



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

SB-15-CRM-0016-0018
For: Violation of Section
3(e), Republic Act No. 3019

SB-15-CRM-0019-0021
For: Malversation (Article
217, Revised Penal Code)

SB-15-CRM-0022-0024
For: Direct Bribery (Article
210, Revised Penal Code)

CONSTANTINO GALAGNARA
JARAULA, MARIO LOQUELLANO
RELAMPAGOS,
ROSARIO SALAMIDA NUÑEZ,
LALAINÉ NARAG PAULE,
MARILOU DIALINO BARE,
ANTONIO YRIGON ORTIZ
DENNIS LACSON CUNANAN,
FRANCISCO B. FIGURA,
MA. ROSALINDA MASONGSONG
LACSAMANA,
MARIVIC V. JOVER,
BELINA A. CONCEPCION,
MAURINE E. DIMARANAN,
JANET LIM NAPOLES, and
MYLENE T. ENCARNACION

Accused.

Present:

DE LA CRUZ, J., *Chairperson*
ECONG, J. and
CALDONA, J.

Promulgated:

05 FEB 2021

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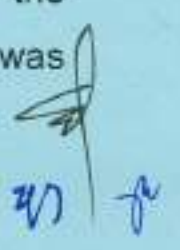
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AMENDED DECISION

CALDONA, J.:

Before this court are charges for three (3) counts of violation of Section 3 (e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act; three (3) counts of the crime of Malversation under Article 217 of the Revised Penal Code; and three (3) counts of Direct Bribery under Article 210 of the Revised Penal Code, all in relation to the alleged misuse of the Priority Development Assistance Fund (PDAF) by lawmakers and public officials purportedly in cahoots with private individuals in what is dubbed as an elaborate scheme to funnel out monies from public coffers.

Accused Constantino G. Jaraula ("Jaraula") was the former representative of the lone district of Cagayan de Oro City. Accused Mario L. Relampagos ("Relampagos"), Rosario S. Nuñez ("Nuñez"), Lalaine N. Paule ("Paule"), and Marilou D. Bare ("Bare") respectively occupied the positions of Undersecretary for Operations, Supervising Budget and Management Specialist, and Administrative Assistant VI of the Department of Budget and Management (DBM). Several officers of the Technology Resource Center (TRC), formerly known as Technology and Livelihood Resource Center (TLRC), were likewise implicated, specifically, accused Antonio Y. Ortiz ("Ortiz"), Dennis L. Cunanan ("Cunanan"), Francisco B. Figura ("Figura"), Ma. Rosalinda M. Lacsamana ("Lacsamana"), Marivic V. Jover ("Jover"), Belina A. Concepcion ("Concepcion"), and Maurine E. Dimaranan ("Dimaranan"), who occupied the positions of Director General, Deputy Director General, Group Manager, Group Manager, Chief Accountant, Legislative Liaison Officer and Internal Auditor V, respectively. Meanwhile, the accused private individuals are Janet Lim Napoles ("Napoles") who was



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the President of JLN Corporation and Mylene T. Encarnacion, the President of Countrywide Agri and Rural Economic Development Foundation (CARED).

The accused are charged under the following Informations, which, save for the Special Allotment Release Order (SARO), Disbursement Voucher (DV), and the check number in each transaction, are identically couched as follows:

Criminal Case No. SB-15-CRM-0016¹

The undersigned Graft and Investigation and Prosecution Officer IV of the Office of the Ombudsman accuses **CONSTANTINO GALAGNARA JARAULA, MARIO LOQUELLANO RELAMPAGOS, ROSARIO SALAMIDA NUÑEZ, LALAINE NARAG PAULE, MARILOU DIALINO BARE, ANTONIO YRIGON ORTIZ, DENNIS LACSON CUNANAN, FRANCISCO B. FIGURA, MA. ROSALINDA MASONGSONG LACSAMANA, BELINA A. CONCEPCION, MAURINE E. DIMARANAN, MARIVIC V. JOVER, JANET LIM NAPOLES and MYLENE T. ENCARNACION** of violating Section 3 (e) of Republic Act No. 3019, (Anti-Graft and Corrupt Practices Act), committed as follows:

In January 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused **CONSTANTINO GALAGNARA JARAULA** (Jaraula), the then Congressman of the lone district of Cagayan de Oro City; **MARIO LOQUELLANO RELAMPAGOS** (Relampagos), Undersecretary for Operations, **ROSARIO SALAMIDA NUÑEZ** (Nuñez), **LALAINE NARAG PAULE** (Paule), and **MARILOU DIALINO BARE** (Bare), assigned to the Office of the Undersecretary for Operations, all of the DEPARTMENT OF BUDGET AND MANAGEMENT (DBM); **ANTONIO YRIGON ORTIZ** (Ortiz), Director General, **DENNIS LACSON CUNANAN**, (Cunanan), Deputy Director General, **FRANCISCO B. FIGURA**, (Figura), Group Manager, **MA. ROSALINDA MASONGSONG LACSAMANA** (Lacsamana), Group Manager, **MARIVIC V. JOVER** (Jover), Chief Accountant, **MAURINE E. DIMARANAN** (Dimaranan), Internal Auditor V/Division Chief and **BELINA A. CONCEPCION**

¹ In **SB-15-CRM-0017**, the PDAF allocation is covered by SARO No. ROCS-07-005450 and the amount involved is P 9,600,000.00 as seen on Disbursement Voucher No. 012007040660 and LBP Check No. 850453.

