

REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **Crim. Case No. SB-13-CRM-0107**  
*Plaintiff,* *For: Violation of Section 3(e) of R.A.*  
*No. 3019*

- versus -

AURORA ENERIO CERILLES, Present:  
*Accused.* HERRERA, Jr., J., Chairperson  
MUSNGI, J., Associate Justice  
PAHIMNA, J., Associate Justice  
VIVERO,\* J., Associate Justice  
HIDALGO,\* J., Associate Justice

May 17, 2019  
Promulgated

**DECISION**

**MUSNGI, J.:**

The accused Aurora Enerio Cerilles (“**Cerilles**”) is charged with violation of Section 3(e) of Republic Act No. 3019 (“**R.A. No. 3019**”), as amended, otherwise known as the Anti-Graft and Corrupt Practices Act. The amended *Information* dated 21 March 2014 reads:

That on or about the 21 March 2005, in Pagadian City, Zamboanga del Sur, and within the jurisdiction of this Honorable Court, the accused, a public officer being then the Governor of Zamboanga del Sur (SG 30), taking advantage of his official position and committing the offense in relation to his public office, did then and there willfully, maliciously, and criminally, grant an unwarranted benefit, advantage, or privilege to Baganian Broadcasting Corporation, in the discharge of her official functions, through manifest partiality, evident bad faith, or gross inexcusable negligence in favor of Baganian Broadcasting Corporation, having then and there issued Check No. 467817 dated 21 March 2005, payable to Baganian Broadcasting Corporation or its order drawing from the account of the Provincial Government of the Province of Zamboanga del Sur in the amount of P483,840.00, when said accused knew, or ought to have known that such payment was unlawful, considering that Radio Broadcasting Contract Nos. 211, 212, and 213, all dated 3 January 2005,

\* Designated as Special Members of the Second Division per Administrative Order No. 5-C-2019 dated 04 March 2019.

*Handwritten signatures and initials at the bottom right of the page.*



Radio Broadcasting Contract Nos. 219 and 220 dated 30 November 2004, and Radio Broadcasting Contract No. 229 dated 20 December 2004, were not entered into pursuant to the provisions of the Government Procurement Reform Act (Republic Act No. 9184), and its implementing rules and regulations, as indicated in Disbursement Voucher Numbers 100-2005030554 to 562, to the advantage and benefit of Baganian Broadcasting Corporation, to the detriment of the Provincial Government of Zamboanga del Sur.

CONTRARY TO LAW.

### ANTECEDENT FACTS

On 05 June 2013, the accused was arraigned and pleaded "not guilty" to the offense charged. The prosecution submitted its *Pre-trial Brief*<sup>1</sup> on 25 November 2013. The accused filed her *Pre-trial Brief*<sup>2</sup> on 01 July 2014. The case proceeded to trial and the prosecution presented its documentary and testimonial evidence. After the prosecution rested its case, it submitted its *Formal Offer of Evidence*<sup>3</sup> on 09 March 2016.

Accused Cerilles then presented her evidence. On 29 November 2017, the accused offered Exhibits "3" to "42" which the Court admitted in its *Order*<sup>4</sup> of even date. Accordingly, the case was submitted for decision.

### EVIDENCE FOR THE PROSECUTION

#### **Madelyn Asoy Jomaoan Majestrado**

*Madelyn Asoy Jomaoan Majestrado* ("*Majestrado*")<sup>5</sup> was a State Auditor III of the Commission on Audit (COA), Region IX, Zamboanga del Sur at the time of her testimony. Her duties as such include the examination, audit and settlement of all accounts pertaining to the receipts of collection and disbursements or expenditures of government funds.

Majestrado testified that she conducted an annual audit of the accounts and operation of the Province of Zamboanga del Sur which is reflected in her Annual Audit Report for the year ending 31 December 2005. She identified the same as Exhibit "A". In the course of her audit, she examined the disbursement vouchers pertaining to the advertising expenses of the Province

<sup>1</sup> Sandiganbayan Records, Vol. 1, pp. 264-269.

<sup>2</sup> *Ibid.*, pp. 385-387.

<sup>3</sup> Sandiganbayan Records, Vol. 2, pp. 625-640.

<sup>4</sup> *Ibid.*, p. 1038.

<sup>5</sup> Transcript of Stenographic Notes ("TSN"), 02 and 03 September 2014.

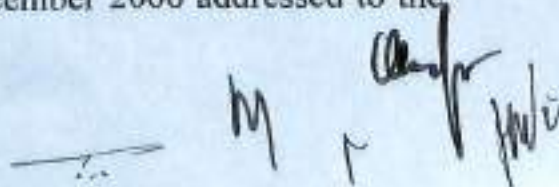


of Zamboanga del Sur and thereafter prepared an Audit Observation Memorandum (AOM). In the examination of the vouchers, she ascertained the propriety of the transactions, the authority of the head or his duly authorized representative, whether the same are properly supported by necessary documents, the correct computation of the claims including the withholding of taxes due to the government, whether the disbursement is compliant to the rules and regulations, and the correct recording of the transaction in the books of accounts of the provincial government. For the advertisement expenses, she verified if there was a contract and proof of radio cast or the performance of the airtime, the official receipt, compliance with agency rules and regulations and whether the procurement was done in accordance with R.A. No. 9184.

Majestrado averred that advertising expenses is considered as goods in the procurement law. However, she discovered that the advertising expenses contracted by the Province of Zamboanga del Sur with Baganian Broadcasting Corporation (BBC) was not compliant with R.A. No. 9184 as the same was entered into without public bidding. There were no documents supporting the disbursement vouchers to show that the contracts with BBC were opened to public bidding. After such finding, Majestrado prepared an AOM which was issued to the agency and a copy of which was also furnished the COA Regional Office in Region IX in Zamboanga City. The copy forwarded to the COA Regional Office includes the original copies of the disbursement vouchers of the subject transactions.

She testified that the nine (9) disbursement vouchers relative to the subject transactions and its supporting documents were paid as supported by the check attached in Disbursement Voucher 562. Majestrado identified a photocopy of the check amounting to Four Hundred Eighty-Three Thousand Pesos (P483,000.00) (Exhibit "Q"), the signature of the accused and Cashier IV Avelina H. Quidit on the said check, and AOM No. 2006-01-02 (2005) dated 13 January 2006 (Exhibit "R"). In the said AOM, she recommended that the required procurement for advertising expenses be made by the Provincial Government in accordance with Section 2 of R.A. No. 9184. In the Annual Audit Report prepared by Majestrado, she incorporated the observation that the advertising expenses for the whole year which amounted to One Million Seven Hundred Ninety-Five Thousand, Five Hundred and Fifty Pesos (P1,795,550) was contracted without public bidding. She clarified that the check amounting to Four Hundred Eighty-Three Thousand, Eight Hundred and Forty Pesos (P483,840.00) represents the net amount of the nine (9) vouchers subject of the AOM.

Majestrado stated that after she furnished the AOM to the COA Regional Office, the latter issued a Memorandum (Exhibit "S") and Notice of Disallowance (Exhibit "T") both dated 04 December 2006 addressed to the





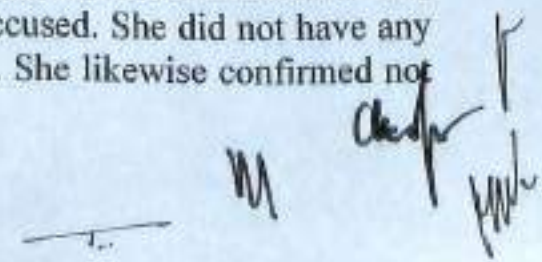
Provincial Governor. The accused allegedly received the same because the Province of Zamboanga del Sur filed a Petition for Review (Exhibit "Z") on the said Notice of Disallowance represented by the accused and the Provincial Accountant. The same was denied by the Regional Legal and Adjudication Office in its Decision No. 2008-041 dated 28 November 2008 (Exhibit "AA").

During her cross-examination, Majestrado confirmed that she issued the AOM to the accused as then Provincial Governor, the Provincial Budget Officer, the Provincial Treasurer and the Accountant with copy furnished to the COA Regional Office. However, she did not receive any reply from the provincial government on the said AOM. For 2006, she scheduled an exit conference attended by the accused, the concerned public officials and other officers from the office of the accused to discuss about her findings but the minutes to prove their attendance is in the records of the COA office. She mentioned that the issue on the advertising expenses was brought up in the said conference and the management made an assurance that the latter will conduct bidding for the coming transactions. Such management comment was incorporated in her Audit Report. Majestrado allegedly observed during the exit conference that accused Cerilles was not familiar with the procedure in the Procurement Law.

Majestrado also confirmed that according to the Implementing Rules of R.A. No. 9184, if the amount involved for procurement is below Five Hundred Thousand Pesos (P500,000.00), the procuring entity may resort to an alternative bidding. With respect to the nine (9) disbursement vouchers (Exhibits "H", "I", "J", "K", "L", "M", "N", "O", "P") and the Radio Broadcast Contract/Placement (Exhibits "B" to "G") pertaining to the subject transactions, she confirmed that the signatures appearing on top of the name of the accused Cerilles was not her signature.

According to Majestrado, there were more than three (3) radio stations in Pagadian, Zamboanga del Sur, namely, the DXPR (AM) radio, DXBZ (AM) radio, DXCA (FM) and BBC. She confirmed that BBC performed its obligation under the contract thus, the provincial government is obliged to pay and the payment made to BBC was valid. She clarified that the reason for the disallowance was in connection with the procurement of the subject transactions but the contract was not declared invalid in the Notice of Disallowance.

When asked as to whether Majestrado checked the authority of the person who signed the Contract for accused Cerilles, she answered that she relied on the signature of the person as the Provincial Administrator and assumed that the latter was authorized by the accused. She did not have any proof that the accused issued the said authority. She likewise confirmed not

Handwritten signatures and initials at the bottom right of the page, including a large 'M' and several other illegible marks.



x-----x

verifying if there was a written authority issued by the accused in favor of the Provincial Administrator. Majestrado admitted that it is the Bids and Awards Committee (BAC) that has to recommend for an alternative mode of procurement and it is not the function of the accused as governor to resort to such mode of procurement.

On re-direct examination, Majestrado stated that the Provincial Administrator who signed the disbursement vouchers and contracts of the subject transaction was Eduard Larubis ("Larubis"). She testified that the signature of Larubis as the Provincial Administrator is binding in the transactions entered into by the province.

