 222.
¹⁷³ Record, Vol II, pp.223-224.
¹⁷⁴ Record, Vol II, p. 224.
¹⁷⁵ Record, Vol II, pp. 225-226.
¹⁷⁶ Record, Vol II, p. 226.
¹⁷⁷ Record, Vol II, p. 227.
¹⁷⁸ Record, Vol II, p. 228.
¹⁷⁹ Record, Vol II, p. 229.
¹⁸⁰ Record, Vol II, pp. 228.-232.
¹⁸¹ Record, Vol II, p. 232.
¹⁸² Record, Vol II, pp. 233-248.
¹⁸³ Record, Vol II, p. 247.
¹⁸⁴ Record, Vol II, p. 249-255.
¹⁸⁵ Record, Vol II, p. 254.
¹⁸⁶ Record, Vol. II, pp. 271-292.

REBUTTAL EVIDENCE FOR THE PROSECUTION

On April 1, 2022, the prosecution filed its *Motion for Leave to Present Rebuttal Evidence*,¹⁸⁸ which was granted by the Court.¹⁸⁹ Accordingly, the prosecution submitted its *Manifestation with Submission*¹⁹⁰ and the *Judicial Affidavit* of Police Major Rafael B. Roxas, Jr.¹⁹¹ on May 12, 2022.

1. Testimony of witness Police Major Rafael B. Roxas Jr.

On May 17, 2022, the prosecution called to the witness stand its last witness in the person of Police Major Rafael B. Roxas, Jr. ("Roxas"). Witness Roxas identified his *Judicial Affidavit*¹⁹² dated May 10, 2022, which constituted as his direct testimony.

The prosecution offered the testimony of witness Roxas for the following purposes:

- (1) to prove that he possesses all the qualifications and has gained all the necessary professional experience to be admitted as an expert witness in the field of Physical Identification, particularly, in the sub-field of macro etching examination;
- (2) to prove that he is currently the Chief of the Plans and Programs Section of the Philippine National Police Forensic Group and has been in the said position since February 2022;
- (3) to prove that from December 2017 to October 2018, he was the Provincial Chief and Physical Identification Examiner of the Palawan Provincial Crime Laboratory Office;
- (4) to prove that, in his capacity as Provincial Chief and Physical Identification Examiner of the Palawan Provincial Crime Laboratory Office, his primary duties and responsibilities include providing comparative examination through macro and micro physical, chemical, and instrumental analysis of trace evidence, as well as conducting examination of obliterated or tampered serial numbers of firearms and motor vehicles;
- (5) to prove that in 2017, in the course of his official duties as provincial Chief and Physical Identification Examiner of the Palawan Provincial Crime Laboratory Office, upon the official request of the Acting City Director of the Puerto Princesa City Police Office, he conducted a macro etching examination of

¹⁸⁷ Record, Vol. II, pp. 294-295.

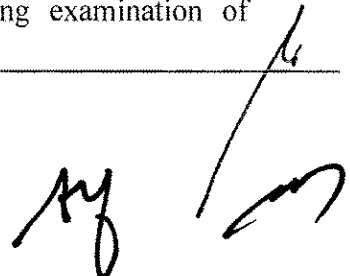
¹⁸⁸ Record, Vol. II, pp. 299-303.

¹⁸⁹ Record, Vol II, p. 305.

¹⁹⁰ Record, Vol. II, pp. 320-321.

¹⁹¹ Record, Vol. II, pp. 322-361.

¹⁹² *Id.*

Handwritten signatures and initials in black ink, including a large signature and a smaller one with the number '4' written above it.

X-----X

firearms bearing the following serial numbers: 054233; 171230; 229071; 171858; 238383; 9058310; 220420; 201761; 4912083; 111467; 184616; 9014982; 9058027; 4927713; and 213536.

- (6) to prove that based on his examination, he concluded that the following firearms, all of which are subject of the instant case, have tampered serial numbers: 054233; 171230; 171858; 238383; 9058310; 201761; 4912083; 9014982; and 9058027.
- (7) to prove that he prepared and signed a report denominated as "Physical Identification Number: PI-172-17" where he stated all his findings on the firearms subjected to macro etching examination;
- (8) to prove that he can produce, authenticate, and identify (a) the pictures he took of the serial numbers of the firearms subjected to macro etching examination, (b) the pictures of the stencils he took of the serial numbers, (c) the supporting and related documents in connection with the macro etching examination that he conducted, and (d) the report denominated as "Physical Identification Number: PI-172-17" which he prepared and signed; and
- (9) to prove that he can testify on matters pertinent and material to the instant case.

On cross-examination, witness Roxas testified that he conducted an examination on the firearms surrendered by accused Hagedorn and that upon verification, the serial numbers are the same as that indicated in the specimen firearms. He likewise admitted that he knew that the said firearms were refurbished and that there is a possibility that the grinding and concavity on the said firearms may have been a result of the firearms being refurbished and converted. Moreover, witness Roxas admitted that while the firearms were tampered, he cannot determine the time when the said tampering was performed and the persons responsible thereof.¹⁹³

Thereafter, the prosecution formally offered the following evidence in open court:

Exhibit	Description of the Documents
"J"	Laboratory Report with Physical Identification number PI-172-17.
"J-1"	Conclusion portion of the report.
"J-2"	Findings Portion of the report
"J-3" ¹⁹⁴	Signature of Rafael Roxas, Jr. appearing in the report.
"J-4-a" ¹⁹⁵	Criminology Board Certification from the PRC.
"J-4-b" ¹⁹⁶	Identification Card of Rafael Roxas, Jr.
"J-4-c" ¹⁹⁷	Certification of Membership in the Professional Criminologist

¹⁹³ TSN dated May 17, 2022, pp. 17-23.

¹⁹⁴ Record, Vol. II, pp. 427-428.

¹⁹⁵ Record, Vol. II, p. 429.

¹⁹⁶ Record, Vol. II, p. 430.

x-----x

	Association of the Philippines.
“J-4-d” ¹⁹⁸	Diploma in Master of Science in Criminology.
“J-4-e” ¹⁹⁹	Training Certificate in Physical Identification.
“J-4-f” ²⁰⁰	General Orders No. 10-2009 declaring Rafael Roxas, Jr.’s graduation from the Seminar Workshop on Macro Etching.
“J-5” ²⁰¹	Memorandum Request dated November 23, 2017, signed by Acting City Director Ronie Frances Mr. Carriage of the Puerto Princesa City Police Office.
“J-6” ²⁰²	Withdrawal Slip dated august 16, 2019.
“J-7-a” to “J-7-o” ²⁰³	Pictures of the serial numbers.
“J-8” ²⁰⁴	Stencils of the serial numbers.

The Court, over the objection of the defense counsel, admitted the aforementioned documentary exhibits in its *Order* dated May 17, 2022.²⁰⁵

SURREBUTTAL EVIDENCE FOR THE DEFENSE

Following the approval of the Court to allow accused Hagedorn to present surrebuttal evidence,²⁰⁶ the latter filed his *Judicial Affidavit*²⁰⁷ dated February 3, 2023, with the attached *Universal Serial Bus (USB) video clip*.²⁰⁸ Thereafter, on February 8, 2023,²⁰⁹ the defense called accused Hagedorn to the witness stand to identify his *Judicial Affidavit*,²¹⁰ which constituted as his direct testimony.