In **SB-15-CRM-0018**, the PDAF allocation is covered by SARO No. ROCS-07-00861 and the amount involved is P 9,600,000.00 as seen on Disbursement Voucher No. 012007030473 and LBP Check No. 850379.

(Concepcion), Legislative Liaison Officer/Sales and Promotion Officer V, all of the TECHNOLOGY RESOURCE CENTER (TRC); while in the performance of their administrative and/or official functions and conspiring with one another and with private individuals **JANET LIM NAPOLES** (Napoles) and **MYLENE T. ENCARNACION** (Encarnacion); acting with manifest partiality, and/or evident bad faith; did then and there willfully, unlawfully, and criminally, cause undue injury to the government and give unwarranted benefits and advantage to said private individuals in the amount of at least **NINE MILLION AND SIX HUNDRED THOUSAND PESOS (PHP9,600,000.00)**, through a scheme described as follows:

- a) **Jaraula** unilaterally chose and indorsed COUNTRYWIDE AGRI AND RURAL ECONOMIC DEVELOPMENT FOUNDATION (CARED), a non-governmental organization (NGO) operated and/or controlled by the aforementioned private individuals, as "project partner" in implementing livelihood projects to farmers in his legislative district, which were funded by Jaraula's Priority Development Assistance Fund (PDAF) allocation covered by **Special Allotment Release Order (SARO) No. ROCS-07-00580** in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with CARED being unaccredited and unqualified to undertake the projects;
- b) DBM's **Relampagos, Nuñez, Paule** and **Bare**, unduly accommodating herein private individuals, facilitated the processing of the aforementioned SARO and the corresponding Notice of Cash Allowance resulting in the release of the subject funds drawn from Jaraula's PDAF to TRC, the agency chosen by Jaraula through which to course his PDAF allocation;
- c) **Jaraula** and TRC's **Ortiz**, then entered into a Memorandum of Agreement (MOA) with CARED on the purported implementation of Jaraula's PDAF-funded projects, and which MOA was prepared and/or reviewed by **Lacsamana** and **Concepcion**;
- d) **Ortiz** also facilitated, processed, and approved, the disbursement of the subject PDAF release by signing Disbursement Voucher No. 012007040605 along with **Cunanan** and **Jover**, with **Dimaranan** verifying that the supporting documents were attached, as well as causing the issuance of **Land Bank Check No. 850422** in the amount of PHP9,600,000.00 to CARED which was signed by **Ortiz** and **Figura**, without accused TRC officers having carefully examined and verified the accreditation and qualifications of CARED as well as the transaction's supporting documents;

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- e) **Encarnacion**, acting for and in behalf of **Napoles** and **CARED**, received the above-described check from TRC and helped remit the proceeds thereof to **Napoles**;
- f) The above acts by the accused public officials thus allowed **CARED** to divert said PDAF-drawn public funds to **Napoles'** control and benefit instead of implementing the PDAF-funded projects which turned out to be non-existent, while **Napoles** and **Encarnacion** caused/participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction; and
- g) **Jaraula**, personally and/or thru his representatives, as well as the other accused public officers and employees, received commissions and/or "kickbacks" from **Napoles**, in consideration of their participation and collaboration as described above.

CONTRARY TO LAW.

Criminal Case No. SB-15-CRM-0019²

The undersigned Graft and Investigation and Prosecution Officer IV of the Office of the Ombudsman accuses **CONSTANTINO GALAGNARA JARULA, MARIO LOQUELLANO RELAMPAGOS, ROSARIO SALAMIDA NUÑEZ, LALAINE NARAG PAULE, MARILOU DIALINO BARE, ANTONIO YRIGON ORTIZ, DENNIS LACSON CUNANAN, FRANCISCO B. FIGURA, MA. ROSALINDA MASONGSONG LACSAMANA, BELINA A. CONCEPCION, MAURINE E. DIMARANAN, MARIVIC V. JOVER, JANET LIM NAPOLES** and **MYLENE T. ENCARNACION** of MALVERSATION, as defined and penalized by Article 217 of the Revised Penal Code, committed as follows:

In 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused **CONSTANTINO GALAGNARA JARULA** (Jaraula), the then Congressman of the lone district of Cagayan de Oro City; **MARIO LOQUELLANO RELAMPAGOS** (Relampagos), Undersecretary for Operations, **ROSARIO SALAMIDA NUÑEZ** (Nuñez), **LALAINE NARAG PAULE** (Paule), and **MARILOU DIALINO BARE** (Bare), assigned to the Office of the Undersecretary for Operations, all of the DEPARTMENT OF BUDGET AND MANAGEMENT (DBM); **ANTONIO YRIGON ORTIZ** (Ortiz), Director General, **DENNIS**

² In **SB-15-CRM-0020**, the PDAF allocation is covered by SARO No. ROCS-07-005450 and the amount involved is P9,600,000.00 as seen on Disbursement Voucher No. 012007040660 and LBP Check No. 850453.