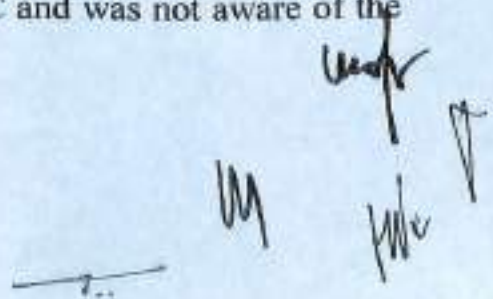
When asked with a clarificatory question from the Court, Majestrado confirmed that the contract was consummated and valid as the radio station could not have been faulted for signing the contract and receiving the payment. The main reason for the disallowance was the non-compliance with R.A. No. 9184. The COA cannot declare that the contract was invalid because the transactions were consummated, contracts were signed and vouchers were already paid.

#### **Atty. Erwin Edward P. Mendinueto**

*Atty. Erwin Edward P. Mendinueto* ("Atty. Mendinueto")<sup>6</sup> was a Securities Counsel III of the Securities and Exchange Commission (SEC) at the time of his testimony. His duties as such include the processing of application for registration of corporations/partnerships, applications for amendment of Articles of Incorporation, By-Laws, Articles of Partnerships, Applications for Consolidation, and acting on Petitions for corrections of Articles of Incorporations, among others. He identified the Articles of Incorporation (Exhibit "U"), the Certificate of Incorporation and the Indorsement of the National Telecommunications Commission (NTC) of the BBC. He testified that a certain Antonio H. Cerilles is among the incorporators of BBC.

On cross-examination, Atty. Mendinueto averred that BBC was incorporated on 09 September 1996. The names of the incorporators cannot be changed in the Articles of Incorporation because it is an established fact. If any of the incorporators divest their shares in the corporation, the same will not be reflected in the Articles of Incorporation but in the General Information Sheet (GIS). He did not examine the GIS of BBC and was not aware of the

<sup>6</sup> TSN dated 04 December 2014.

Handwritten signatures and initials are present at the bottom right of the page. There are several distinct marks, including what appears to be a signature and some initials, possibly 'M' and 'W'. There is also a horizontal line with a small mark below it.



membership of the stockholders of the BBC at the time of his testimony in Court.

During his re-direct examination, Atty. Mendinueto asserted that the Articles of Incorporation of the BBC was not amended with respect to the change in its officers; hence, from 1996 up to the time of his testimony, the Articles of Incorporation presented in Court is still the Articles of Incorporation of BBC.

Upon re-cross-examination, Atty. Mendinueto confirmed that the names appearing in the Articles of Incorporation of the BBC may no longer be the same names appearing in its GIS at the time he testified.

#### **Bernadette Rule Ordoñez**

*Bernadette Rule Ordoñez ("Ordoñez")*<sup>7</sup> was the Provincial Accountant of Zamboanga del Sur from 2002 to March 2013. As Provincial Accountant, she certifies to the availability of budgetary allotment to which expenditures and obligations may be properly charged, reviews supporting documents to determine completeness of requirements, prepares statements of journal vouchers and its liquidation, accounts for all issued requests for obligation and maintains records and reports related thereto.

During her direct examination, she testified that she reviewed nine (9) Disbursement Vouchers involving BBC on 18 March 2005, which she identified as Exhibits "H" to "P". The said vouchers allegedly emanated from the Office of the Provincial Governor as shown by its Box B which was signed under the name of accused Cerilles. After she received the vouchers personally carried by a representative from the Office of the Governor, accused Cerilles purportedly called her up and requested her to expedite the processing for immediate payment. Ordoñez then gathered supporting documents and signed the Disbursement Vouchers as the Box A thereof was already signed by a representative from the Governor's Office. The vouchers were then rerouted to the OIC Provincial Treasurer to certify as to cash availability as shown in its Box C and then forwarded to the Office of the Provincial Governor for approval of payment. According to Ordoñez, the vouchers were approved by accused Cerilles. The vouchers were paid by the OIC Provincial Treasurer and sent back to Ordoñez for recording and used as basis for preparation of financial statements. Finally, the vouchers were turned over to the COA Provincial Office for audit and safekeeping.

*under*

<sup>7</sup> TSN dated 27 April 2015.

*M. P. P.*

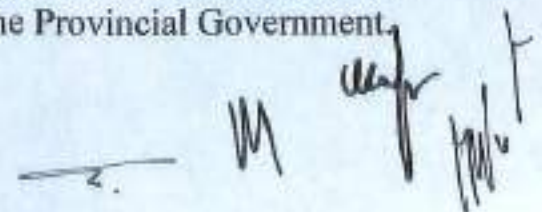


Ordoñez stated that after a certain period, she received an AOM from COA pertaining to the advertising expenses amounting to Five Hundred Four Thousand Pesos (P504,000.00) that were contracted to BBC in contravention of Section 2 of R.A. No. 9184. She thereafter convened a meeting with the Budget Officer and the OIC Provincial Treasurer, as members of the Finance Committee, to discuss the comments of the management in response to the AOM. They allegedly went to consult the accused regarding the matter and the latter instructed them to find a way to give the correct management comment acceptable to COA. However, the COA eventually sent a Notice of Disallowance. The Finance Committee went to consult the accused four (4) times and informed her that BBC must refund the amount but accused supposedly told them to find ways to refund the amount. She did not comply with the said instruction as she believed that BBC should refund the same.

On another note, Ordoñez stated that she was hired as the family accountant of the accused in the latter's businesses from 1985 until the first quarter of 2010. She prepared financial statements of the family's businesses, their Statement of Assets, Liabilities and Net Worth (SALN) and the Income Tax Return of the accused and her husband, Antonio Cerilles. She mentioned that accused and her husband had a rubber plantation business, radio stations which is the BBC, and a rice field rental.

On cross-examination, Ordoñez declared that the Internal Control Unit (ICU) of the Provincial Governor's Office and the Provincial Accounting Office serve as the Internal Audit of the Provincial Government. Being the Provincial Accountant, Ordoñez also served as the financial adviser of the governor. When it comes to procurement process, Ordoñez confirmed that she was also the adviser of the governor. When R.A. No. 9184, otherwise known as the "Government Procurement Act" took effect, she was already the Provincial Accountant of Zamboanga del Sur. As such, she was sent to seminars involving the procurement law and was tasked to prepare the management comment on the AOM relative to the subject transactions. In its preparation, Ordoñez confirmed that she has to confer with the Budget Officer and the OIC Provincial Treasurer as members of the Finance Committee. She mentioned having prepared a comment to the said AOM.

Ordoñez likewise confirmed that there are other modes of procurement under the Implementing Rules and Regulations of R.A. No. 9184 and one of those is direct contracting, but the advertisement expenses are not exempt from public bidding. The nine (9) vouchers involved represents the January and February 2005 advertising expenses. Her certification in the Disbursement Voucher was only up to the extent of the completeness and priority of supporting documents. Ordoñez also stated that she was a member of the Technical Working Group of the BAC of the Provincial Government.





Ordoñez mentioned that she was one of the persons liable in the subject Notice of Disallowance. When she received the said notice, the matter was referred to the Provincial Legal Office and there were only instances that she was called by the latter to comment. According to her, the mode of procurement resorted to by the Provincial Government was through a proposal offered by the BBC. Such procurement does not fall under Section 48 (b) of the Procurement Act which allows direct contracting because as far as she knows, the subject transaction was not exempted from public bidding. As member of the Technical Working Group of the BAC, Ordoñez asserted that her job was only to review the financial capacity of the supplier or contractor. She did not inquire with the personnel from the Provincial Governor's Office as to the mode of procurement resorted to as long as the contracts were attached to the vouchers.

Ordoñez asserted that she had been the Provincial Accountant up to 27 March 2013 only because she was dropped from the rolls by then Provincial Governor Antonio Cerilles, the husband of accused. Prior to that, Ordoñez was on floating status from 12 July 2011.

According to Ordoñez, the BBC has an AM and FM station, namely the DXDZ and DXZA, but she did not know if the provincial information drive was simultaneously broadcasted therein.

When asked about the disbursement vouchers and contracts, Ordoñez confirmed that the signatures therein were not signatures of accused Cerilles. She also did not ask the authority of the person who signed on behalf of the accused as it was a practice in the Provincial Government for the Provincial Administrator or the Executive Assistant V to sign mandatory and other expenses except for contracts or documents involving huge amounts, which will be signed by the governor. Ordoñez confirmed that there was no declaration that the contracts were invalid when she affixed her signature in the subject vouchers, and that the provincial information drive was delivered by BBC in accordance with the contracts.

During her re-direct examination, Ordoñez stated that the extent of her participation in the contracts with BBC is only with respect to the payment of the obligation by reviewing the source documents such as the Allotment and Obligation Slip (ALOBS), the charge invoice, the letter addressed to the Provincial Governor from the radio station manager, the Radio Broadcast Contract, schedule of broadcast, and her certification of the completeness and priority of the said documents. She no longer paid attention to the consideration reflected in the said documents for which the Provincial Government will pay BBC because she already saw in the Box A of said

*[Handwritten signatures and initials]*



voucher that the same was signed by the representative of the Provincial Governor's office, certifying that the expenses were necessary, lawful and incurred under the direct supervision of the accused. She testified that the signature referred to in the Disbursement Vouchers and the contracts were that of Provincial Administrator Larubis. She added that Larubis was authorized by the Provincial Governor to sign on the said documents as it was the practice.

She affixed her signature on the disbursement vouchers because the same were signed by Larubis; it was controlled by the Internal Control Unit; and there was an instruction from the accused Provincial Governor to expedite the processing of the vouchers. Ordoñez asserted that the last to sign on the vouchers was the representative of the governor. There is supposedly a memorandum routed to all the agencies specifying the authority to sign for and on behalf of the Provincial Governor. In the said memorandum, the Provincial Administrator is authorized to sign mandatory expenses such as personal services and vouchers with small amounts except for big amounts such as those involving Economic Development Projects which are signed by the Governor. The nine (9) vouchers were paid in one check (Exhibit "Q") which was signed by the accused and the Provincial Treasurer.

During her re-cross-examination, Ordoñez stated that the signature in the check was the facsimile signature of accused Cerilles because the check she identified was a duplicate copy of the issued check. Since the duplicate copy has the facsimile signature, she assumed that the original check was also signed by accused Cerilles.