The testimony of accused Hagedorn was offered to prove the following matters: (1) that he was the former Mayor of Puerto Princesa City, Palawan from June 30, 1992 to June 30, 2001, and from November 12, 2002, to June 30, 2013; (2) that as former mayor of Puerto Princesa City, his duties and responsibilities include the enforcement of all laws and ordinances pertinent to the effective governance of the city; exercise general supervision and control over all campaigns, programs, projects, services, and activities of the local government, and exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance; (3) that it was not part of his duties as Mayor of Puerto Princesa to receive and safe keep the alleged fourteen (14) refurbished rifles (“subject

197 Record, Vol. II, p. 431.
198 Record, Vol. II, p. 432.
199 Record, Vol. II, p. 433.
200 Record, Vol. II, pp. 434-435.
201 Record, Vol. II, pp. 436-437.
202 Record, Vol. II, p. 438.
203 Record, Vol. II, pp. 439-453.
204 Record, Vol. II, p. 430.
205 Record, Vol. II, p. 454.
206 Record, Vol. II, p. 312.
207 Record, Vol. II, pp. 508-563
208 Record, Vol. II, p. 505.
209 TSN dated February 8, 2023.
210 *Supra.*

X-----X

firearms”); (4) that he has no interest in keeping the subject firearms and was even the first local government official who surrendered his high-powered and expensive firearms during the term of then President Fidel V. Ramos; (5) that the subject firearms are organizational firearm of the Puerto Princesa City Police Office; (6) that he returned or caused the return of the subject firearms; (7) that it was not part of his duty as Mayor of Puerto Princesa to receive and safe keep the subject refurbished rifles; (8) that in good faith, he took the responsibility upon himself to track down the whereabouts of the refurbished rifles and obtaining the same, made arrangements to secure and surrender them to the proper government authorities; (9) that he could not return the subject refurbished rifles to the City Government of Puerto Princesa for he had no permit to carry them; (10) on March 20, 2017, he returned or caused the return of the first two (2) subject refurbished rifles to SPO2 Aurelio; (11) On September 5, 2017, he returned or caused the return of seven (7) refurbished rifles to FESAGS PNP, Puerto Princesa; (12) On September 10, 2017, he returned or caused the return of the remaining five (5) refurbished rifles to the same FESAGS PNCO; (13) that the subject refurbished rifles of this instant case were already surrendered and accounted for even prior to the filing of the *Information*; (14) that he does not know about the conduct of macro etching examination of the subject refurbished rifles and was not even notified of the same; and (15) witness will also identify documents in connection with the case.²¹¹

On cross-examination, accused Hagedorn testified that based on the Undertaking dated July 8, 2008, he was the one who gave the six (6) armalite rifles to Randy L. Suelo, Head of the Bantay Puerto Project. According to him, he orally informed the GSO that the firearms were assigned to his security detail and personnel. When confronted with the Acknowledgment Receipt dated September 5, 2017, (*Exhibit “10”*)²¹² referring to the turn-over of firearms in Tiniguiban and the Memorandum dated September 4, 2017, (*Exhibit “13”*),²¹³ which refers to the turn-over of firearms in Makati City, accused Hagedorn admitted that the firearm with serial number “229071” appears in both documents.²¹⁴

On February 21, 2023, accused Hagedorn filed his *Formal Offer of Documentary Exhibits (Sur-Rebuttal Evidence)*.²¹⁵

Exhibit	Description of the Documents
“29” ²¹⁶	Judicial Affidavit of Accused Hagedorn.
“29-a” ²¹⁷	Signature of accused Hagedorn.

²¹¹ Record, Vol. II, pp. 508-510.

²¹² Record, Vol II, p. 191.

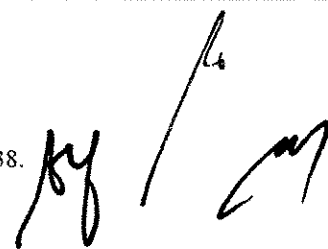
²¹³ Record, Vol II, p. 194.

²¹⁴ TSN dated February 8, 2023, pp. 18-38.

²¹⁵ Record, Vol. II, pp.576-650.

²¹⁶ Record, Vol. II, pp. 590-606.

²¹⁷ *Id.*, p. 605.



X-----X

“30” ²¹⁸	Video Clip containing the speech of then President Fidel V. Ramos pertaining to the government’s program against firearms and accused Hagedorn’s voluntary surrender of his high-powered and expensive firearms to the government authorities.
“31” ²¹⁹ “31-a” ²²⁰	Undertaking dated July 8, 2008, executed by one Randy Lebuna Suelo – Head of Bantay Puerto Program of Puerto Princesa City. Signature of Randy Lebuna Suelo.
“32” ²²¹ “32-a” ²²²	Letter dated July 28, 2014, of accused Hagedorn to GSO Roseville Del Rosario. Signature of accused Hagedorn.
“33” ²²³	Letter of the Office of City Mayor of Puerto Princesa City dated June 7, 2021, signed by City Mayor Lucilo R. Bayron, to PCol. Sergio G. Vivar, Jr.
“34” to “34-a” ²²⁴	Letter of Puerto Princesa City Police Office dated June 9, 2021, signed by PCol. Vivar, Jr. to City Mayor Bayron.
“35” ²²⁵ “35-a” ²²⁶	Letter of accused Hagedorn to Mr. Tiburcio Magay, Assistant GSO – OIC, dated August 30, 2016. Signature of accused Hagedorn.

The Court, taking into consideration the Prosecution’s *Comment/Opposition [Re: Formal Offer of Documentary Exhibits (Sur-Rebuttal Evidence) dated 17 February 2023]*,²²⁷ issued its *Resolution* dated March 1, 2023, resolved to admit the foregoing exhibits of accused Hagedorn.

ISSUES

The following issue and sub-issues were raised during the pre-trial.

Whether accused Edward S. Hagedorn is liable for the crime of Malversation of Public Property under Article 217 of the Revised Penal Code.

- a. Whether or not accused Hagedorn is an accountable officer with regard to the subject firearms.
- b. Whether or not accused Hagedorn appropriated, took, or misappropriated the subject firearms.

²¹⁸ Record, Vol. II, p. 644.
²¹⁹ Record, Vol. II, p. 645.
²²⁰ *Id.*
²²¹ Record, Vol. II, p. 646.
²²² *Id.*
²²³ Record, Vol. II, p. 647.
²²⁴ Record, Vol. II, pp. 648-649.
²²⁵ Record, Vol. II, p. 650.
²²⁶ *Id.*
²²⁷ Record, Vol. II, pp. 662-669.

- c. Whether or not all subject firearms were already surrendered to the government authorities.

RULING OF THE COURT

I. Violation of Article 217 of the Revised Penal Code, as amended.

Accused Hagedorn had been charged in Criminal Case No. SB-18-CRM-0350 for violation of Article 217 of the Revised Penal Code, as amended, which reads:

Article 217. Malversation of public funds or property; Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

xxx

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

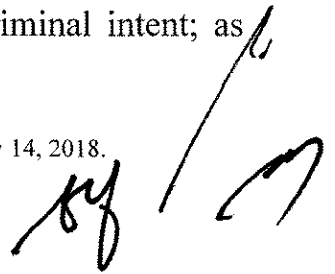
The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal use.²²⁸

The elements of malversation of public funds are (1) the offender is a public officer; (2) he has custody or control of the funds or property by reason of the duties of his office; (3) the funds or property are public funds or property for which he is accountable, and, most importantly; (4) he has appropriated, taken, misappropriated or consented, or, through abandonment or negligence, permitted another person to take them.²²⁹

Malversation may be committed intentionally (*dolo*) or by means of negligence (*culpa*). The crime is committed by means of *dolo* when the act is accompanied by criminal intent as when the offender misappropriated or converted public funds of property to one's personal use. Malversation may also be committed by means of *culpa* or by such negligence or indifference to duty or to consequences as, in law is equivalent to criminal intent; as

²²⁸ As amended by R.A. No. 1060.