In **SB-15-CRM-0021**, the PDAF allocation is covered by SARO No. ROCS-07-00580 and the amount involved is P9,600,000.00 as seen on Disbursement Voucher No. 012007040605 and LBP Check No. 850422.

LACSON CUNANAN, (Cunanan), Deputy Director General, **FRANCISCO B. FIGURA**, (Figura), Group Manager, **MA. ROSALINDA MASONGSONG LACSAMANA** (Lacsamana), Group Manager, **MARIVIC V. JOVER** (Jover), Chief Accountant, **MAURINE E. DIMARANAN** (Dimaranan), Internal Auditor V/Division Chief and **BELINA A. CONCEPCION** (Concepcion), Legislative Liaison Officer/Sales and Promotion Officer V, all of the **TECHNOLOGY RESOURCE CENTER (TRC)**; while in the performance of their administrative and/or official functions and conspiring with one another and with private individuals **JANET LIM NAPOLES** (Napoles) and **MYLENE T. ENCARNACION** (Encarnacion); did then and there willfully, unlawfully, and criminally, allow private individuals to take public funds amounting to at least **NINE MILLION AND SIX HUNDRED THOUSAND PESOS (PHP9,600,000.00)**, through a scheme describes as follows:

- a) **Jaraula**, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law for the year 2007, unilaterally chose and indorsed **COUNTRYWIDE AGRI AND RURAL ECONOMIC DEVELOPMENT FOUNDATION, INC. (CARED)**, a non-government organization operated and/or controlled by the aforementioned private individuals as "project partner" in implementing livelihood projects to farmers in his legislative district, which were funded by his PDAF allocation covered by **Special Allotment Release Order (SARO) No. ROCS-07-00861**, in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with **CARED** being unaccredited and unqualified to undertake the projects;
- b) **DBM's Relampagos, Nuñez, Paule and Bare**, unduly accommodating herein private individuals, facilitated the processing of the aforementioned **SARO** and the corresponding Notice of Cash Allowance resulting in the release of the subject funds drawn from **Jaraula's PDAF** to **TRC**, the agency chosen by **Jaraula** through which to course his PDAF allocation;
- c) **Jaraula** and **TRC's Ortiz**, then entered into a Memorandum of Agreement (MOA) with **CARED** on the purported implementation of **Jaraula's PDAF-funded** projects, and which MOA was prepared and/or reviewed by **Lacsamana**;
- d) **Ortiz** also facilitated, processed, and approved the disbursement of the subject PDAF release by signing Disbursement Voucher No. 012007030473 along with **Cunanan** and **Jover**, with **Dimaranan** verifying that the supporting documents were attached, as well as causing the issuance of **Land Bank Check No. 850379** in the amount of



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PHP9,600,000.00 to CARED which was signed by **Ortiz** and **Figura**, without accused TRC officers having carefully examined and verified the accreditation and qualifications of CARED as well as the transaction's supporting documents;

- e) **Encarnacion**, acting for and in behalf of **Napoles** and CARED, received the above-described check from TRC and helped remit the proceeds thereof to **Napoles**;
- f) The above acts by the accused public officials thus allowed CARED to divert said PDAF-drawn public funds to **Napoles'** control and benefit instead of implementing the PDAF-funded projects which turned out to be non-existent, while **Napoles** and **Encarnacion** caused/participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction; and
- g) By their above acts, Jaraula and the above-named TRC officials allowed **Napoles** and her cohorts, through CARED, to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, while **Napoles** and **Encarnacion** caused/participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.

Additionally, accused Jaraula stands charged with three (3) counts of the crime of Direct Bribery under Article 210 of the Revised Penal Code. The informations subject of these cases, save for the SARO number involved, are likewise identically couched, as follows:

Criminal Case No. SB-15-CRM-0022³

The undersigned Graft and Investigation and Prosecution Officer IV of the Office of the Ombudsman accuses **CONSTANTINO GALAGNARA JARAULA** of

³ In **SB-15-CRM-0023**, the amount involved is PHP2,000,000.00 in relation to SARO No. ROCS-07-00861.

In **SB-15-CRM-0024**, the amount involved is PHP500,000.00 in relation to SARO No. ROCS-07-00580.