### **Domingo Villareal Mirrar**

*Domingo Villareal Mirrar* ("Mirrar"),<sup>8</sup> one of the private complainants in the instant case, was the Mayor of the Municipality of Lakewood, Zamboanga del Sur, from 2001 to 2010. He identified his Joint Complaint (Exhibit "W") against accused Cerilles, Antonio Cerilles, and their son, Ace William Cerilles, which he filed on 25 July 2009, accusing them for violation of R.A. No. 3019 and R.A. No. 7136. He also identified the COA Report attached in the said Complaint and his Reply Affidavit to the answer of the accused. He allegedly based his Complaint from the said COA Report.

In his cross-examination, Mirrar averred that he was an incumbent Mayor when he and Eutiquio Famor filed the Complaint. Ace William Cerilles, the son of accused Cerilles and one of the respondents during the

<sup>8</sup> TSN dated 29 September 2015.

Handwritten signatures and initials at the bottom right of the page, including a large signature that appears to be 'Uch' and other smaller initials.



preliminary investigation of the instant case, was also a Mayor from 2007 to 2010. Mirrar stated that the charges against Antonio Cerilles and Ace William Cerilles were dismissed by the Office of the Ombudsman. He confirmed that he had no personal knowledge of the matters included in the Audit Report for the year ending 31 December 2005. He also confirmed his statements in his Reply Affidavit that the accused and her husband own the BBC based on his personal knowledge because of his association with Antonio Cerilles. He allegedly filed the case against Antonio Cerilles, among others, to let justice prevail on the latter's abuse of taxes based on illegal activity.

In his re-direct examination, Mirrar mentioned that the accused was the Governor of Zamboanga del Sur at the time that he was the Mayor of Lakewood, from 2001 to 2010. Antonio Cerilles was elected as Congressman to the Second District of the province in 2004. During that time, Mirrar and Antonio Cerilles were political allies who belong to the same party. When Antonio Cerilles lost in the elections, he was allegedly attending to his businesses from 2001 to 2004 which includes the rubber plantation and BBC. According to Mirrar, Antonio Cerilles was the biggest stockholder in BBC.

#### **Engr. Grace Baal Centeno**

*Engr. Grace Baal Centeno ("Centeno")*<sup>9</sup> was a Communication Development Officer II of the National Telecommunications Commission (NTC) at the time of her testimony. She has been employed at the NTC since 2005. Her duties include the evaluation of applications of broadcast operators and issuance of permits to broadcast operators.

Centeno testified during her direct examination that a Temporary Permit was issued to BBC in 2001. The same signifies that BBC is registered with the NTC and is authorized to operate the radio station. The AM station of BBC is located in Pagadian City, Zamboanga del Sur. Based on the Temporary Permit, BBC has an "authorized power 10.0 kilowatts", which determines the coverage or the range of the signal of the AM station. In terms of coverage, the AM station is more conducive towards Maguindanao area because it is near the sea, towards Cotabato the coverage is 290 kilometers and towards Zamboanga del Norte, the coverage is around 88 kilometers.

Centeno mentioned that there were four (4) other broadcasting networks operating in Pagadian City, three (3) of which had an authorized power of 10 kilowatts, specifically, the Radio Mindanao Network (RMN), BBC and Association for Islamic Development Cooperative (AIDC)

<sup>9</sup> TSN dated 30 September 2015.

*[Handwritten signatures and initials]*



x-----x

On cross-examination, Centeno confirmed that from 2004 to 2014, there were four (4) radio stations operating in Pagadian City. She clarified that RMN was only operating in 5 kilowatts and it was Radio Philippines Network (RPN) that operates with the authorized power of 10 kilowatts. She furnished the Office of the Ombudsman the permit of RPN from 2004 to 2014. Since the permit given in 2004 was for 10 kilowatts, the RPN then had no broadcasting kilowatts as it is prohibited from broadcasting less than 10 kilowatts. If a station was operating lower than its authorized power, administrative cases would be filed against it. She clarified that NTC does not regulate the content of the programs but only the use of the frequency. It is the NTC's regional office that conducts the monitoring of the broadcasting networks and not the office where she was assigned.

In her re-direct examination, Centeno stated that in evaluating the requirements for broadcast stations, the NTC only compute the feasibility study submitted by the broadcasting company and compare it with existing station. It does not conduct ocular inspections.

#### **Glicerio P. Kalaw**

*Glicerio P. Kalaw* ("*Kalaw*")<sup>10</sup> was the Supervising Administrative Officer of the Records Management Services of the COA at the time of his testimony. He identified the COA Legal Adjudication Decision No. 2008-041 dated 28 November 2008 (Exhibit "AA") relative to the Petition of the Provincial Government of Zamboanga del Sur represented by the accused and prosecution witness Ordoñez, for the review of the Notice of Disallowance No. CES-2016-045 dated 04 December 2006, disallowing an audit excess payments of advertising expenses in the total amount of Five Hundred Four Thousand Pesos (P504,000.00).

#### *Documentary Evidence*

On 06 May 2016,<sup>11</sup> the Court resolved to admit all the prosecution's documentary evidence.

<b>EXHIBITS</b>	<b>DESCRIPTION</b>
<b>A</b>	Annual Audit Report on the Province of Zamboanga del Sur for the year ended 31 December 2005

<sup>10</sup> TSN dated 10 February 2016.

<sup>11</sup> Sandiganbayan Records, Vol. 2, p. 885.

*[Handwritten signatures and initials]*



<b>A-1</b>	The bracketed portion on page 47 of Exhibit "A" enclosing the audit finding no. 7, i.e., "advertising expenses amounting to P1,795,550.00 were contracted/procured without public bidding as required under Section 2 of RA 9184. Thus, these payments may be disallowed by the COA Legal and Adjudication Office."
<b>A-2</b>	The bracketed portion on page 48 of Exhibit "A" which is the continuation of audit finding no. 7
<b>B, C, I-7</b>	Certified True Copy of Radio Broadcast Contract/Placement No. 0219 dated 30 November 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period of 01 December 2004 to 06 January 2004
<b>D and J-9</b>	Certified True Copy of Radio Broadcast Contract/Placement No. 0212 dated 03 January 2005 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 03 January 2005 to 30 June 2005
<b>E and K-8</b>	Certified True Copy of Radio Broadcast Contract/Placement No. 0213 dated 03 January 2005 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 03 January 2005 to 30 June 2005
<b>F, M-8 and P-7</b>	Certified True Copy of Radio Broadcast Contract/Placement No. 0211 dated 03 January 2005 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 03 January 2005 to 30 June 2005
<b>G</b>	Certified True Copy of Radio Broadcast Contract/Placement No. 0229 dated 29 December 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 01 January 2005 to 31 December 2005
<b>H-5</b>	Radio Broadcast Contract/Placement No. 0220 dated 30 November 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by

*[Handwritten signatures and initials]*



	accused Cerilles covering the period 01 December 2004 to 06 January 2004
<b>N-8</b>	Radio Broadcast Contract/Placement No. 0229 dated 29 December 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 01 January 2005 to 31 December 2005
<b>H</b>	Certified True Copy of Disbursement Voucher No. 100-2005030554 dated 18 March 2005 for the amount of P2,000 representing payment of airtime services for the month of 01 December 2004 to 06 January 2005 in favor of DXCA-FM
<b>H-1</b>	BBC Official Receipt No. 3687 in the amount of P1,920
<b>H-2</b>	ALOBS No. 100-05-03-0554 dated 15 March 2005
<b>H-3</b>	BBC Charge Invoice No. 4549 dated 04 January 2005
<b>H-4</b>	Letter dated 29 November 2004 of Dante Tual Sr. to accused Cerilles
<b>H-6</b>	BBC Certificate of Performance dated 03 February 2005
<b>I</b>	Certified True Copy of Disbursement Voucher No. 100-2005030555 dated 18 March 2005 for the amount of P2,000
<b>I-1</b>	Journal Entry Voucher No. 100-0503-2376 dated 21 March 2005
<b>I-2</b>	BBC Official Receipt No. 3685 in the amount of P1,920
<b>I-3</b>	ALOBS No. 100-05-03-0554 dated 15 March 2005
<b>I-4</b>	BBC Charge Invoice No. 4548 dated 04 January 2005
<b>I-5</b>	Letter dated 29 November 2004 of Dante Tual, Sr. to accused Cerilles
<b>I-6</b>	BBC Certificate of Performance dated 03 February 2005
<b>J</b>	Certified True Copy of Disbursement Voucher No. 100-20050305576 dated 18 March 2005 for the amount of P80,000
<b>J-1</b>	Journal Entry Voucher No. 100-0503-2377 dated 21 March 2005
<b>J-2</b>	BBC Official Receipt No. 3686 in the amount of P76,800
<b>J-3</b>	ALOBS No. 100-05-03-0275 dated 07 March 2005
<b>J-4</b>	BBC Charge Invoice No. 4603 dated 03 February 2005
<b>J-5</b>	Letter dated 27 December 2004 of Dante Tual Sr. to accused Cerilles
<b>J-6</b>	BBC Certificate of Performance dated 03 February 2005
<b>J-7</b>	Journal Entry Voucher No. 100-0503-2378 dated 21 March 2005
<b>J-8</b>	Letter dated 31 December 2004 of accused Cerilles to Dante Tual, Station Manager, BBC-DXCA-FM/DXBZ-FM