²²⁹ *Manuel Venezuela v. People of the Philippines*, G.R. No. 205693, February 14, 2018.



x-----x

when the offender knowingly allowed another or others to make use of or misappropriate public funds or property.²³⁰

The felony involves breach of public trust, and whether it is committed through *dolo* or *culpa* the law makes it punishable and prescribes a uniform penalty therefor. Even when the information charges willful malversation, conviction for malversation through negligence may still be adjudged if the evidence ultimately proves that mode of commission of the offense.²³¹

A. The first element of the violation of Article 217 of the Revised Penal Code: accused is a public officer.

The first element of the offense under Article 217 of the RPC is undisputed, as the parties stipulated in the *Pre-Trial Order*²³² that accused Hagedorn was a public officer at the time relevant to the case, being the Mayor of Puerto Princesa City, Palawan from the year 2004 until 2013. At issue are the second, third, and fourth elements of the offense.

B. The second and third elements of the violation of Article 217 of the Revised Penal Code: accused is an accountable officer with regard to the subject firearms.

The prosecution contends that accused Hagedorn is an accountable public officer under the purview of Article 217 of the RPC on the ground that he was in the custody of the subject firearms.²³³ According to the prosecution,²³⁴ accused Hagedorn actually received and took custody of the subject firearms as provided for in the Inspection and Acceptance Report (*Exhibit "N"*)²³⁵ and the Memorandum Receipt (*Exhibit "E"*)²³⁶.

On the other hand, it is the theory of accused Hagedorn that he is not the accountable officer of the subject firearms because (1) it is not part of his duties as City Mayor to receive and safe keep the subject firearms, (2) it was his personnel who actually received and had actual custody of the said firearms, and (2) the end-user of the subject firearms is the Puerto Princesa Police Office, Palawan PPO.²³⁷

²³⁰ *Tito Sarion v. People*, G.R. Nos. 243029-30, March 18, 2021.

²³¹ *Milagros Diaz v. Sandiganbayan*, G.R. No. 125213, January 26, 1999; citations omitted.

²³² Record, Vol. I, pp. 493-500.

²³³ Record, Vol. I, pp. 637-638.

²³⁴ Record, Vol. I, pp. 635-636.

²³⁵ Record, Vol. I, p. 571.

²³⁶ Record, Vol. I, p. 565.

²³⁷ Record, Vol. I, pp. 604-605.

After a judicious review of the records, the Court holds that accused Hagedorn, as the City Mayor of Puerto Princesa, Palawan, is the accountable officer for the subject firearms by virtue of the functions of his office and his actual receipt of the said public properties.

(1) *Accused Hagedorn is an accountable officer by virtue of the functions of his office as City Mayor.*

As provided for under Sec. 101(1) of Presidential Decree No. 1445, (“P.D. No. 1445”) or the Government Auditing Code of the Philippines, an accountable officer pertains to every officer of any government agency whose duties permit or require the possession or custody of government funds or property and who shall be accountable therefor and for the safekeeping thereof in conformity with the law.²³⁸

In the determination of who is an accountable officer, the Supreme Court, in the case of *Hermoso Arriola and Mechor Radan v. Sandiganbayan*,²³⁹ held that it is the nature of the duties which the officer performs – the fact that, as part of his duties, he received public money for which he was bound to account, and not the nomenclature or the relative importance the position held – which is the controlling factor.

The duties of the City Mayor are enumerated under the Section 455(b) of Republic Act No. 7160, (“R.A. No. 7160”) otherwise known as the Local Government Code (“LGC”), to wit:

Section 455. *Chief Executive; Powers, Duties, and Compensation.*

(b) For efficient, effective, and economical governance the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

(2) Enforce all laws and ordinances relative to the governance of the city and in the exercise of the appropriate corporate powers provided for under Section 22 of this Code, implement all approved policies, programs, projects, services and activities of the city and, in addition to the foregoing, shall:

xxx

(iv) Be entitled to carry the necessary firearm within his territorial jurisdiction;

²³⁸ Section 101. Accountable officers; bond requirement.

1. Every officer of any government agency whose duties permit or require the possession or custody of government funds or property shall be accountable therefor and for the safekeeping thereof in conformity with law.

²³⁹ G.R. No. 165711, June 30, 2006.

X-----X

(v) Act as the deputized representative of the National Police Commission, formulate the peace and order plan of the city and upon its approval, implement the same; and as such exercise general and operational control and supervision over the local police forces in the city, in accordance with R.A. No. 6975;

xxx

In relation to his duty as the deputized representative of the National Police Commission under Section 455(b)(2)(v) of R.A. No. 7160, the City Mayor participates in the administration of the Philippine National Police Units within the territorial jurisdiction. Section 51 of Republic Act No. 6975 ("*R.A. No. 6975*") or the Department of the Interior and Local Government Act of 1990 provides for powers of the City Mayor as the deputized representative of the PNP:

Section 51. *Powers of Local Government Officials Over the PNP Units or Forces.* – Governors and mayors shall be deputized as representatives of the Commission in their respective territorial jurisdiction. As such, the local executives shall discharge the following functions:

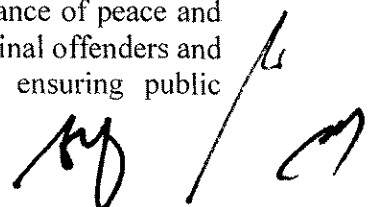
xxx

(b) City and Municipal Mayors – (1) Operational Supervision and Control. The city and municipal mayors shall exercise operational supervision and control over PNP units in their respective jurisdiction except during the thirty (30) day period immediately preceding and the thirty (30) days following any national, local and barangay elections. During the said period, the local police forces shall be under the supervision and control of the Commission on Elections.

The term "operational supervision and control" shall mean the power to direct, superintend, oversee, and inspect the police units and forces.

It shall include the power to employ and deploy units or elements of the PNP, through the station commander, to ensure public safety and effective maintenance of peace and order within the locality. For this purpose, the term "employ" and "deploy" shall mean as follows:

"Employ" refers to utilization of units or elements of the PNP for purposes of protection of lives and properties, enforcement of laws, maintenance of peace and order, prevention of crimes, arrest of criminal offenders and bringing the offenders to justice, and ensuring public



safety, particularly in the suppression of disorders, riots, lawless violence, rebellious seditious conspiracy, insurgency, subversion or other related activities.

"Deploy" shall mean the orderly organized physical movement of elements or units of the PNP within the province, city, or municipality for purposes of employment as herein defined.

(2) Integrated Community Safety Plans. – The municipal/city mayor shall, in coordination with the local peace and order council of which he is the chairman pursuant to Executive Order No. 309, as amended, develop and establish an integrated area/community public safety plan embracing priorities of action and program thrusts for implementation by the local PNP stations.

It shall, likewise, be the duty of the city or municipal mayor to sponsor periodic seminars for members of the PNP assigned or detailed in his city or municipality in order to update them regarding local ordinances and legislations.

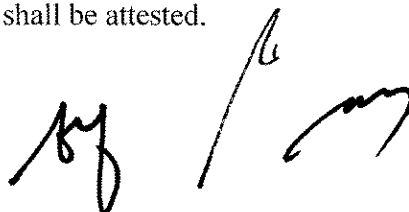
(3) Administrative Disciplinary Powers. – In the areas of discipline, city and municipal mayors shall have the powers to impose, after due notice and summary hearings, disciplinary penalties for minor offenses committed by members of the PNP assigned to their respective jurisdictions, as provided in Section 41 of this Act.

(4) Other Powers. – In addition to the aforementioned powers, city and municipal mayors shall have the following authority over the PNP units in their respective jurisdictions:

(i) Authority to choose the chief of police from a list of five (5) eligibles recommended by the provincial police director, preferably from the same province, city, or municipality.