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DIRECT BRIBERY, as defined and penalized under Article 210 of the Revised Penal Code, as amended, committed as follows:

In 2007, or sometime prior or subsequent thereto, in Pasig City, and within this Honorable Court's jurisdiction, accused **CONSTANTINO GALAGNARA JARAULA** (Jaraula), a high-ranking public officer, while in the performance of his official functions as the then Congressman of the lone district of Cagayan de Oro City, did then and there, did then and there willfully, unlawfully, and feloniously receive the amount of at least **TWO MILLION PESOS (PHP2,000,000.00)**, from Janet Lim Napoles, a private person affiliated with or exercising control over a non-government organization known as **COUNTRYWIDE AGRI AND RURAL ECONOMIC DEVELOPMENT FOUNDATION (CARED)**, with intent to gain and a view to committing an unjust act which constitutes a crime, that is, JARAULA, in the performance of his official duties, unilaterally chose and endorsed CARED to implement livelihood and development projects funded by his Priority Development Assistance Fund (PDAF) allocations in the amount of at least PHP9,600,000.00 and covered by Special Allotment Release Order (SARO) No. ROCS-07-05450 as well as caused the preparation and execution of endorsement letters, memoranda of agreement and other similar communications and documents relating to his PDAF disbursement, and helped facilitate the release of said public funds to CARED in violation of Section 53.11 of the Implementing Rules and Regulations of Republic Act No. 9184 and the National Budget Circular No 476, as amended, despite the absence of public bidding, and likewise, bereft of authorization under any appropriation law, ordinance or regulation, which PDAF-funded projects assigned to CARED were not implemented because these were actually fictitious and/or inexistent, thereby taking advantage of his office and unjustly enriching himself at the expense and to the prejudice of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.

On February 6, 2015, accused Jaraula filed a Motion for Judicial Determination of Probable Cause.⁴ On February 17, 2015 accused Lacsamana filed a similar Motion.⁵ On March 2, 2015, accused Relampagos, Nuñez, Paule, and Bare filed an Urgent Consolidated Omnibus Motion for Judicial Re-Determination of Probable Cause and to Defer Arraignment. Likewise, on March 6, 2015, accused Jaraula filed

⁴ Records, Volume VI, p. 43.

⁵ Records, Volume VI, p. 121.

an Urgent Consolidated Omnibus Motion to Quash Informations with Motion to Defer Arraignment.

These motions were resolved by this court in a Resolution⁶ dated May 13, 2015 which partially granted the Urgent Motion filed by accused Relampagos, Nuñez, Paule, and Bare and dismissing Criminal Case Nos. SB-15-CRM-0017 and SB-15-CRM-0020 due to the accused's apparent lack of participation in the preparation and issuance of the SARO covered by the said cases. The same Resolution denied accused Jaraula's Urgent Motion and set the arraignment of the remaining accused on June 1, 2015.

On March 12, 2015, accused Cunanan, Figura, Jover, Lacsamana, Concepcion, Dimaranan and Encarnacion were arraigned and pleaded not guilty.⁷ On June 1, 2015 the scheduled arraignment of accused Jaraula, Napoles, Relampagos, Nuñez, Paule, and Bare pushed through and similarly pleaded not guilty.⁸

During the pre-trial conference, the prosecution and the defense stipulated on the following facts which are stated in the Pre-Trial Order⁹ dated February 1, 2016, thus:

1. The accused are the same persons mentioned and/or arraigned in the informations;
2. That in the year 2007, the accused were public officers of the following government agencies, occupying the positions indicated opposite their names:
 - House of Representatives
 - a. Constantino G. Jaraula - Representative of the Lone District of Cagayan De Oro City

⁶ Records, Volume VII, pp. 210-215

⁷ Records, Volume VI, p. 373.

⁸ Records, Volume VII, p. 292.

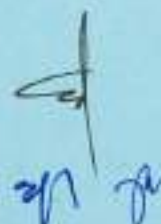
⁹ Records, Volume IX, pp. 120-180.

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- Department of Budget and Management
 - b. Mario L. Relampagos – Undersecretary for Operations
 - c. Rosario S. Nuñez – Supervising Budget & Management Specialist
 - d. Lalaine N. Paule – Administrative Assistant VI
 - e. Marilou D. Bare – Administrative Assistant VI
- Technology Resource Center (TRC; formerly Technology and Livelihood Resource Center)
 - f. Antonio Y. Ortiz – Director General
 - g. Dennis L. Cunanan – Deputy Director General
 - h. Francisco B. Figura – Group Manager (Department Manager III)
 - i. Ma. Rosalinda M. Lacsamana – Group Manager
 - j. Marivic V. Jover – Chief Accountant (Accountant III)
 - k. Belina A. Concepcion – Legislative Liaison Officer / Sales and Promotion Officer V
 - l. Maurine E. Dimaranan – Internal Auditor V / Division Chief