*[Handwritten signatures and initials]*



x-----x

<b>K</b>	Certified True Copy of Disbursement Voucher No. 100-2005030557 dated 18 March 2005 for the amount of P120,000
<b>K-1</b>	Journal Entry Voucher No. 100-0503-2373 dated 21 March 2005
<b>K-2</b>	BBC Official Receipt No. 3686 in the amount of P115,200
<b>K-3</b>	Allotment and ALOBS No. 100-05-03-0550 dated 15 March 2005
<b>K-4</b>	BBC Charge Invoice No. 4662 dated 02 March 2005
<b>K-5</b>	Letter dated 31 January 2005 of Dante Tual, Station Manager, BBC-DXCA-FM/DXBZ-FM to accused Cerilles
<b>K-6</b>	BBC Certificate of Performance dated 03 March 2005 with No. 433
<b>K-7</b>	BBC Certificate of Performance dated 03 February 2005 with No. 434
<b>L</b>	Certified True Copy of Disbursement Voucher No. 100-2005030558 dated 18 March 2005 for the amount of P80,000
<b>L-1</b>	Journal Entry Voucher No. 100-0503-2374 dated 21 March 2005
<b>L-2</b>	BBC Official Receipt No. 3683 in the amount of P76,800
<b>L-3</b>	ALOBS No. 100-05-03-0555 dated 15 March 2005
<b>L-4</b>	BBC Charge Invoice No. 4663 dated 02 March 2005
<b>L-5</b>	Letter dated 31 January 2005 of Dante Tual Sr., Station Manager BBC-DXCA-FM/DXBZ-FM
<b>L-6</b>	BBC Certificate of Performance dated 03 March 2005
<b>M</b>	Certified True Copy of Disbursement Voucher No. 100-2005030559 dated 18 March 2005 for the amount of P60,000
<b>M-1</b>	Journal Entry Voucher No. 100-0503-2379 dated 21 March 2005
<b>M-2</b>	BBC Official Receipt No. 3688 in the amount of P57,600
<b>M-3</b>	ALOBS No. 100-05-03-0276 dated 15 March 2005
<b>M-4</b>	BBC Charge Invoice No. 4605 dated 03 February 2005
<b>M-5</b>	Letter dated 27 December 2004 of Dante Tual Sr., Station Manager, BBC-DXCA-FM/DXBZ-FM to accused Cerilles
<b>M-6</b>	BBC Certificate of Performance dated 03 February 2005
<b>M-7</b>	Letter dated 31 December 2004 of accused Cerilles to Dante Sual Sr., Station Manager, BBC-DXCA-FM/DXBZ-FM
<b>N</b>	Certified True Copy of Disbursement Voucher No. 100-2005030560 dated 18 March 2005 for the amount of P50,000
<b>N-1</b>	Journal Entry Voucher No. 100-0503-2375 dated 21 March 2005
<b>N-2</b>	BBC Official Receipt No. 3684 in the amount of P48,000

*[Handwritten signatures and initials]*



<b>N-3</b>	Disbursement Voucher No. 100-2005030560 dated 18 March 2005 for the amount of P50,000
<b>N-4</b>	ALOBS No. 100-05-03-0549 dated 15 March 2005
<b>N-5</b>	BBC Charge Invoice dated 02 March 2005
<b>N-6</b>	Letter dated 31 January 2005 of Dante Tual Sr., Station Manager, BBC-DXCA-FM/DXBZ-FM to accused Cerilles
<b>N-7</b>	BBC Certificate of Performance dated 03 March 2005
<b>O</b>	Certified True Copy of Disbursement Voucher No. 100-2005030561 dated 18 March 2005 for the amount of P50,000
<b>O-1</b>	Journal Entry Voucher No. 100-0503-2372 dated 21 March 2005
<b>O-2</b>	BBC Official Receipt No. 3681 in the amount of P48,000
<b>O-3</b>	ALOBS No. 100-05-03-0548 dated 15 March 2005
<b>O-4</b>	BBC Charge Invoice dated 03 February 2005
<b>O-5</b>	Letter dated 31 January 2005 of Dante Tual Sr., Station Manager, BBC-DXCA-FM/DXBZ-FM to accused Cerilles
<b>O-7</b>	BBC Certificate of Performance dated 03 February 2005
<b>O-8</b>	Letter dated 31 December 2004 of accused Cerilles to Dante Tual, Station Manager, BBC-DXCA-FM/DXBZ-FM
<b>P</b>	Certified True Copy of Disbursement Voucher No. 100-2005030562 dated 18 March 2005 for the amount of P60,000
<b>P-1</b>	ALOBS No. 100-05-03-0551 dated 15 March 2005
<b>P-2</b>	BBC Charge Invoice dated 02 March 2005
<b>P-3</b>	Journal Entry Voucher No. 100-0503-2371 dated 21 March 2005
<b>P-4</b>	BBC Official Receipt No. 3680 in the amount of P57,600
<b>P-5</b>	Letter dated 31 January 2005 of Dante Sual Sr., Station Manager, BBC-DXCA-FM/DXBZ-FM to accused Cerilles
<b>P-6</b>	BBC Certificate of Performance dated 03 March 2005
<b>Q</b>	Certified True Copy of Check No. 0000467817 dated 21 March 2005 in the amount of P483,840.00
<b>R</b>	Certified True Copy of AOM No. 2006-01-02 (2005) dated 13 January 2006 consisting of 3 pages prepared by Majestrado, State Auditor III and approved by Armando D. So, State Auditor IV, Provincial Auditor, Province of Zamboanga del Sur addressed to accused Cerilles, Provincial Governor, Rogelio P. Montealto, Budget Officer, Pedro D. Ramirez Jr., Provincial Treasurer and Attention: Bernadette Ordoñez, Provincial Accountant, all of the Province of Zamboanga del Sur
<b>S</b>	Certified True Copy of Letter dated 04 December 2006 signed by Atty. Vilma R. Agias addressed to accused Aurora E.

*Handwritten signatures and initials:*  
A large signature, possibly "Uedp", is written above several smaller initials, including "M", "P", and "h".



	Cerilles, Provincial Governor of the Province of Zamboanga del Sur consisting of three (3) pages
<b>T</b>	Certified True Copy of Notice of Disallowance No. ZDS 2006-45 dated 04 December 2006 signed by Vilma R. Agias, Attorney VI, Regional cluster Director of COA Legal and Adjudication Office addressed to accused Cerilles, Provincial Governor of Zamboanga del Sur
<b>T-1</b>	Certified True Copy of Inter-Cluster Memorandum dated 04 December 2006 [Subject ND No. ZDS-2006-45 dated 04 December 2006, Re: Payment of Advertising Expenses for the 1st Quarter of CY 2005]
<b>U</b>	Articles of Incorporation of BBC consisting of ten pages with Treasurer's Affidavit
<b>U-1</b>	The bracketed portion on line 6 <sup>th</sup> and 7 <sup>th</sup> page 4 of Exhibit "U" referring to the name, nationality and residence of one of the incorporators of BBC, to wit: Antonio H. Cerilles/Filipino/Sumadat, Dumalinao, Zamboanga del Sur
<b>U-2</b>	SEC Certificate of Registration of BBC dated 09 September 1996 signed by Director Elnora E. Adviento
<b>U-3</b>	NTC 2 <sup>nd</sup> Endorsement dated 16 August 1996 signed by Commissioner Simeon L. Kintanar
<b>W</b>	Joint Affidavit-Complaint of Mayor Domingo V. Mirrar and former Mayor Eutiquio S. Famor dated 25 July 2009 with Annexes
<b>W-1</b>	The bracketed portion pertaining to the signature above the name Domingo V. Mirrar including the left and right thumbmarks
<b>W-2</b>	Reply-Affidavit of Domingo V. Mirrar dated 09 August 2011 with Annexes
<b>W-3</b>	The bracketed portion pertaining to the signature above the name Domingo V. Mirrar including the left and right thumbmarks
<b>Z</b>	Letter dated 19 July 2007 of Ordoñez, Provincial Accountant of the Province of Zamboanga del Sur addressed to Director Vilma R. Agias, Regional Legal and Adjudication Office
<b>Z-1</b>	Petition for Review filed by accused Cerilles Re: Appeal from the Disallowance in the total amount of P504,000 in ND No. ZDS-2006-045 consisting of sic (6) pages
<b>AA</b>	Certified True Copy of the Decision dated 28 November 2008 [Subject: Petition of Governor Aurora E. Cerilles and Bernadette R. Ordoñez] signed by COA Director Salvador P. Isiderio with reference number LAO-Local Decision No. 2008-041 consisting of three (3) pages

*[Handwritten signatures and initials]*



### EVIDENCE FOR THE DEFENSE

#### **Marive Otchia Jongco**

*Marive Otchia Jongco* ("*Jongco*")<sup>12</sup> was the incumbent Provincial Information Officer of the Province of Zamboanga del Sur during the time of her testimony. In 2004, she was the Production Manager of the two (2) radio stations of the BBC. She identified her I.D. No. RB023 (Exhibit "3") as proof of her previous employment with BBC.

As the BBC Production Manager in 2004 and 2005, Jongco was in-charge of the radio programming, the monitoring of documents, keeping of the BBC documents and radio programming through the station signal coverage. She testified that since 2004 up to the time of her testimony, there is no other broadcasting company that can simultaneously broadcast radio programs in the AM and FM stations, except the BBC. The Provincial Government of Zamboanga del Sur is one of the government agency clients of BBC from 2004 to 2005. The other clients of BBC were the Technical Education and Skills Development (TESDA) – Pagadian City (Exhibit "6"), Zamboanga del Sur National High School – Pagadian City (Exhibit "7"), National Irrigation Administration (NIA) – Labangan Zamboanga del Sur (Exhibit "8"), Department of Environment and Natural Resources (DENR) – Region IX (Exhibit "9"), Social Security System (Exhibit "4"), MSU-LNAC in Lanao del Norte (Exhibit "5"), National Grid Corporation of the Philippines (Exhibit "10"), and ZAMSURECO-I (Exhibit "11") which conducts its bidding.

According to Jongco, BBC has the strongest AM and FM signal in the Province of Zamboanga del Sur because it is the primary coverage of BBC. The BBC gets more advertisers and listeners because it has a good programming. The other FM stations in Pagadian City include Power 99, IFM, Radyo Natin, and DXKV FM. The IFM only has 1,000 watts while Power 99 FM has a signal of 2,000 watts. In 2004, the DXKV FM had a signal strength of 1,000 watts and Radyo Natin only has 500 watts covering only Pagadian City. All of the FM stations mentioned cannot cover all of the twenty-six (26) municipalities of Zamboanga del Sur.

Jongco further testified that there were three (3) AM Radio Stations in Pagadian City, namely, the DXID AM, RMM DXER and DXBZ AM. The RMM DXER has a signal strength of 2,500 watts which can cover half of the city and half of the twenty-six (26) municipalities but not the remote areas in

<sup>12</sup> TSN dated 19 October 2016.

*[Handwritten signatures and initials]*


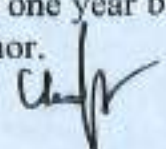


the province. On the other hand, DXID was not yet existing in 2004 and 2005. The DXBZ AM, an avenue station of BBC, has a signal strength of 10,000 watts which can cover the whole Province of Zamboanga del Sur, including the remote areas. The DXCA has a signal strength of 10,000 watts but the transmitter only has 5,000 watts, which can reach the whole Province of Zamboanga del Sur. One of BBC's clients, MSU Lanao del Norte, is a neighboring province of Zamboanga del Sur which is three (3) to four (4) hours travel from Pagadian City. The clients of BBC, which are government agencies, engaged the services of the latter by asking for a proposal or quotation from BBC. After studying the proposal, the clients will then notify BBC of its acceptance by contracting its services.