(ii) Authority to recommend the transfer, reassignment, or detail of PNP members outside of their respective city or town residences; and

(iii) Authority to recommend, from a list of eligibles previously screened by the peace and order council, the appointment of new members of the PNP to be assigned to their respective cities or municipalities without which no such appointment shall be attested.

Three handwritten signatures in black ink are located at the bottom of the page. The first signature on the left is a stylized 'H'. The middle signature is a vertical line with a hook at the top. The signature on the right is a cursive 'M'.

Based on the foregoing, it is clear that the express terms of R.A. No. 7160, in relation to R.A. No. 6975, allow the City Mayor to be in possession of or to be in the custody of public funds or properties relative to his operational supervision and control over the local police as well as his privilege to carry firearms within his territorial jurisdiction.

Such is the case with regard to herein accused Hagedorn and the subject firearms, which are considered organizational firearms of the PNP. To recall, in his *Judicial Affidavit (Exhibit "29")*,²⁴⁰ accused Hagedorn himself admitted that "as former mayor of Puerto Princesa City, his duties and responsibilities include the enforcement of all laws and ordinances pertinent to the effective governance of the city; exercise general supervision and control over all campaigns, programs, projects, services, and activities of the local government; and exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance."²⁴¹ Considering that R.A. No. 7160 and R.A. No. 6975 are laws pertaining to the duties and functions of the City Mayor, accused Hagedorn cannot, now, deny the consequent responsibilities imposed upon him under these laws.

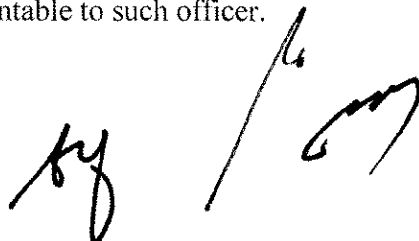
Being the deputized representative of the PNP accused Hagedorn is considered as an accountable officer. R.A. No. 7160 provides for the definitions of an accountable officer with regard to government funds and an accountable officer with regard to government properties. Section 340 of R.A. No. 7160 defines a person accountable for local government funds:

SECTION 340. Persons Accountable for Local Government Funds. - Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

Conversely, Section 375 designates who are the persons with primary and secondary accountability for government property, to wit:

Section 375. Primary and Secondary Accountability for Government Property. - (a) Each head of department or office of a province, city, municipality, or Barangay shall be primarily accountable for all government property assigned or issued to his department or office. The person or persons entrusted with the possession or custody of government property under the accountability of any head of department or office shall be immediately accountable to such officer.

²⁴⁰ Record, Vol. II, pp. 590-606.
²⁴¹ *Id.*, p. 508.

Two handwritten signatures are present at the bottom right of the page. The first signature is a stylized, cursive 'H' followed by a vertical line. The second signature is a more complex, cursive scribble.

x-----x

The same Code likewise provides for the responsibility for the proper use and care of the government property, viz:

SECTION 376. Responsibility for Proper Use and Care of Government Property. - The person in actual physical possession of government property or entrusted with its custody and control shall be responsible for its proper use and care and shall exercise due diligence in the utilization and safekeeping thereof.

In the case of *Hermes Frias, Sr. v. People*,²⁴² the Supreme Court held that a municipal mayor, as the chief executive of the municipality, is considered immediately and primarily responsible for the cash advances he made on behalf of the municipality, which was later disallowed by the provincial auditor. The Supreme Court decreed:

Under the Government Auditing Code of the Philippines, an accountable public officer is a public officer who, by reason of his office, is accountable for public funds or property. The Local Government Code expanded this definition with regard to local government officials. Section 340 thereof provides:

Section 340. *Persons Accountable for Local Government Funds.* — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this title. Other local officials, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

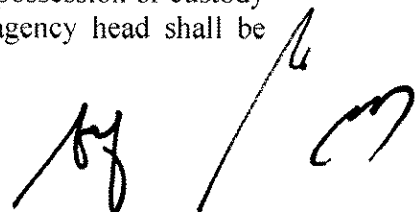
Local government officials become accountable public officers either (1) because of the nature of their functions or (2) on account of their participation in the use or application of public funds.

Of primordial interest in this case is whether petitioner, a municipal mayor, is an accountable public officer.

According to the Local Government Code, municipal mayors are chief executives of their respective municipalities. Section 102 of the Government Auditing Code of the Philippines provides:

Section 102. *Primary and secondary responsibility.*
— (1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

(2) Persons entrusted with the possession or custody of the funds or property under the agency head shall be



x-----x

immediately responsible to him, without prejudice to the liability of either party to the government. (emphasis supplied)

In *Barriga v. Sandiganbayan*, we held that public officers are accountable if they, as part of their duties, receive public funds or property which they are bound to account for but fail to do so.

Petitioner never denied that he received the checks representing the disallowed cash advances. He in fact admitted that the disallowed cash advances were made under his authority, that he was the payee of the checks and that he received them. Thus, it is clear that he, as municipal mayor, received and had possession of (and consequently was accountable for) the cash advances. Petitioner was undeniably an accountable officer.

Thus, being the City Mayor and the deputized representative of the PNP, accused Hagedorn received public funds or property pertaining to his office. As such, he is considered as the person primarily accountable and responsible for the said funds and properties.

(2) Accused Hagedorn's actual receipt of the subject firearms made him primarily accountable thereto.

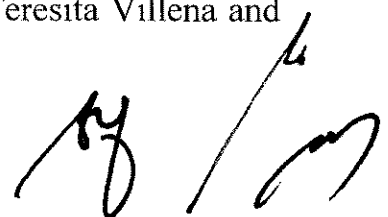
In addition to his functions as the City Mayor, accused Hagedorn is likewise considered an accountable officer by virtue of his actual receipt of the subject firearms. As culled from the records, the subject firearms were issued and assigned by the PNP to the Office of the City Mayor, headed by accused Hagedorn. Thereafter, accused Hagedorn received the subject firearms as the City Mayor of Puerto Princesa City. The records point to the following factual antecedents leading to the case:

(1) On April 11, 2006, Police Director Noe Albano Wong, the Director for Logistics, issued the Supply Directive NR: 0604C-2-129-PNP (*Exhibit "K"*).²⁴³ Under the said Supply Directive, Director Wong directed Mountain Clark Gunsmith to issue fifty (50) units of firearms (description: rifle 5.56M 16 refurbished converted to Infant with complete accessories) from its stocks for the use of Puerto Princesa Police Office.

(2) On May 11, 2006, the City Government of Puerto Princesa issued the Inspection and Acceptance Report (*Exhibit "N"*)²⁴⁴ indicating the requisition of the City Mayor's Office of the said fifty (50) units of firearms from Mountain Clark Gunsmith. The said Report was signed by Teresita Villena and

²⁴³ Record, Vol. I, p. 569.

²⁴⁴ Record, Vol. I, p. 571.



Carlos Palanca, as inspection officers, and Jessie Tabang as property officer.

(3) On May 12, 2006, accused Hagedorn, acting on behalf of the City Government of Puerto Princesa, signed and executed the Memorandum Receipt for Semi-Expendable and No-Expendable Supplies or Properties (*Exhibit "E"*).²⁴⁵ Under the Memorandum Receipt, accused Hagedorn acknowledged the receipt of the twenty (20) out of the fifty (50) firearms, to be used by the "Office of the City Mayor." Furthermore, the said document indicated that accused Hagedorn is "immediately accountable" to the said firearms.

The factual matters stated in the foregoing documentary exhibits were even corroborated by the testimonial evidence of the prosecution. According to witnesses Palanca and Gapulao, they both inspected the fifty (50) firearms in the residence of accused Hagedorn and thereafter signed the Inspection and Acceptance Report (*Exhibit "N"*).²⁴⁶ The testimony of witnesses Palanca and Gapulao coincides with that of witness Cortes who admitted having inspected and received thirty (30) of the fifty (50) firearms, on behalf of the City Police Station, Puerto Princesa City, while the twenty (20) firearms enumerated in the Memorandum Receipt were left in the custody of accused Hagedorn.