3. Accused Encarnacion admitted the following facts:

- a. She signed on behalf of CARED the Memorandum of Agreement for the implementation of the Livelihood Project sourced from PDAF under SARO No. ROCS-07-00580, dated January 12, 2007.
- b. She signed on behalf of CARED the Memorandum of Agreement for the implementation of the Livelihood and Development Project sourced from PDAF under SARO No. ROCS-07-05450, dated March 21, 2007.
- c. She signed on behalf of CARED the Memorandum of Agreement for the implementation of the Livelihood and Development Project sourced from PDAF under SARO No. ROCS-07-00861, dated January 19, 2007.
- d. She signed as claimant or representative of CARED and received Check No. 850422, dated April 2, 2007, amounting to P9.6M.
- e. She signed and issued CARED Official Receipt No. 010 dated April 2, 2007, with an amount of P9.6M for Landbank Check No. 850422.
- f. She signed and issued CARED Official Receipt No. 026 dated April 18, 2007, with an amount of P9.6M for Landbank Check No. 850453.
- g. She signed as claimant/ representative of CARED and received the check amounting to P9.6M with Check No. 850379, dated March 15, 2007.
- h. She signed and issued CARED Official Receipt No. 009 dated March 16, 2007, with an amount of P9.6M for Landbank Check No. 850379.



- i. She signed as CARED President the "noted by" portion of the List of Project Activities/Target Date and Amount for the project of Congressman Jaraula under SARO No. ROCS-07-00580 dated January 12, 2007.
- j. She signed as CARED President the "noted by" portion of the List of Project Activities/Target Date and Amount for the project of Congressman Jaraula under SARO No. ROCS-07-05450 dated March 21, 2007.
- k. She signed as CARED President the "noted by" portion of the List of Project Activities/Target Date and Amount for the project of Congressman Jaraula under SARO No. ROCS-07-00861 dated January 19, 2007.

From accused Jaraula's proposals, the prosecution stipulated that the implementing agency is required to observe the requirements of R.A. No. 9184, and existing rules and regulations as specified in the SAROs, in the engagement of NGOs.

From accused Napoles' proposals, the prosecution stipulated that:

- Accused Napoles is a private individual and not a public officer discharging administrative, judicial, or legislative function; and
- The DBM issued the Special Allotment Release Order representing the legislator's PDAF allocations.

From accused Encarnacion's proposals, the prosecution admitted that:

- The TRC authorized the issuance of Landbank Check No. 850422 dated 4-2-4007 to CARED, amounting to P9.6M;
- The TRC authorized the issuance of Landbank Check No. 850453 dated 4-17-4007 to CARED, amounting to P9.6M;
- The TRC authorized the issuance of Landbank Check No. 850379 dated 3-15-4007 to CARED, amounting to P9.6M;

Thereafter, trial on the merits ensued.

The prosecution presented several witnesses, namely: Director Rosalinda Borja, Carmencita Natividad Delantar, Susan P. Garcia, Joan Agnes Nini Alfafaras, Benhur Luy, Atty. Sheara P. Tamayo, Atty. Vernard Manuel Villarín, and Atty. Arnold Kabanlit.



Rosalinda Borja¹⁰ is the Director II of the Human Resource Management Service of the House of Representatives from 2001 up to the time of her testimony. Acting on a subpoena from the court, Borja submitted certified true copies of Oaths of Office and Personal Data Sheets of accused Jaraula to establish his term of office from 2004 to 2007, which the court took judicial notice of.

The prosecution then presented Director IV of the DBM Regional Operations Coordination Services (ROCS) Bureau G from 1999 up to 2015, **Carmencita Natividad Delantar**.¹¹ The ROCS is one of the bureaus that processes SAROs in relation to PDAF transactions. Delantar testified that the ROCS releases the PDAF of lawmakers on the basis of the General Appropriations Act (GAA), the project list, the endorsement and the letter-requests of the lawmakers. In these cases, she testified that her office processed SARO Nos. ROCS-07-00580,¹² ROCS-07-05450,¹³ and ROCS-07-00861¹⁴ after checking the consistency of the list and project menu with the provisions of the GAA. Thereafter, the DBM-ROCS forwarded these documents to the office of the Undersecretary for Operations, then headed by accused Relampagos who would evaluate the observations and recommendations made by her office. Accused Relampagos, would forward these SAROs to the DBM Secretary for approval and signature. If the DBM Secretary is unavailable, accused Relampagos himself signs the SAROs on the Secretary's behalf. Once these SAROs are approved, the DBM-ROCS would process Notices of Cash Allocation (NCA) and the Advices of NCA Issued (ANCAI). Anent these cases, the DBM issued NCAs No. 336077-0, No. 336974-1 and No. 336076-6,¹⁵

¹⁰ Judicial Affidavit, Records, Volume IV, p. 204; TSN dated November 20, 2018 pp. 4-42.