Jongco averred that the signal strength of BBC can be confirmed based on the license of BBC from the NTC which covers 05 June 2013 up to 04 June 2016 for the AM station and 23 June 2015 up to 22 June 2018 for the FM station. She also confirmed that BBC is a local corporation.

On cross-examination, Jongco confirmed that during her stint as production manager of BBC from 2004 to 2005, the Provincial Government of Zamboanga del Sur transacted with BBC for its information dissemination. She likewise confirmed that she was cognizant of the terms and conditions of some of BBC's contracts with the Provincial Government from December 2004 to January 2010, however, she was not aware of the provisions of R.A. No. 9184. She did not know if a public bidding was conducted because her only participation was with respect to the giving of proposals to BBC's clients. She likewise confirmed that accused Cerilles was the Governor in 2004, that Antonio Cerilles was holding a government position in the same year, and that the latter is one of the incorporators of BBC.

According to Jongco, there were other broadcasting companies which submit proposals or bids when the advertisement covers only Pagadian City, but when clients want their information dissemination to be broadcasted as far as the Zamboanga Peninsula, the clients choose BBC because its AM and FM stations have the strongest signal. With respect to the Radio Broadcast Contract Placement transacted with the Provincial Government, she mentioned that the broadcast covers the programs and activities of the Province of Zamboanga del Sur, its 7-Point Agenda, the accomplishments and achievements of the province, and other important information such as agriculture, environment, infrastructure, health, education and social services. For her, it is necessary that the broadcast be contracted for one year because the program runs for one year during the term of the governor.





Jongco stated that she applied for the position of Provincial Information Officer in 2013 when it was declared vacant and she was hired by then Governor Antonio Cerilles.

In her re-direct examination, she testified that Antonio Cerilles was only an incorporator of the BBC but he was not its owner nor stockholder in 2004 to 2006 based on BBC's GIS.

Upon re-cross-examination, she stated that incorporators refer to the founders of the corporation but an incorporator may or may not divest his or her share in the company.

#### **Perly Vergara Fernandez**

*Perly Vergara Fernandez ("Fernandez")*,<sup>13</sup> a licensed First Class Radio Telephone Operator, was the Chief Technician of BBC in 2004 and 2005. His duties as such include the maintenance of the radio station power and troubleshooting of technical problems. He testified that in 2004 and 2005, only the BBC and the RMN had AM and FM stations. Of the two broadcasting companies, BBC has the strongest signal as it had 10,000 watts for both its AM and FM stations, while RMN's AM station only had 5,000 watts and its FM station only radiated 500 watts. The farthest coverage of RMN's FM station will only include the city proper while its AM station will cover only portions of the municipality. The AM and FM stations of BBC covers the whole province of Zamboanga del Sur.

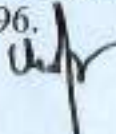
On cross-examination, Fernandez stated that his position in BBC is considered managerial but he does not know who the stockholders of the company were at the time he was called to testify.

#### **Ladilyn Ambalong Del Carmen**

The direct examination of *Ladilyn Ambalong Del Carmen ("Del Carmen")*,<sup>14</sup> the Records Custodian of BBC was dispensed with after the prosecution and the defense stipulated that Del Carmen issued the Certification (Exhibit "15") which provides that based on the records of BBC, the name of Antonio Cerilles appears as incorporator/stockholder of BBC in 1996 only. She further certified that Antonio Cerilles divested his share as stockholder of the BBC on 20 September 1996.

<sup>13</sup> TSN dated 08 May 2017.

<sup>14</sup> TSN dated 09 May 2017.





During her cross-examination, she confirmed that she was the BBC's records keeper from 2014 up to the time she was called to testify. As such, she keeps the Articles of Incorporation, the GIS, the personnel records, the resolutions of the corporation and the contracts of the company with the clients. Before she issued the above-mentioned Certification, she consulted the GIS of BBC from 1996 up to the year she testified in Court.

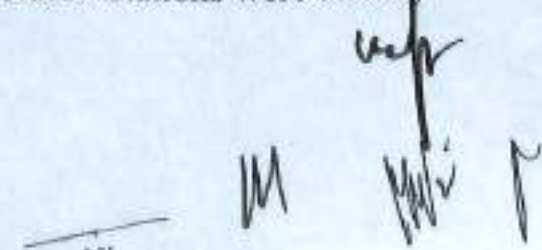
### **Evangeline D. Melindo**

*Evangeline D. Melindo* ("*Melindo*")<sup>15</sup> was an Accountant IV at the Provincial Accountant's Office, Pagadian City, when she was called to testify. She stated that she has been employed in the Provincial Government of Zamboanga del Sur since 1994 and became an Accountant III thereat in 2004 and 2005. She personally knows prosecution witness Ordoñez as the latter was her Department Head in the Office of the Provincial Governor and had worked with her for eleven (11) years. She also knows the accused Cerilles as she was the former Provincial Governor of Zamboanga del Sur from 2001 to 2010. Melindo was thus familiar with the signatures of Ordoñez and the accused for having worked with them for a long time.

Melindo testified that the signatures in the Broadcasting Contracts (Exhibits "B", "C", "D", "D-7", "E-8", "G", "H-5", "I-7", "J-9", "K-8", "M-8", and "N-8"), ALOBS (Exhibits "H-2", "I-3", "J-3", "K-3", "L-3", "M-3", "N-4", "O-3", and "P-1") and disbursement vouchers ("H", "I", "J", "K", "L", "M", "N", "N-3", "O", "P") were not the signatures of accused Cerilles. Furthermore, the signature appearing in the check (Exhibit "Q") presented by the prosecution was a facsimile signature of the accused. She likewise identified the signatures of witness Ordoñez in the same disbursement vouchers.

Being the Assistant Division Chief at the Office of the Provincial Accountant, Melindo declared that she has personal knowledge of the AOM (Exhibit "R") presented by the prosecution, which was received by the Provincial Accountant's Office. Since the AOM was addressed to the Attention of the Office of the Provincial Accountant, it is the function of the latter to answer the AOM based on the practice of the Provincial Government. In Exhibit "K-2" of the prosecution which is part of the Annual Audit Report for the year ended 31 December 2005, Melindo pointed out that Ordoñez was the one who made the comment that "Public bidding for advertising services will be implemented in the calendar year 2006. Radio Stations were already

<sup>15</sup> TSN dated 04 October 2017.





required to submit their documents or eligibility checking with the Bids and Awards Committee." Moreover, Melindo identified the signature of Ordoñez in the letter (Exhibit "Z") addressed to the Regional Legal Adjudication of Regional Office IX, COA. The Petition for Review (Exhibit "Z-1") was prepared by the Provincial Legal Officer and the Provincial Accounting Office appealed the same before the COA Central Office.

During her cross-examination, Melindo confirmed that there was no public bidding prior to the subject transactions. According to her, the Office of the Provincial Governor is independent of the Provincial Accountant. Disbursement vouchers first enters the Office of the Accountant for scrutiny of completeness of supporting documents. After review, the Accountant will sign the document which will be forwarded to the Provincial Treasurer for funds available then to the Office of the Governor for approval. The transactions will be approved by the Governor herself.

On re-direct examination, Melindo again confirmed that the signature appearing in the subject disbursement vouchers above the name of accused Cerilles were not the signature of the accused.

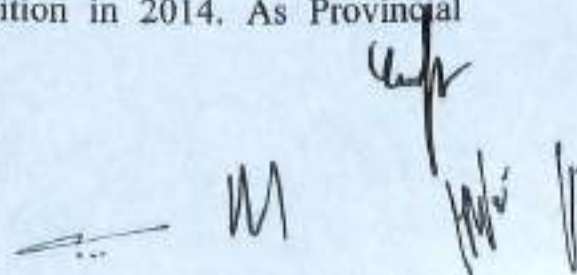
On re-cross-examination, Melindo mentioned that she was not familiar with the person who signed the disbursement vouchers. She also did not know why the Provincial Accountant was not able to answer the subject AOM. The last person to approve the disbursement vouchers is the local chief executive and the same will not push through without her approval.

When asked with a clarificatory question from the Court as to the flow of the documents, Melindo stated that after the vouchers pass the Office of the Provincial Accountant, it is forwarded to the Provincial Cashier then the latter forwards it to the local chief executive for approval. Thereafter, the vouchers will be returned to the Provincial Treasurer for check issuance. Melindo clarified that in the subject transactions, the Provincial Accountant found all the supporting documents attached to the disbursement vouchers to be complete, and the signatures to be genuine.

### **Robane Omandam Barnido**

*Robane Omandam Bernido ("Bernido")<sup>16</sup> was the current Provincial Accountant of the Provincial Government of Zamboanga del Sur during her testimony. She was designated as the OIC-Provincial Accountant in September 2013 and appointed to the position in 2014. As Provincial*

<sup>16</sup> TSN dated 05 October 2017.





Accountant, Bernido was responsible for accounting and internal audit services of the local government unit (LGU). She testified that the signature of the Provincial Accountant in the disbursement voucher signifies that the supporting documents were examined, reviewed, and found to be complete. In examining the supporting documents, government accountants are guided by law and circulars issued by the COA and the Department of Budget and Management.

Bernido stated that under Section 474 of the Local Government Code, the Provincial Accounting Office serves as the Internal Audit Unit of the LGU. The Provincial Governor does not have a role in the examination of the supporting documents. She was aware of the disallowance issued by the COA regarding the broadcast services of BBC because her attention was called upon by her co-auditor and such disallowance is a primary concern of her office. Based on her review of the subject documents, accused Cerilles had no participation therein as the latter had no signature in the disbursement vouchers nor in the ALOBS. The signature appearing in the documents which caused the approval of the Disbursement Vouchers may have been the OIC of accused Cerilles. She was familiar with the signature of accused Cerilles because she has reviewed a lot of documents with the latter's signature, but the accused's signature was not the signature appearing in the documents pertaining to the BBC transactions.