To evade the accountability and responsibility imposed by law upon him, accused Hagedorn insisted that: (1) the subject firearms were assigned to his security detail and personnel who received and who have actual custody thereof;²⁴⁷ and (2) that these firearms are organizational firearms of the Puerto Princesa City Police Office.

The arguments of accused Hagedorn are flawed. Being the City Mayor of Puerto Princesa City at the time material to this case, accused Hagedorn is deemed to be the "head" of his office. To reiterate, the Memorandum of Receipt for Semi-Expendable and No-Expendable Supplies or Property (*Exhibit "E"*)²⁴⁸ expressly mentioned that the twenty (20) firearms, which includes the herein subject firearms, were received by Accused Hagedorn from Teresita Villena for "use in the Office of the City Mayor." The said memorandum was signed by accused Hagedorn himself. In addition, the Inspection and Acceptance Report (*Exhibit "N"*)²⁴⁹ explicitly states that the requisitioning office or department of the said firearms is the "City Mayor's Office."

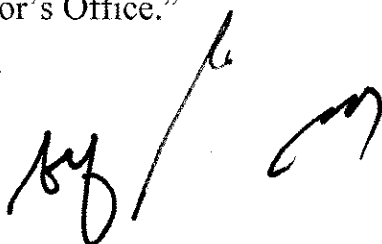
²⁴⁵ Record, Vol. I, p. 565.

²⁴⁶ Record, Vol. I, p. 571.

²⁴⁷ Record, Vol. II, p. 512.

²⁴⁸ Record, Vol. I, p. 565.

²⁴⁹ Record, Vol. I, p. 571.

Handwritten signature and initials, possibly "Hagedorn" and "T. Villena", written in black ink.

To note, accused Hagedorn never challenged the genuineness or existence of the aforementioned documentary exhibits. As a matter of record, accused Hagedorn even acknowledged the Memorandum Receipt and that he signed the same. The following portion of his *Judicial Affidavit* clearly states:

14.Q: Aside from the Undertaking, do you have other proof that indeed the subject refurbished rifles were received by your security detail and personnel?

A: I was the one who signed the document evidencing that I received the refurbished rifles or the Memorandum Receipt and I immediately informed the General Services Office of Puerto Princesa City (GSO) that the refurbished rifles was assigned to my security detail and personnel trusting that the GSO will transfer also the document evidencing receipt of the refurbished firearms. xxx²⁵⁰

The same admission was solicited from accused Hagedorn during the cross-examination:

PROSECUTION BALISACAN:

Q And in your answer, you said that you immediately informed the General Services Office that the firearms were assigned to your security detail and personnel. My question sir is, when you said that you informed the GSO, did you inform the GSO in writing?

WITNESS-ACCUSED:

A Well, he was present. Just for clarification, I was the one who signed the Memorandum of Receipt, the MR, for these firearms. This was actually delegated to me by the City PNP so it is my duty also to protect those guns. The rightful owner of these guns is the Philippine National Police and so I am accountable to them. When they give me the gun, I already told them that I will reassign these guns to the security personnel and our project coordinator in Bantay Puerto Project. So, in from of the GSO, I signed the Memorandum Receipt and the same time handed over the firearms to these personnel. The GSO os present, and he knows the turnover. I was expecting him to, of course, follow up on the whereabouts of these guns if needed. I wasn't informed that the Memorandum of Receipt was never transferred to the personnel that handled the firearms. It's only during the hearing when I found out it's still under my name.²⁵¹

This was further corroborated by the letter dated July 28, 2014, of accused Hagedorn to witness Del Rosario (*Exhibit "A-8"*,²⁵² and "32"²⁵³), a

²⁵⁰ Record, Vol. I, p. 513.
²⁵¹ TSN dated February 8, 2023, pp. 23-24.
²⁵² Record, Vol. I, p. 564.

x-----x

common exhibit, stating that the subject firearms were “duly received” under the name the former.

The mere fact that accused Hagedorn knowingly and willingly signed the Memorandum of Receipt for Semi-Expendable and No-Expendable Supplies or Property (*Exhibit “E”*)²⁵⁴ and declared himself as the person “immediately accountable” to the twenty (20) firearms received by his office, accused Hagedorn is now barred in denying otherwise.

Sec. 2(a), Rule 131 of the 2019 Proposed Amendments to the Revised Rules on Evidence states that “whenever a party has, by his [sic] own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he [sic] cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.” Equitable estoppel under Sec. 2(a), Rule 131 bars accused Hagedorn from taking the stance that he was never in custody of or the person immediately accountable to the twenty firearms, which includes the subject firearms.

In *Hermoso Arriola and Melchor Radan v. Sandiganbayan*,²⁵⁵ the Supreme Court held that the act of a Barangay Captain in affixing his signature in the seizure receipt made him an accountable officer thereof, to wit:

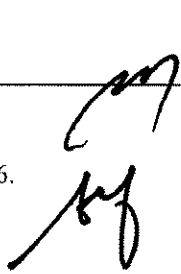
In the determination of who is an accountable officer, it is the nature of the duties which he performs — and not the nomenclature or the relative importance the position held — which is the controlling factor.

Is petitioner Arriola, who signed as custodian in the seizure receipt for the confiscated lumber an accountable officer with respect to its loss?

xxx

In the instant case, Arriola knowingly and willingly signed the seizure receipt for the confiscated articles. By affixing his signature in said document, he undertook to safeguard the lumber on behalf of the Government. The receipt contains a provision which states that as custodian, Arriola “obliges himself to faithfully keep and protect to the best of his ability the said seized articles from defacement in any manner, destruction or loss and that he will never alter or remove said seized articles until ordered by the Secretary of Environment and Natural Resources or his duly authorized representative or any court of Justice in the Philippines.”

253 Record, Vol. II, p. 646.
254 Record, Vol. I, p. 565.
255 G.R. No. 165711, June 30, 2006.



X-----X

Although his usual duties as Barangay Captain do not ordinarily include the receipt of confiscated articles on behalf of the Government, by virtue of the DENR Primer on Illegal Logging, which had for its basis Section 68 of Presidential Decree No. 705, he may be called on to take custody thereof as the need arises. Furthermore, by affixing his signature in the seizure receipt which clearly enumerates his obligations as a custodian therein, he effectively becomes an accountable officer therefor.

Assuming arguendo that the subject firearms were indeed assigned to his security detail and personnel, the same will not prevent the attachment of accountability to accused Hagedorn. Section 101 of P.D. No. 1445 provides for the primary and secondary liability for government funds and property, viz:

Section 102. Primary and secondary responsibility.

1. The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

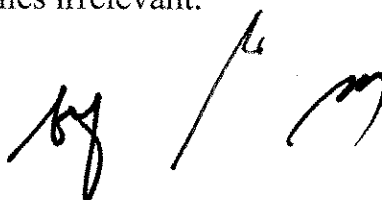
2. Persons entrusted with the possession or custody of the funds or property under the agency head shall be immediately responsible to him, without prejudice to the liability of either party to the government.

Also, Section 377(a) of R.A. No. 7160, declares the measure of liability of persons immediately accountable for government property.

SECTION 377. Measure of Liability of Persons Accountable for Government Property. – (a) The person immediately accountable for government property shall be liable for its money value in case of the illegal, improper or unauthorized use or misapplication thereof, by himself or any other person for whose acts he may be responsible, and he shall be liable for all loss, damage, or deterioration occasioned by negligence in the keeping or use of such property unless it is proved that he has exercised due diligence and care in the utilization and safekeeping thereof.