¹¹ TSN dated February 16, 2016, March 1, 2016, March 15, 2016, and July 5, 2016.

¹² Exhibit "BB".

¹³ Exhibit "DD".

¹⁴ Exhibit "CC".

¹⁵ Exhibits "BB-1", "CC-1" & "DD-1".

corresponding to the above-mentioned three (3) SAROs. The SAROs, NCAs and ANCAIs were then forwarded to the Bureau of Treasury which would subsequently release the funds.

Delantar testified that for the three (3) SAROs, her office received indorsement letters¹⁶ signed by the Chairperson of the Committee on Appropriations and the Speaker of the House, lists of lawmakers with the corresponding amounts of the projects chargeable against their respective PDAFs,¹⁷ which included accused Jaraula; and letter-requests¹⁸ from accused Jaraula requesting that the project to be implemented by TRC be funded in the amount of Ten Million Pesos (Php10,000,000) from his PDAF.

During cross-examination, Delantar testified that she has not come across any document in relation to CARED since it is the implementing agency, in this case TRC, which is responsible for the implementation, execution, and accounting of these SAROs. Further, Delantar stated that the DBM-ROCS did not find anything irregular with the documents forwarded to them, except in the case of SARO No. ROCS-07-05450,¹⁹ where accused Jaraula requested that the project implementer be changed from Department of Agriculture to TRC.

Susan P. Garcia²⁰ is an Assistant Commissioner of the Commission on Audit (COA) and she was the Director IV of the COA Special Audit Office (SAO) that conducted the audit of PDAF transactions from 2007 to 2009. With regard to the PDAF transactions of accused Jaraula, the COA SAO was able to obtain the three (3)

¹⁶ Exhibit "F", pp. 6, 12 & 14.

¹⁷ Exhibit "F", pp. 7, 13 & 15.

¹⁸ Exhibit "F", pp. 1, 2, 3 & 5.

¹⁹ Exhibit "DD".

²⁰ Sinumpaang Salaysay, Records, Volume IV, p. 92-101; TSN dated March 29, 2016, June 7, 2016, and June 21, 2016.

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SAROs,²¹ their corresponding ANCAIs,²² the Disbursement Vouchers (DVs),²³ Memoranda of Agreement,²⁴ Project Proposals,²⁵ Project Activities,²⁶ Landbank checks²⁷ issued to CARED, and CARED-issued official receipts.²⁸

In discussing the individual participation of the accused, Garcia testified that for Disbursement Vouchers No. 012007040605²⁹ and No. 012007030473³⁰ in connection with the SAROs No. ROCS-07-00580 and No. ROCS-07-00861, respectively, accused Cunanan, in his capacity as Deputy Director General, signed Box A thereof. On the other hand, in the Box A of DV No. 012007040660,³¹ in relation to SARO No. ROCS-07-05450, it was accused Figura who signed the same. Box A of the DVs requires a certification that the expenses/cash advance is necessary, lawful and incurred under his direct supervision. Accused Ortiz, as Director General of TRC, signed all the DVs as approving authority. Accused Jover, as Officer-in-Charge of the Accounting Division, signed Box B of the DVs which certified the adequacy of available funds/budgetary allotment and that the expenditure is properly certified and supported by documents. Accused Dimaranan also signed the DVs, verifying the completeness of the documents attached to the vouchers. Lastly, accused Encarnacion, as President of CARED, signed thereon as the recipient of all three (3) checks amounting to Nine Million Six Hundred Thousand Pesos (Php9,600,000.00) each. Attached to the DVs are Memoranda from accused Concepcion³² or Lacsamana³³

²¹ Exhibits "BB", "CC" & "DD".

²² Exhibits "BB-1", "CC-1" & "DD-1".

²³ Exhibits "BB-5", "CC-5" & "DD-5".

²⁴ Exhibits "BB 8-11", "CC-12-15" & "DD-8-11".

²⁵ Exhibits "BB-13-14", "CC-9-10" & "DD-13-14".

²⁶ Exhibits "BB-12", "CC-13-11" & "DD-12".

²⁷ Exhibits "BB-3", "CC-3" & "DD-3".

²⁸ Exhibits "BB-6", "CC-6" & "DD-6".

²⁹ Exhibit "BB-5".

³⁰ Exhibit "DD-5".

³¹ Exhibit "CC-5".

³² Exhibits "BB-7".

³³ Exhibits "CC-8" and "DD-7".

addressed to Director General Ortiz, recommending that the PDAF be released to CARED.