On cross-examination, she confirmed that was able to review the BBC documents because her co-auditor made a follow-up on the subject disallowance. Her statements were based on her review of the records but she had no personal knowledge with respect to the transactions because she was not yet connected with the Provincial Government in 2004 and 2005. She likewise confirmed that the Provincial Governor, in general, or her OIC would have the final authority in approving all transactions involving the Provincial Government. The disbursement vouchers, ALOBS and other supporting documents she reviewed first passed through the Office of the Provincial Accountant, then routed to the Office of the Treasurer and then to the Office of the Provincial Governor. The said documents will then go back to the Cash Division for the issuance of the check. The approval of the disbursement voucher will come from the Provincial Governor but as for the check, the Governor will only counter-sign after the Treasurer has signed. The check that she reviewed was only a duplicate copy and not the original. She therefore cannot say if it was the Governor who signed the check because the signature appearing above the name of the Governor was only a facsimile or a stamped signature of a person. She only relied on the representation of another provincial official that the subject documents may have been signed by the Provincial Administrator back then.

*Handwritten signature*

*Handwritten initials and marks*



*Documentary Evidence*

On 29 November 2017, the Court resolved to admit the following exhibits of the defense:<sup>17</sup>

<b>EXHIBITS</b>	<b>DESCRIPTION</b>
<b>3</b>	Employee's I.D. of Marive O. Jongco of BBC
<b>4</b>	Radio Broadcast Contract/Placement No. 010296 of BBC with the Social Security System, Pagadian City dated 31 August 2014
<b>5</b>	Radio Broadcast Contract/Placement No. 010692 of BBC with Mindanao State University Lanao del Norte Annex Campus dated 24 August 2015
<b>6</b>	Radio Broadcast Contract/Placement No. 010679 of BBC with TESDA, Pagadian City dated 22 April 2015
<b>7</b>	Radio Broadcast Contract/Placement No. 010683 of BBC with Zamboanga del Sur National High School, Department of Education dated 07 May 2015
<b>8</b>	Radio Broadcast Contract/Placement No. 010596 of BBC with National Irrigation Administration dated 12 February 2015
<b>9</b>	Radio Broadcast Contract/Placement No. 010588 of BBC with DENR Region IX dated 09 February 2015
<b>10</b>	Radio Broadcast Contract/Placement No. 010524 of BBC with the National Grid Corporation of the Philippines dated 30 September 2014
<b>11</b>	Radio Broadcast Contract/Placement No. 010519 of BBC with Zamboanga del Sur Electric Cooperative or ZAMSURECO-I dated 12 February 2015
<b>12</b>	License of Perly V. Fernandez from the NTC as certified First Class Radio Telephone Operator
<b>13</b>	Office I.D. of Perly V. Fernandez as employee of BBC
<b>14</b>	Judicial Affidavit of Robane O. Barnido, Provincial Accountant of the Provincial Government of Zamboanga del Sur
<b>15</b>	Certification dated 05 May 2017 issued by the BBC Re: Interest of Antonio H. Cerilles in BBC in 1996
<b>16</b>	Prosecution Exhibit "B" Certified True Copy of Radio Broadcast Contract/Placement No. 0219 dated 30 November 2004 entered into by and

<sup>17</sup> TSN dated 29 November 2017.

M  
M  
T



	between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period of 01 December 2004 to 06 January 2004
17	Prosecution Exhibit "C" Certified True Copy of Radio Broadcast Contract/Placement No. 0219 dated 30 November 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period of 01 December 2004 to 06 January 2004
18	Prosecution Exhibit "D" Certified True Copy of Radio Broadcast Contract/Placement No. 0212 dated 03 January 2005 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 03 January 2005 to 30 June 2005
19	Prosecution Exhibit "E" Certified True Copy of Radio Broadcast Contract/Placement No. 0213 dated 03 January 2005 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 03 January 2005 to 30 June 2005
20	Prosecution Exhibit "F" Certified True Copy of Radio Broadcast Contract/Placement No. 0211 dated 03 January 2005 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 03 January 2005 to 30 June 2005
21	Prosecution Exhibit "G" Certified True Copy of Radio Broadcast Contract/Placement No. 0229 dated 29 December 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 01 January 2005 to 31 December 2005
22	Prosecution Exhibit "H-5" Radio Broadcast Contract/Placement No. 0220 dated 30 November 2004 entered into by and between BBC represented by Dante B. Tual, Station Manager and the



	Provincial Government of Zamboanga del Sur represented by accused Cerilles covering the period 01 December 2004 to 06 January 2004
23	Prosecution Exhibit "I-7"
24	Prosecution Exhibit "J-9"
25	Prosecution Exhibit "K-8"
26	Prosecution Exhibit "M-8"
27	Prosecution Exhibit "N-8"
28	Prosecution Exhibit "O-6"
29	Prosecution Exhibit "P-7"
30	Prosecution Exhibit "H" Certified True Copy of Disbursement Voucher No. 100-2005030554 dated 18 March 2005 for the amount of P2,000 representing payment of airtime services for the month of 01 December 2004 to 06 January 2005 in favor of DXCA-FM
31	Prosecution Exhibit "I" Certified True Copy of Disbursement Voucher No. 100-2005030555 dated 18 March 2005 for the amount of P2,000
32	Prosecution Exhibit "J" Certified True Copy of Disbursement Voucher No. 100-20050305576 dated 18 March 2005 for the amount of P80,000
33	Prosecution Exhibit "K" Certified True Copy of Disbursement Voucher No. 100-2005030557 dated 18 March 2005 for the amount of P120,000
34	Prosecution Exhibit "L" Certified True Copy of Disbursement Voucher No. 100-2005030558 dated 18 March 2005 for the amount of P80,000
35	Prosecution Exhibit "M" Certified True Copy of Disbursement Voucher No. 100-2005030559 dated 18 March 2005 for the amount of P60,000
36	Prosecution Exhibit "N" Certified True Copy of Disbursement Voucher No. 100-2005030560 dated 18 March 2005 for the amount of P50,000
37	Prosecution Exhibit "N-3" Disbursement Voucher No. 100-2005030560 dated 18 March 2005 for the amount of P50,000
38	Prosecution Exhibit "O" Certified True Copy of Disbursement Voucher No. 100-2005030561 dated 18 March 2005 for the amount of P50,000
39	Prosecution Exhibit "P"

*[Handwritten signatures and initials]*



	Certified True Copy of Disbursement Voucher No. 100-2005030562 dated 18 March 2005 for the amount of P60,000
40	Prosecution Exhibit "Q" Certified True Copy of Check No. 0000467817 dated 21 March 2005 in the amount of P483,840.00
41	Page 3 of Prosecution Exhibit "R" Certified True Copy of AOM No. 2006-01-02 (2005) dated 13 January 2006 consisting of 3 pages prepared by Majestrado, State Auditor III and approved by Armando D. So, State Auditor IV, Provincial Auditor, Province of Zamboanga del Sur addressed to accused Cerilles, Provincial Governor, Rogelio P. Montealto, Budget Officer, Pedro D. Ramirez Jr., Provincial Treasurer and Attention: Bernadette Ordoñez, Provincial Accountant, all of the Province of Zamboanga del Sur
42	Prosecution Exhibit "Z" Letter dated 19 July 2007 of Ordoñez, Provincial Accountant of the Province of Zamboanga del Sur addressed to Director Vilma R. Agias, Regional Legal and Adjudication Office

### THE FACTS AND THE CASE

The instant case stemmed from a Joint Affidavit-Complaint<sup>18</sup> filed by private complainants Mirrar and Eutiquio S. Famor ("Famor") before the Office of the Ombudsman – Mindanao on 24 August 2009, against accused Cerilles, Antonio H. Cerilles, and Ace William E. Cerilles for violation of Section 3(e) of R.A. No. 3019. At the time of the filing of the said Joint Affidavit-Complaint, Mirrar was a Municipal Mayor of Lakewood, while Famor was a former Municipal Mayor of Dumalinao, both in Zamboanga del Sur. Accused Cerilles was then the Provincial Governor, Antonio H. Cerilles the incumbent Representative of the 2<sup>nd</sup> District, while Ace William E. Cerilles was then the incumbent Municipal Mayor of Dumalinao, Zamboanga del Sur.

In the said Complaint, Mirrar and Famor alleged that based on the Annual Audit Report of the COA for 2005, accused Cerilles, acting for and in behalf of the Province of Zamboanga del Sur, entered into several Radio Broadcast Contracts/Placements with BBC without public bidding as required under the Government Procurement Act. Pursuant to the said contracts, accused Cerilles issued Check No. 0467817 dated 21 March 2005 for Four Hundred Eighty-Seven Thousand Eight Hundred and Forty Pesos

<sup>18</sup> Sandiganbayan Records, Vol. 1, pp. 18-25.

*[Handwritten signatures and initials]*



x-----x

(P487,840.00) in favor of BBC as supported by the Disbursement Vouchers Nos. 1011-2005-03-2371 to 2379. The COA disallowed the said payment in its Notice of Disallowance No. ZDS-2006-045 dated 04 December 2006 based on the AOM No. 2006-01-02(2005) dated 13 January 2006.

The private complainants also alleged that Antonio H. Cerilles is the owner of BBC and Ace William E. Cerilles is its *de facto* manager.

In response to the allegations of the private complainants, accused Cerilles and her fellow respondents then essentially argued that the Cerilles family divested itself of any interest in BBC in 1996 when Antonio H. Cerilles sold his shares to a certain Alfonso Ortega, Jr. The Bill of Sale dated 20 September 1996 as proof of the said divestment was supposedly filed before the House of Representatives Committee Affairs Bureau on 21 October 1996. Accused Cerilles denies having acted with manifest partiality, evident bad faith or gross inexcusable negligence as her signature does not appear on any of the underlying documents for the transaction.

In a Resolution dated 20 December 2011,<sup>19</sup> the Ombudsman approved the filing of information for violation of Section 3(e) of R.A. No. 3019 against the herein accused, and dismissing the charges against Antonio H. Cerilles and Ace William E. Cerilles.

### ISSUE

The issue to be resolved in this case is whether or not accused Cerilles is guilty beyond reasonable doubt of violating Section 3(e), R.A. No. 3019 for allegedly granting unwarranted benefit, advantage or privilege to BBC, through manifest partiality, evident bad faith or gross inexcusable negligence.

### RULING

Section 3(e) of R.A. No. 3019, as amended, provides:

“Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx



<sup>19</sup> Sandiganbayan Records, Vol. 1, pp. 4-17.