Based on the foregoing, accused Hagedorn is considered as the person immediately accountable for the subject firearms. The allegation that he subsequently assigned the said firearms to his security detail and personnel, would only make the latter secondarily accountable thereto, making them immediately responsible to accused Hagedorn who is still considered as the officer with primary responsibility.

Considering that the prosecution has sufficiently proven that accused had the actual custody of the subject firearms and that he is immediately accountable thereto, the allegation that the subject firearms are organizational firearms of the PNP becomes irrelevant.

Three handwritten signatures in black ink, appearing to be initials or names, located at the bottom right of the page.

C. The fourth element of the violation of Article 217 of the Revised Penal Code: accused has appropriated, taken, misappropriated, or consented, or, through abandonment or negligence, permitted another person to take them.

Having disposed of the first three (3) elements, the Court now makes a determination if the prosecution has proven beyond reasonable doubt the last element, *i.e.*, that the accused has appropriated, taken, or misappropriated, or has consented to, or thorough abandonment or negligence permitted, the taking by another person of subject properties.

Under Article 217, a presumption was installed that upon demand by any duly authorized officer, the failure of a public officer to have duly forthcoming any public funds or property — with which said officer is accountable — should be *prima facie* evidence that he had put such missing funds or properties to personal use. When these circumstances are present, a presumption of law arises that there was malversation of public funds or properties as decreed by Article 217.²⁵⁶

Although the law creates a presumption that the mere failure of an accountable officer to produce public funds which have come into his hands on demand by an officer duly authorized to examine his accounts is *prima facie* evidence of conversion, the presumption is only *prima facie* hence, rebuttable. This *prima facie* presumption does not shift the burden of proof to the defense. The burden of proof still lies on the prosecution which is duty-bound to adduce evidence showing that all the elements of malversation are present before the defense submits rebuttal evidence to overcome the presumption aforementioned.²⁵⁷

Here, the prosecution proved that there were three (3) demand letters sent to accused Hagedorn pertaining to the subject firearms. First, on February 24, 2014, the City General Services Officer, Roseville Del Rosario, wrote a letter addressed to accused Hagedorn demanding the latter to “surrender” the subject firearms (*Exhibit “F”*).²⁵⁸ This was followed by another letter dated April 7, 2014, of Del Rosario to accused Hagedorn, reiterating her previous letter dated February 24, 2014 (*Exhibit “G”*).²⁵⁹ In response to the letters dated February 24, 2014, and April 7, 2014, accused Hagedorn sent a letter dated July 28, 2014, requesting “ample time to locate” the subject firearms (*Exhibit “A-8”*).²⁶⁰ Lastly, on November 4, 2015, the

²⁵⁶ *Legrama v. Sandiganbayan*, G.R. No. 178626, June 13, 2012.

²⁵⁷ *Ang v. Sandiganbayan*, G.R. No. 91886, [May 20, 1991], 274 PHIL 535-549.

²⁵⁸ Record, Vol. I, p. 566.

²⁵⁹ Record, Vol. I, p. 567.

²⁶⁰ Record, Vol. I, p. 564.

Handwritten signature and initials in black ink, located at the bottom right of the page. The signature appears to be 'By' followed by a stylized mark, and there are additional initials or marks to the right.

Acting General Services Officer, Tiburcio Magay, wrote its “last and final notice” to accused Hagedorn to turn-over the subject firearms (*Exhibit “H”*).²⁶¹

Thus, it is clear that accused Hagedorn failed to turn-over the subject firearms despite the three (3) demand letters made by the local government of Puerto Princesa City. This failure on the part of accused Hagedorn is already *prima facie* evidence that he has put such missing funds or property to personal use. Therefore, the burden is on him to overcome this presumption.²⁶²

As proof that he did not put the subject properties to personal use, accused Hagedorn alleges that: (1) he had no interest in keeping the subject firearms as evidenced by the video clip containing the speech of then President Ramos stating accused Hagedorn’s voluntary surrender of his high-powered and expensive firearm to the government authorities (*Exhibit “30”*),²⁶³ (2) the Local Government Unit of Puerto Princesa City unjustifiably refused to send city officials to collect the said firearms despite his letter requests²⁶⁴ stating that had no permit to carry them;²⁶⁵ (3) the subject firearms were simply kept by his former personnel for protection; and (4) as proof of good faith, he returned or caused the return of the subject rifles on three separate dates (*i.e.*, March 20, 2017, September 5, 2017, and September 10, 2017) to the Puerto Princesa City Police.²⁶⁶

Notwithstanding the foregoing, the Court finds that the presumption of misappropriation stands un rebutted.

Firstly, the video clip showing the speech of then-President Ramos does not bear any significance to the case at bar. Section 35, Rule 130 of the Revised Rules on Evidence states that “evidence that one did or did not do a certain thing at one time is not admissible to prove that he did or did not do the same or similar thing to another time; but it may be received to prove a specific intent or knowledge, identity, plan, system, scheme, habit, custom or usage, and the like.” While the speech may contain accused Hagedorn’s alleged surrender of his high-powered and expensive firearm to the government authorities, it does not necessarily follow that he is innocent of the offense charged.

Secondly, equally untenable is the assertion of accused Hagedorn that he failed to return the subject firearms upon demand because of the failure of

²⁶¹ Record, Vol. I, p. 568.

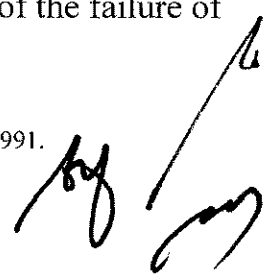
²⁶² *Emiliano Cimafranca, Jr. v. Sandiganbayan*, G.R. No. 94408, February 14, 1991.

²⁶³ Record, Vol. II, p. 644.

²⁶⁴ Record, Vol. I, p. 8.

²⁶⁵ Record, Vol. II, p. 510.

²⁶⁶ Record, Vol. II, p. 510.



the GSO to send city officials to collect the said firearms. This is connected to the allegation made by him that he had no permit to carry the said firearms. To note, the receipt of the alleged letter of accused Hagedorn to Tiburcio Magay (*Exhibit "35"*),²⁶⁷ was denied by witness Magay himself in his *Judicial Affidavit* dated August 2, 2019.²⁶⁸ The genuineness and authenticity of the said letter were also questionable considering that, as compared to accused Hagedorn's letter dated July 28, 2014, it did not contain the stamp, date, and signature of the receiving officer of the GSO. Moreover, the said letter was penned after the *Complaint* was filed before the Ombudsman and right after it was submitted for resolution.

Even assuming arguendo that the letter was indeed received by the GSO, such failure of the city officials to collect the said firearms and the absence of permit to carry was not an actual hindrance for accused Hagedorn considering that he was able to cause the return of the alleged firearms to the Puerto Princesa Police, all without the need to secure a permit to carry. It appears, therefore, that the letter dated August 30, 2016, was a mere afterthought crafted by accused Hagedorn in order to give the impression that he indeed acted upon the final demand made by the GSO.

Thirdly, the allegation that the subject firearms were kept by his former personnel for protection is insufficient to overcome the prima facie presumption. For one, accused Hagedorn failed to present James Eda, Antonio Canlas, and Randy Suelo to corroborate the self-serving Affidavits²⁶⁹ and testimonies of Rogelio Roquid and Erzon Evangelista. Accused Hagedorn likewise failed to present Randy Suelo to authenticate and corroborate his Undertaking (*Exhibit "31"*),²⁷⁰ the genuineness thereof was questioned by the prosecution due to lack of authentication.²⁷¹

Even if the Court is to believe the said Affidavits, then it turns out that accused Hagedorn allowed James Eda, Antonio Canlas, Randy Suelo, Roquid, and Evangelista to have custody of the said firearms despite the expiration of his term as City Mayor. As consistently ruled by jurisprudence, a public officer may be held liable for malversation even if he does not use public property or funds under his custody for his personal benefit, but consents to the taking thereof by another person, or, through abandonment or negligence, permitted such taking.²⁷²

Lastly, accused Hagedorn's argument that the eventual turn-over of the subject firearms puts him beyond the grasp of the law is untenable. The

²⁶⁷ Record, Vol. II, p. 650.