According to Garcia, other documents were also studied as part of the audit conducted by COA SAO such as several letters³⁴ allegedly sent by accused Jaraula to accused Ortiz requesting that the subject PDAF projects be implemented by CARED, three (3) similar Memoranda of Agreement,³⁵ supposedly entered into among TRC, CARED and accused Jaraula, which included the signatures of accused Ortiz, Encarnacion and Jover. Likewise, the Project Activities³⁶ for each SARO apparently bear the signatures of accused Encarnacion and Jaraula. Landbank Checks No. 8504222,³⁷ No. 850453,³⁸ and No. 850379,³⁹ were issued by the TRC and made payable to CARED each amounting to Nine Million Six Hundred Thousand Pesos (Php9,600,000.00), which were signed by accused Ortiz and Figura. Lastly, CARED, through accused Encarnacion, issued Official Receipts No. 010,⁴⁰ No.026⁴¹ and No. 009⁴² to TLRC. Another irregularity found by the COA SAO is that the BIR Permit No.4AU00000132627⁴³ which was used in CARED's receipts, has the same permit number⁴⁴ used by another NGO, *Agrikultura Para sa Magbubukid Foundation, Inc.*

Garcia also testified that her office sent accused Jaraula a letter,⁴⁵ asking for the latter's confirmation of his signatures in the pertinent documents audited. In his reply,⁴⁶ accused Jaraula admitted some of his

³⁴ Exhibits "BB-2", "CC-2" & "DD-2".

³⁵ Exhibits "BB-8-11", "C-9-12", and "DD-8-11".

³⁶ Exhibits "BB-12", "CC-11", and "DD-12".

³⁷ Exhibits "BB-3-4".

³⁸ Exhibits "CC-3-4".

³⁹ Exhibits "DD-3-4".

⁴⁰ Exhibit "BB-6".

⁴¹ Exhibit "CC-6".

⁴² Exhibit "DD-6".

⁴³ Exhibits "BB-6-d", "CC-18-a", and "DD-16-b".

⁴⁴ Exhibits "BB-17-a", "CC-17-a", and "DD-17-a".

⁴⁵ Exhibit "EE", pp. 1-21.

⁴⁶ Exhibit "FF", pp. 1-3.

signatures in the documents. Specifically, accused Jaraula admitted the authenticity of his signatures on Memoranda of Agreement for SAROs No. ROCS-07-00861 and No. ROCS-07-05450, as well as his signature in the letter to Ortiz dated March 28, 2007 requesting that CARED implement the project covered by SARO NO. ROCS-07-05450. Garcia further explained that the PDAF subject of the three (3) SAROs have a total amount of Thirty Million Pesos (Php30,000,000.00) or Ten Million Pesos (Php10,000,000.00) each, but each check issued by TRC amounted to Nine Million Six Hundred Thousand Pesos (Php9,600,000.00) only because TRC retained Four Hundred Thousand Pesos (Php400,000.00) as standard fee from each SARO.

Garcia added that the COA SAO also looked into the documents of CARED. She testified that they checked CARED's Certificate of Incorporation,⁴⁷ Articles of Incorporation, By-Laws, and other reportorial requirements such as the General Information Sheets (GIS) for the years 2007-2013 and Financial Statements and Auditor's Report for the years 2007 to 2010. Garcia noted that there was an Affidavit of Non-Operation executed by accused Encarnacion, informing the Securities and Exchange Commission (SEC) that there is no operation from CARED's date of incorporation in December 8, 2006 up to March 10, 2007. The COA SAO also conducted an inspection of CARED's office address as indicated in the SEC documents. After such inspection, the SAO sent a letter to accused Encarnacion asking for confirmation if the NGO entered into a contract with TRC, alongside a request for liquidation of documents, but no response was received.

To summarize, the COA SAO findings provide that: a) the release of the SARO and NCA has no basis as the TRC did not submit to the DBM the required project profile indorsement; b) the release of funds to

⁴⁷ Exhibit "D", p. 1.



CARED has no basis considering that NGOs are not among those identified as implementing arm of the PDAF and the GAA, and that there is no fund earmarked for the implementation by the NGOs; c) TRC merely accepted CARED upon the indorsement of accused Congressman Jaraula without validating its capability to implement, and without public bidding; d) CARED has no capability to implement the subject PDAF-funded projects, it being located in a mere shanty, and it is using a BIR Authority to Print being used by another NGO in the printing of its receipts; and e) CARED did not submit any liquidation documents to prove that it indeed implemented the projects.

Joan Agnes Nini Alfafaras⁴⁸ is State Auditor IV at the COA. She testified that she was part of the COA SAO Team that conducted an ocular inspection of the office address of CARED on February 4, 2011. Alfafaras, together with her Team Supervisor Normita Narvaez, proceeded to the supposed address of CARED indicated in its SEC documents at 14-0 Samson St., Brgy. Baritan, Malabon City. Alfafaras testified that the address turned out to be a residential shanty located along a narrow alley. The shanty's occupant, an elderly woman, identified herself as a certain Mrs. Briones, the owner of the residence. Upon inquiry, Mrs. Briones stated that there was no NGO named CARED operating at the premises. When asked if she knows Ramon and Simonette Briones, two of the listed incorporators of CARED, Mrs. Briones confirmed that Ramon is her son and that Simonette is Ramon's wife and her daughter-in-law. Alfafaras took a photo of the house number, 14-0, also bearing the name Briones,⁴⁹ and a photo of the entire shanty.⁵⁰ Alfafaras reported the matter to Garcia and she also submitted printouts of the photographs taken.