(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

In order to convict accused Cerilles of the crime charged, the prosecution evidence must prove beyond reasonable doubt the following elements:

1. The offender is a public officer;
2. The act was done in the discharge of the public officer’s official, administrative or judicial functions;
3. The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
4. The public officer caused any undue injury to any party, including the Government, or gave any private party any unwarranted benefits, advantage or preference.<sup>20</sup>

A thoughtful review and consideration of the records of this case shows that the totality of prosecution evidence failed to meet the quantum of proof required for the conviction of accused Cerilles.

There is no dispute as to the presence of the first and second elements in this case as it has been stipulated in the Pre-trial Order<sup>21</sup> dated 01 July 2014 that accused Cerilles was a public officer, then being the Provincial Governor of the Province of Zamboanga del Sur at all times relevant and material to this case.


However, the prosecution failed to sufficiently prove beyond reasonable doubt the existence of the third element of the offense charged.

The third element enumerates three (3) ways by which a violation of Section 3(e), R.A. No. 3019 may be committed, *i.e.*, manifest partiality, evident bad faith or gross inexcusable negligence. It has been held that proof of any of these three (3) means in connection with the prohibited act mentioned in the provision is enough to warrant a conviction.<sup>22</sup>

<sup>20</sup> *Consigna v. People of the Philippines*, G.R. No. 175750-51, 02 April 2014.

<sup>21</sup> Sandiganbayan Records, Vol. 1, pp. 406-417.

<sup>22</sup> *Ampil v. The Hon. Office of the Ombudsman, et al.*, G.R. No. 192685, 31 July 2013 citing *Sison v. People of the Philippines*, G.R. Nos. 170339 & 170398-403, 09 March 2010.





In the case of *Sison v. People of the Philippines*,<sup>23</sup> the Supreme Court expounded on what constitutes evident bad faith, manifest partiality and gross inexcusable negligence, to wit:

Partiality is synonymous with bias which excites a disposition to see and report matters as they are wished for rather than as they are. Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.


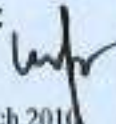
Mere bad faith or partiality and negligence *per se* are not enough for one to be held liable under the law since the act of bad faith or partiality must, in the first place, be evident or manifest respectively, while the negligent deed should both be gross and inexcusable.<sup>24</sup>

In the instant case, the prosecution anchors its imputation of evident bad faith, manifest partiality or gross inexcusable negligence on the part of the accused when she allegedly issued a check in favor of BBC knowing that the payment was unlawful as the contracts with BBC were not entered into pursuant to the Government Procurement Reform Act. Particularly, the prosecution advances its position that accused Cerilles gave unwarranted benefit, advantage, or preference to BBC when she unilaterally chose the latter to provide broadcast services to the Provincial Government without resorting to public bidding. However, a perusal of the evidence on record shows that the accused had no direct participation in the determination of the mode of procurement of the radio station for the province's media advertisements and in the negotiation with and selection of the company which will handle the radio broadcast.

In fact, the prosecution's documentary evidence does not show the accused's participation in any of the correspondences or documents which initiated the transactions with BBC, nor in its selection. The Court notes that the letters accepting the proposal of the BBC, the Radio Broadcast Contracts, Disbursement Vouchers, and ALOBS were not signed by the accused. This fact was also established in the testimonies of the prosecution witnesses, Majestrado and Ordoñez, to wit:

<sup>23</sup> G.R. Nos. 170339 & 170398-403, 09 March 2010

<sup>24</sup> *Constantino v. Hon. Sandiganbayan (First Division), et al.*, G.R. No. 140656 and 154482, 13 September 2007.





CROSS-EXAMINATION OF PROSECUTION WITNESS MADELINE ASOY J. MAJESTRADO<sup>25</sup>

ATTY. AVILA:

Thank you. Madam witness, I'll go to another point.

Q. I have cited to you about the evaluation standard of the documents that you have examined, according to you you have examined the nine (9) disbursement vouchers. May I please borrow the nine (9) vouchers?

Madam witness, I'm confronting you with these different vouchers, first, disbursement voucher marked as Exhibit "H" for the prosecution. You have examined this document?

A. Yes, sir.

Q. You have examined the different entries, the names and the signatures?

A. Yes, sir.

Q. In your examination according to the standard, you have to verify, ascertain, validate in order to check the accuracy and the authority of the signatories, do you confirm that?

WITNESS:

A. Yes, sir.

Q. Now, the signature appearing on top of the name "Aurora E. Cerilles" in Exhibit "H", can you please examine that?

A. Yes, sir. This is not the signature of Governor Aurora E. Cerilles.

Q. That is not her signature?

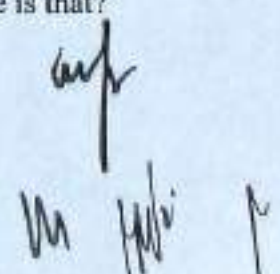
A. Yes, sir.

ATTY. AVILA:

Thank you.

Q. The next exhibit is Exhibit "J". Again, this is a disbursement voucher. Can you please look at the printed name and signature appearing on the name "Aurora Cerilles", whose signature is that?

<sup>25</sup> Transcript of Stenographic Notes (TSN), 03 December 2014, pp. 15-18.





x-----x

- A. Yes, sir. This is not the signature of Governor Aurora Cerilles.
- Q. That is not the signature of Aurora Cerilles. That is referring to Exhibit "J". Exhibit "E" another disbursement voucher, you have also examined this?

WITNESS:

- A. Yes, sir.
- Q. Kindly look at the printed name of Aurora Cerilles and the signature appearing on that name, whose signature is that?
- A. The signature appearing on this, I think in the nine (9) vouchers are the signatures of the then provincial administrator.
- Q. So that is not the signature of the accused Aurora Cerilles?
- A. Yes, sir.
- Q. In all these nine (9) vouchers?
- A. Yes, sir.

ATTY. AVILA:

Thank you, Madam witness.

- Q. So we are referring to Exhibits "L", "M", "N", "O", "P", and "I" in addition to Exhibits "J", "H", and "K", all these nine (9) vouchers, the signatures appearing on top of the name "Aurora Cerilles" do not belong to the accused Aurora Cerilles?

WITNESS:

- A. Yes, sir.

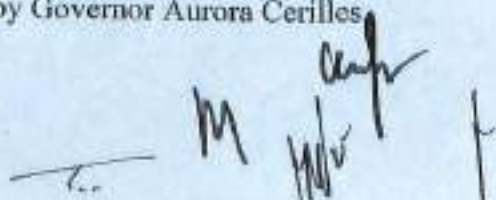
ATTY. AVILA:

I'm now returning the exhibits. May I borrow the check?

- Q: Madam witness, you have identified these documents consisting of Radio Broadcast Contract/Placement identified and marked as Exhibits "B", "C", "D", "E", "F" and "G". I want you to look at the signatures appearing on top of the name "Aurora Cerilles". Can you please state for the records whose signature is that as appearing in those exhibits above the name "Aurora Cerilles"?

WITNESS:

- A. All the contracts, sir, are not signed by Governor Aurora Cerilles

Handwritten signatures and initials at the bottom of the page, including a large signature that appears to be 'M' and another that looks like 'Cerilles'.



x-----x

Q. The signatures are not her signatures, is that what you mean?

A. Yes, sir.

x x x

CROSS-EXAMINATION OF PROSECUTION WITNESS  
BERNADETTE RULE ORDOÑEZ<sup>26</sup>

Q You also mentioned yesterday about vouchers. There is a signature there above the name "Aurora E. Cerilles". I'm not asking for that particular person, but I'm just asking if that is the signature of "Aurora E. Cerilles"?

WITNESS

A No, sir.

Q I'm referring to both Exhibit "H" and then another voucher Exhibit "I".

Could you please take a look at that, Madam Witness? Is that the signature of "Aurora E. Cerilles"?

A No, sir.

Q In order to abbreviate, Madam Witness, could you please go over all these vouchers and tell the Honorable Court if the signature above the name "Aurora E. Cerilles" the signature of the person, the governor?

A Exhibit "J", Exhibit "K", Exhibit "L", Exhibit "M", Exhibit "N", Exhibit "O" and Exhibit "P".

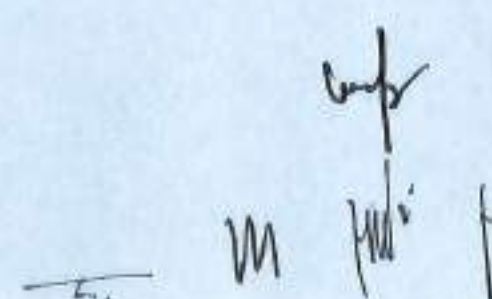
From Exhibits "I" up to "P", that is not the signature of the accused, sir.

ATTY. REDELOSA

Thank you, Madam Witness.

Q I also have here with me... I borrowed from the prosecution... Exhibits "B", "C", "D", "E", "F" and "G" involving the contract with BBC. There is also the name of Governor Aurora E. Cerilles and the signature.

<sup>26</sup> TSN, 28 April 2015, pp 27-29.





x-----x

Could you please tell the Honorable Court whose signature is that?  
By the way, is that the signature of "Aurora E. Cerilles"?

A No, sir.

Q Please go over all the contracts.

(Witness is going over the documents.)

Is that the signature of Aurora E. Cerilles?

A No, sir.

Q Did you ask, before signing the disbursement vouchers, did you ask the authority of the person signing for Governor Aurora E. Cerilles?

A No, sir, because it is the practice in the provincial government that the Provincial Administrator or the Executive Assistant V is tasked to sign mandatory and other expenses except for the big contracts or big amount which will be signed by the governor.

Q So, these advertising expenses or contracts do not involve big amount, is that what you're saying?

A It involves big amount, but as I've said, that is already included in their budget, so it has the appropriation, it has the...

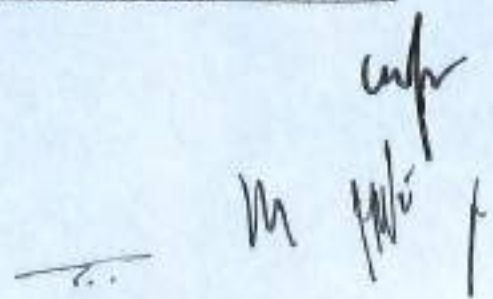
Q And so because of that presumption as stated earlier, you did not bother to ask anymore with all these vouchers and all these advertising contracts under what authority did that person signed (*sic*) above the name "Aurora E. Cerilles". Right? You did not anymore ask.