²⁶⁸ Record, Vol. I, p. 438.

²⁶⁹ Exhibit "16" and "17". Record, Vol II, pp. 204-205.

²⁷⁰ Record, Vol. II, p. 645.

²⁷¹ Record, Vol. II, pp. 657-658.

²⁷² *Ophelia Hernan v. Sandiganbayan*, G.R. No. 217874, December 5, 2017.

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'Jy' followed by a stylized flourish, and the initials 'L' are written above it.

X-----X

Supreme Court has constantly ruled that the return or restitution of the public funds or properties works only to mitigate the liability for malversation. The payment of the property malversed after the commission of the crime does not extinguish the criminal liability of the responsible public officer.²⁷³

In the case of *Emiliano Cimafranca, Jr. v. Sandiganbayan and People*,²⁷⁴ the Supreme Court held that an accountable public officer may be criminally liable for malversation of public property when he fails to return or produce the same upon demand, although after the filing of the information and during the trial he returned the property to the government. In that case, the Supreme Court ruled the crime of malversation had been consummated when the property was belatedly returned, viz:

Since petitioner failed to overturn the prima facie evidence of guilt by his non-production of the government property upon previous repeated demands, and as he produced it only much later, that is, after several years, the only logical conclusion is that he actually misappropriated the property and/or otherwise allowed other persons to take and appropriate the same. Worst still, when the engine was returned, it was already scrap and the revolver was rusty and had to be reblued [sic]. The crime of malversation had been consummated when the property were belatedly returned.

Moreover, the Supreme Court in *People of the Philippines v. Efren Miranda*,²⁷⁵ ruled that in malversation of public funds or estafa, payment, indemnification, or reimbursement of, or compromise as to, the amounts or funds malversed or misappropriated, after the commission of the crime affects only the civil liability of the offender but does not extinguish the latter's criminal liability. According to the Supreme Court, "assuming, therefore, that the accused Miranda had indeed fully reimbursed or returned the amounts he is supposed to have malversed, still his criminal liability is not extinguished thereby and he must still account and be prosecuted for any malversations he has committed."

Also, in *Kimpo y Niñanuevo v. Sandiganbayan*,²⁷⁶ petitioner therein argued that the restitution made by him of the full amount should exonerate him from criminal liability. The Supreme Court ruled that the argument not only is an inappropriate defense in criminal cases but it also even at times tightens a finding of guilt. According to the Supreme Court, "in malversation of public funds, payment, indemnification, or reimbursement of funds misappropriated, after the commission of the crime, does not extinguish the criminal liability of the offender which, at most, can merely affect the

²⁷³ *Peñanueva, Jr. v. Sandiganbayan*, G.R. Nos. 98000-02, June 30, 1993.

²⁷⁴ *Emiliano Cimafranca, Jr. v. Sandiganbayan and People*, G.R. No. 94408, February 14, 1991.

²⁷⁵ G.R. No. L-16122, May 30, 1961.

²⁷⁶ G.R. No. 95604, April 29, 1994, 302 PHIL 46-57.

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'By' followed by a large, stylized flourish.

X-----X

accused's civil liability thereunder and be considered a mitigating circumstance being analogous to voluntary surrender.”

Likewise, in *Peñanueva, Jr. v. Sandiganbayan*,²⁷⁷ the Supreme Court *en banc*, ruled that while the replacement of some of the medicines by the petitioner therein is a form of restitution, it did not extinguish his criminal liability for malversation of property, but may only be appreciated as a mitigating circumstance.

In a more recent case of *People of the Philippines v. Rex Dapita*,²⁷⁸ the Supreme Court reiterated its previous rulings, stating that “the payment, indemnification, or reimbursement of, or compromise on the amounts or funds malversed or misappropriated, after the commission of the crime, does not extinguish the accused's criminal liability or relieve the accused from the penalty prescribed by the law. At best, such acts of reimbursement may only affect the offender's civil liability and may be credited in his favor as a mitigating circumstance analogous to voluntary surrender. This is because damage is not an element of malversation.”

Based on the foregoing pronouncements, it is clear that the mere fact that accused Hagedorn turned over the subject firearms will not extinguish his criminal liability for malversation of public property. At best, the act of accused Hagedorn may only be considered as a mitigating circumstance akin to voluntary surrender in accordance with paragraph 7 of Article 13²⁷⁹ in relation to paragraph 10²⁸⁰ of the same Article of the RPC.

Here, the Court finds that not all of the subject firearms were turned-over by accused Hagedorn. Contrary to his assertion that he returned or caused to return all of the subject firearms, it appears in the records that one (1) of the subject firearms with serial number 203588 remained unaccounted for. The records prove that a firearm with serial number 203588 was not included in the list of the subject firearms allegedly returned on March 20, 2017,²⁸¹ September 5, 2017,²⁸² and September 10, 2017.²⁸³

²⁷⁷ G.R. Nos. 98000-02, June 30, 1993, 295 PHIL 972-978

²⁷⁸ G.R. No. 253975, September 27, 2021.

²⁷⁹ Revised Penal Code, Art. 13, Par. 7. That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution.

²⁸⁰ *Id.*, Sec. 10. And, finally, any other circumstance of a similar nature and analogous to those above mentioned.

²⁸¹ Acknowledgement Receipt dated March 20, 2017, (Exhibit “19”); Memorandum with No. FESAGSS-2017-0230-01 dated March 21, 2017 (Exhibit “20 to “20-b”).

²⁸² Acknowledgement Receipt dated September 5, 2017, (Exhibit “10”); Memorandum with No. FESAGSS-2017-0906-06 dated September 6, 2017 (Exhibits” 21 to 21-b”); Pictures (Exhibits “1” to “9”).

²⁸³ Memorandum with No. FESAGSS-2017-0904-04.

X-----X

Furthermore, the prosecution was able to prove that nine (9) of the subject firearms have been tampered. Based on the Physical Identification Number: PI-172-17 (*Exhibit "J"*),²⁸⁴ which was signed and executed by expert witness Rafael B. Roxas, Jr., it was concluded that the following firearms, which were returned by accused Hagedorn, have tampered serial number: 054233; 171230; 171858; 238383; 9058310; 201761; 4912083; 9014982; and 9058027.

According to expert witness Roxas, the examination conducted on the aforementioned firearms revealed the presence of grinding and concavity on the metal surface where the serial number is normally located, and the sizes of letters and numbers do not conform with the standard.²⁸⁵ While it is true that the result of the examination did not indicate whether the tampering was done before or after the tampered firearms were assigned to accused Hagedorn, the prosecution, through witness Pineda, proved that after the subject firearms were repaired by Mountain Clark Gunsmith and upon their issuance to the custody of accused Hagedorn, their serial numbers remained because Mountain Clark Gunsmith is not authorized to tamper, obliterate or alter the serial numbers.²⁸⁶ This was further corroborated by the manager of Mountain Clark Gunsmith himself, witness Chu, who testified that when they repaired the subject firearms, they were not allowed to tamper, obliterate, or alter the serial numbers.²⁸⁷

As culled from the records, the abovementioned testimony of witness Pineda was duly stipulated upon by accused Hagedorn,²⁸⁸ when the defense counsel stipulated on purpose No. 7 of his *Judicial Affidavit*²⁸⁹ dated October 28, 2019, which states that "the respective serial numbers of the 50 refurbished firearms, including the firearms subject of this case, should remain the same because Mountain Clark Gunsmith is not authorized to tamper, obliterate, or alter the serial numbers."²⁹⁰ Thus, contrary to the assertion made by accused Hagedorn, he was not able to prove that the firearms he allegedly turned over are the same firearms he received under the Memorandum Receipt For Semi-Expendable and No-Expendable Supplies or Property (*Exhibit "E"*).²⁹¹

Based on the foregoing, the presumption of law worked in favor of the prosecution which was established immediately upon the failure of accused Hagedorn to turn-over the subject firearms upon demand. Hence, the prosecution was able to prove by moral certainty that the accused Hagedorn

²⁸⁴ Record, Vol. II, pp. 427-428.

²⁸⁵ *Id.*

²⁸⁶ Record, Vol. I, p. 461.

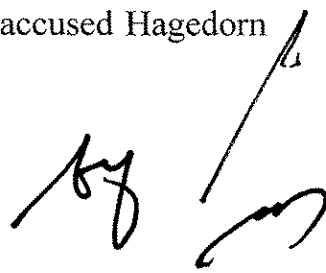
²⁸⁷ Record, Vol. I, p. 531.

²⁸⁸ TSN dated November 21, 2019, p. 16.

²⁸⁹ Record, Vol. I, pp. 460-469.

²⁹⁰ *Id.*, p. 461.

²⁹¹ Record, Vol. I, p. 565.

Handwritten signature and initials in black ink, located in the bottom right corner of the page.

misappropriated the subject firearms. Aside from the fact that he was able to gain possession, custody, or control of the said firearms, the prosecution was able to prove that one (1) of the subject firearms remains unaccounted for and (9) of the subject firearms have tampered serial numbers.

II. The Proper Penalty.

Having established accused Hagedorn's liability for malversation of public property, we now determine the penalty to be imposed based on the value of property malversed.

Based on the *Information*, the value of the subject firearms is pegged at PhP490,000.00. This valuation is based on the Memorandum Receipt For Semi-Expendable and No-Expendable Supplies or Property (Exhibit "E"),²⁹² which fixed the unit cost at PhP35,000.00 each. Considering that accused Hagedorn admitted the existence of the said memorandum and the fact that he signed the same, he is therefore bound by it.

Under Article 217 of the RPC, as amended by Republic Act No. 1060,²⁹³ if the amount involved is more than Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000), the imposable penalty is *prisión mayor* in its minimum and medium periods.

Under Section 1 of the *Indeterminate Sentence Law*, an indeterminate sentence is imposed on the offender consisting of a maximum term and a minimum term. The maximum term is the penalty under the Revised Penal Code properly imposed after considering any attending circumstance. Here, considering that accused did not return all of the subject firearms and that nine (9) of the said firearms have tampered serial numbers, the Court appreciates no attending circumstance. As such, the maximum term is 7 years, 4 months and 1 day to 8 years and 8 months.²⁹⁴

On the other hand, the minimum of the indeterminate sentence should come from the penalty next lower than that prescribed under Article 217 of the RPC. Since the penalty prescribed is *prisión mayor* in its minimum and medium periods, the penalty next lower in degree is *prisión correccional* in its medium and maximum periods or 2 years, 4 months and 1 day to 6 years.²⁹⁵

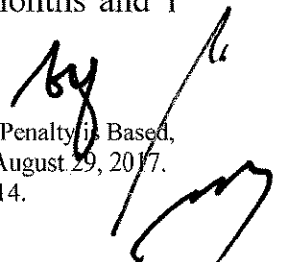
On the bases of the foregoing, accused Hagedorn should be sentenced to suffer the following penalties of imprisonment: 2 years, 4 months and 1

²⁹² Record, Vol. I, p. 565.

²⁹³ An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed under the Revised Penal Code, Republic Act No. 10951, August 29, 2017.

²⁹⁴ *Manolito Gil Z. Zafra v. People of the Philippines*, G.R. No. 176317, July 23, 2014.

²⁹⁵ *Id.*



x-----x

day of *prisión correccional* as minimum, to 7 years, 4 months and 1 day *prisión mayor*, as maximum.

In addition, accused Hagedorn should be sentenced to suffer perpetual disqualification from holding any public office and loss of all retirement and gratuity benefits under existing laws. Further, he shall be ordered to pay a fine of PhP490,000.00, which shall earn legal interest rate of six percent (6%) per annum from the date of the finality of this Decision until fully paid.²⁹⁶

Also, Article 100 of the RPC provides that every person criminally liable for a felony is also civilly liable. On the other hand, R.A. No. 10660 provides that recovery of civil liability shall be simultaneously instituted with, and jointly determined in the same proceeding. Considering that all the elements of the crime of malversation of public property, as defined and penalized under Article 217 of the RPC, have been proved with moral certainty, the Court holds that accused Hagedorn shall be liable to reimburse only the value of the unaccounted firearm with serial number 203588 in the amount of Thirty-Five Thousand Pesos (PhP35,000.00).

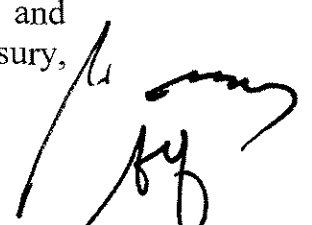
WHEREFORE, in light of the foregoing, the Court hereby renders judgment as follows:

In **Criminal Case No. SB-18-CRM-0350**, the Court finds accused **EDWARD SOLON HAGEDORN (“Hagedorn”)** **GUILTY** beyond reasonable doubt of the crime of Malversation of Public Property, as defined and penalized under Article 217 of the Revised Penal Code, as amended, and is hereby sentenced to suffer the indeterminate penalty of 2 years, 4 months and 1 day of *prisión correccional* as minimum, to 7 years, 4 months and 1 day *prisión mayor*, as maximum.

In addition, accused Hagedorn shall suffer perpetual disqualification from holding any public office and loss of all retirement or gratuity benefits under the law.

Further, accused Hagedorn is ordered to pay a fine of Four Hundred Ninety Thousand Pesos (PhP490,000.00). The said amount shall earn legal interest at the rate of six percent (6%) per annum from the date of the finality of this Decision until fully paid.

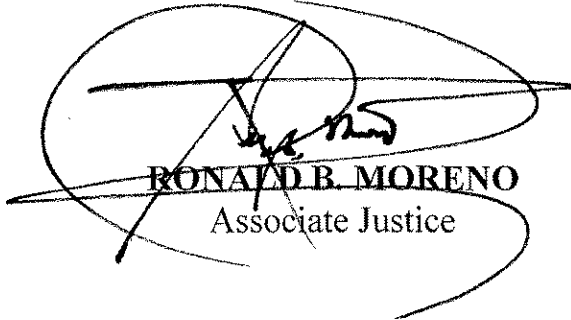
Accused Hagedorn is likewise held liable to return and reimburse to the government, through the Bureau of Treasury,



the amount of Thirty-Five Thousand Pesos (PhP35,000.00) which shall earn legal interest at the rate of six percent (6%) per annum computed from the finality of this Decision until fully paid.


SO ORDERED.

Quezon City, Metro Manila, Philippines.



RONALD B. MORENO
Associate Justice

WE CONCUR:



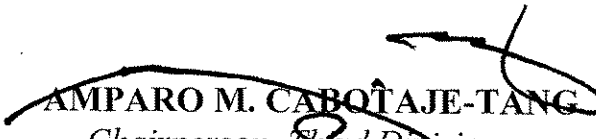
AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



BERNELITO R. FERNANDEZ
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