A Yes, sir...

None of the documents presented by the prosecution bears the signature of the accused. Despite the absence of the accused's signature in the letters accepting the proposal of the BBC, the Radio Broadcast Contracts, Disbursement Vouchers, and the ALOBS which pertain to the initiation, selection and approval of payments to BBC, the prosecution tried to show the accused's manifest partiality, evident bad faith or gross inexcusable negligence, by implying that the accused had a foreknowledge of the transaction and had authorized her representative or the Provincial Administrator to sign the said documents on her behalf, thus:

RE-DIRECT EXAMINATION OF PROSECUTION WITNESS  
ORDOÑEZ<sup>27</sup>

<sup>27</sup> *Ibid*, p. 40-44.





Q Is there any authority coming from the Provincial Administrator to affix his signature in all the radio broadcast contracts, as well as the disbursement voucher subject matter of this case?

A Yes, sir.

Q And what proof, if any, could you produce in Court that this particular Provincial Administrator is authorized?

A It is the practice of the Provincial Government, sir.

x x x

AJ CORNEJO

Q Are you the last sign (*sic*) authority?

WITNESS

A No, ma'am. After me, it will go to the Provincial Treasurer certifying as to the cash availability.

Q And then?

A And then after that, it will go back to the Provincial Governor's Office for approval for payment?

Q So the last to sign was the representative of the governor, in this case, the administrator?

A Yes, your Honor.

Q And it is, as you said, the basis, if there is no written authority for him to sign these documents, only it has been the practice?

A They have the memorandum, of course, that will be given - it will be routed to all the the (*sic*) agencies, especially the Commission on Audit. And I'm sure the Provincial Human Resource have a copy of it.

Q But specifically the authority to sign for and in behalf of the governor, is it in writing?

A Yes, your Honor.

Q Can you produce that?

A Yes, we can produce, but if I will be the one to do that, it will be a bit too-

M  
F  
C  
I



x-----x

x x x

Q So, what is the extent of the authority of this administrator to sign?

A Mandatory expenses, like PS, personal services and...

Q So it's regardless of the amount...

A Yes, your Honor, especially the personal services, the small vouchers, except for big ones like for the EDF or Economic Development Projects, that will be signed by the governor, your Honor.

Q So there has to be a document that would specify, spell out the extent of the authority of this person to sign for and in behalf of the governor?

A There is a memorandum for that, your Honor.

Q For every transaction?

A Not for every transaction, your Honor. It can be done once.

While the prosecution tried to persuade the Court that the accused purportedly knew, at the onset, the transactions with BBC and has allegedly authorized her representative or the Provincial Administrator to sign the subject documents on her behalf to give unwarranted benefit to BBC, no other evidence was presented to show that she in fact gave such authority, nor was there any evidence to support that it was the practice of the Provincial Government to honor the signature of the representative as the signature of the Governor. It bears to stress that when prosecution witness Ordoñez was asked with a clarificatory question from the Court as to whether there has to be a document that would specify the extent of authority of the representative to sign for and on behalf of the governor, Ordoñez categorically stated that it is embodied in a memorandum. However, such document was not presented in Court. Thus, other than the allegation of Ordoñez, no other concrete evidence was shown to support the position that the representative's signing of the subject documents was with the imprimatur of the accused.

With respect to the allegation of Ordoñez that she was instructed by the accused to expedite the processing of the vouchers, the same still cannot be given credence by the Court as her credibility has been affected by the presence of an incident which may be attributed as the compelling motive for her to testify against the accused as a retaliatory action:



x-----x

CROSS-EXAMINATION OF PROSECUTION WITNESS ORDOÑEZ<sup>28</sup>

Q Is it not a fact, Madame Witness, that even... by the way, before that, when was the last time or up to what year you were a provincial accountant of the provincial government?

Up to what time?

Up to what year?

A That was on March 27, 2013, wherein we were dropped from the roll of employees, sir.

Q You were dropped from the rolls?

A Yes, by the provincial governor.

Q By Governor...

A Antonio Cerilles.

Q The husband of the accused in this case?

A Yes, sir.

Q And am I right that you were placed under floating status prior to that?

A Yes, sir. That was on July 12, 2012.

With respect to the alleged signature of the accused on the check as payment for the services of BBC, the Supreme Court in the case of *Joson III v. COA*<sup>29</sup> is instructive, thus:

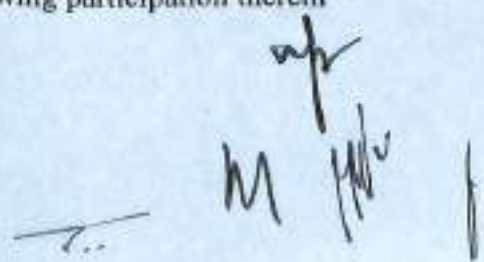
The fact that petitioner is the head of the procuring entity and the governor of Nueva Ecija does not automatically make him the party ultimately liable for the disallowed amount. He cannot be held liable simply because he was the final approving authority of the transaction in question and that the employees/officers who processed the same were under his supervision.

As this Court held in the case of *Ramon Albert v. Celso D. Gangan, et. al.*:

**We have consistently held that every person who signs or initials documents in the course of transit through standard operating procedures does not automatically become a conspirator in a crime which transpired at a stage where he had no participation. His knowledge of the conspiracy and his active and knowing participation therein**

<sup>28</sup> *Ibid.*, pp. 23-24.

<sup>29</sup> G.R. No. 223762, 07 November 2017.





must be proved by positive evidence. The fact that such officer signs or initials a voucher as it is going the rounds does not necessarily follow that the said person becomes part of a conspiracy in an illegal scheme. The guilt beyond reasonable doubt of each supposed conspirator must be established.

In the instant case, the only purported participation attributed to the accused in the commission of the offense charged was her supposed signature stamped on the check. However, the prosecution utterly failed to establish that said stamped signature appearing on a facsimile copy of a check is the true and authentic signature of the accused. As already explained above, no evidence was shown to prove the participation of the accused in the initiation of the transactions, the selection of the radio station and in the processing of the payments. The subject Disbursement Vouchers and ALOBS which supposedly contain the last approval coming from the accused for the processing of the payment to BBC were still not signed by her. Thus, no active and knowing participation on the part of the accused was proven by positive evidence.

Considering the insufficiency of the evidence to prove the direct participation of the accused in the selection of BBC and the procurement of the media advertisements as discussed above, there is reasonable doubt as to the presence of the third element of the crime charged.

The Court has not only a moral obligation, but also a constitutional duty not to convict a person or deprive her of her liberty on the basis of a mere presumption that she has authorized a person to act on her behalf in violation of the law absent any proof of her direct participation in the negotiation and selection of the radio station on the questioned transactions.

It is well-settled that conviction in criminal actions demands proof beyond reasonable doubt. While not impelling such a degree of proof as to establish absolutely impervious certainty, the quantum of proof required in criminal cases nevertheless charges the prosecution with the immense responsibility of establishing moral certainty, a certainty that ultimately appeals to a person's very conscience. While indeed imbued with a sense of altruism, this imperative is borne, not by a mere abstraction, but by constitutional necessity.<sup>30</sup>

The presumption of innocence of an accused in a criminal case is a basic constitutional principle, fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense

<sup>30</sup> *Daayata et al. v. People of the Philippines*, G.R. No. 205745, 08 March 2017.

*cupr*  
*m* *g* *f*



x-----x

charged by proof beyond reasonable doubt. Corollary thereto, conviction must rest on the strength of the prosecution's evidence and not on the weakness of the defense. In this case, the prosecution's evidence failed to overcome the presumption of innocence, and thus, the accused is entitled to an acquittal.<sup>31</sup>

Indeed, suspicion no matter how strong must never sway judgment. Where there is reasonable doubt, the accused must be acquitted even though their innocence may not have been established. The Constitution presumes a person innocent until proven guilty by proof beyond reasonable doubt. When guilt is not proven with moral certainty, it has been our policy of long standing that the presumption of innocence must be favored, and exoneration granted as a matter of right.<sup>32</sup>

All told, this Court finds and so holds that the prosecution failed in its duty to prove beyond reasonable doubt that the accused violated Section 3(e) of R.A. No. 3019. Accordingly, she should be acquitted.

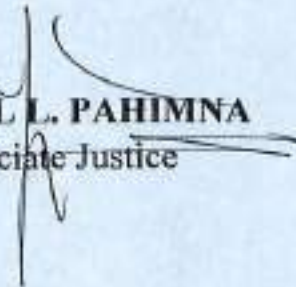
**WHEREFORE**, in view of the foregoing, judgment is hereby rendered **ACQUITTING** accused AURORA ENERIO CERILLES in Criminal Case No. SB-13-CRM-0107 for violation of Section 3(e) of R.A. No. 3019, as amended. The cash and surety bonds posted by her for her provisional liberty are ordered returned to her, subject to the usual accounting and auditing procedures. The Hold Departure Order issued against her is ordered **LIFTED**.

**SO ORDERED.**

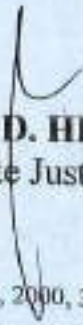
  
**MICHAEL FREDERICK L. MUSNGI**  
Associate Justice

**CONCUR:**

WITH SEPARATE  
CON. OPINION

  
**LORIFEL L. PAHIMNA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

  
**GEORGINA D. HIDALGO**  
Associate Justice

<sup>31</sup>People v. Maraoroa, G.R. No. 174369, 20 June 2012.

<sup>32</sup>Fernandes v. People, G.R. No. 138503, September 28, 2000, 341 SCRA 277, 299.



x-----x

**DISSENT**

*Pls. see dissenting opinion*



**OSCAR C. HERRERA, JR.**  
Associate Justice  
Chairperson

### ATTESTATION

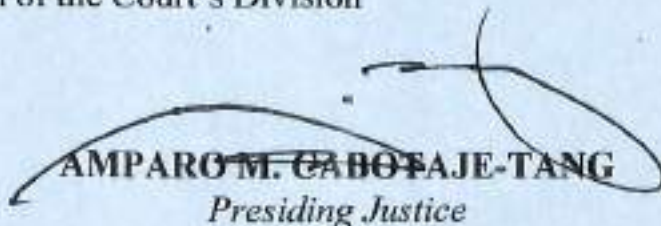
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**OSCAR S. HERRERA, JR.**  
Chairperson, Second Division

### CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson'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. GABO FAJE-TANG**  
Presiding Justice