⁴⁸TSN dated September 27, 2016.

⁴⁹ Exhibits "BB-15-a", "CC-16-a", and "DD-15-a".

⁵⁰ Exhibits "BB-15-b", "CC-16-b", and "DD 15-b".



The prosecution presented Securities Counsel III and present Officer-in-Charge of the Licensing Unit of the Company Registration and Monitoring Department (CRMD) of the SEC, **Atty. Sheara Lopangco Tamayo**,⁵¹ who identified a certified true copy of the Certificate of Incorporation of CARED together with the Articles of Incorporation, By-Laws, and several Annual Reports from the year 2007 to 2013.⁵² Tamayo testified that as of August 2014, the Certificate of Registration of CARED has been revoked by the SEC for failure to comply with reportorial requirements and for failure to hold office at the principal office address indicated in its Articles of Incorporation.

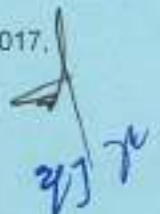
Thereafter, the prosecution presented **Benhur K. Luy**⁵³ who was the second cousin and former employee of accused Napoles at JLN Corporation. Luy testified that he is currently placed under the DOJ's Witness Protection Program due to an illegal detention case allegedly perpetrated by accused Napoles and her brother Reynald Luy Lim. Luy testified that he was illegally detained due to a misunderstanding where accused Napoles suspected him of colluding with legislators with regard to their PDAF transactions behind the former's back. Luy was initially employed as accused Napoles' Personal Assistant in 2002. Later, he became accused Napoles' Finance Officer primarily tasked with recording all financial transactions of her NGOs. Luy further testified that accused Napoles' business involved dealings and transactions with senators and congressmen regarding their PDAF.

Luy explained the process by which accused Napoles, allegedly in conspiracy with senators and congressmen, converted the PDAF for their own personal benefit. Luy stated that public funds in the form of the

⁵¹ TSN dated October 11, 2016.

⁵² Exhibit "D".

⁵³ TSN dated October 25, 2016, November 8 and 22, 2016, January 17, 2017, February 14, 2017, February 28, 2017, March 14 and 28, 2017 and April 11 and 25, 2017.



lawmakers' PDAF were made to appear like they were being utilized for specific projects and programs under the NGOs the lawmakers themselves indorsed or recommended. However, these NGOs were actually set up by accused Napoles for the specific purpose of syphoning the PDAF into a rebate or kickback system. In return for the lawmakers' recommendations and endorsements of these Napoles NGOs, Napoles issued rebates or kickbacks to the lawmakers from the same PDAF funds deposited in her NGO accounts which were withdrawn through pre-signed withdrawal slips.

Luy allegedly became privy to the scheme through Napoles herself, as well as eyewitness accounts of business conducted in accused Napoles' office, including meetings with lawmakers' staff or the lawmakers themselves, discussing such transactions. Luy likewise testified having given and recorded the kickbacks or rebates for the lawmakers upon the instruction of accused Napoles.

As personal assistant and later on finance officer, Luy's duties and responsibilities include keeping track of all financial transactions of accused Napoles' NGO, her personal account, as well as those owned and controlled corporations by JLN through vouchers and a document he referred to as the Daily Disbursement Report (DDR), which is a recording of the day-to-day transactions of accused Napoles which include incoming funds and subsequent disbursements. Luy also assisted in the preparation of these NGOs as needed by accused Napoles, prepared rebates and kickbacks in the PDAF transaction, personally met with the legislators' staff and at times, even the legislators themselves to discuss their PDAF transactions, recorded and occasionally released the agreed kickbacks or rebates to the legislators. Luy also became President of one of these Napoles NGOs. He also claimed to have prepared and assisted in the preparation of PDAF



documents such as the project listings, the endorsement letters, memoranda of agreement, project proposal, and other liquidation documents. As such, he maintained several templates of these documents in his office computer and personal hard drive.

With regard to the transactions covered by these cases, Luy testified that accused Jaraula was personally introduced to him by accused Napoles as early as 2002. From 2004 to 2007, Luy saw accused Jaraula go to their office in Ortigas, Pasig City to get his rebates or kickbacks, and bring PDAF documents, such as copies of the project listing with attachment, the SARO together with the NCA, indorsement letters, memoranda of agreement, and other PDAF documents in relation to his transactions with accused Napoles. Further, Luy averred that accused Jaraula personally handed project listings to him with regard to the specific PDAF transactions subject of these cases.

Luy also stated that the kickback funds given to accused Jaraula were the payments for his endorsement of CARED, which is an NGO of accused Napoles. In some instances, accused Jaraula received advances of his kickbacks even prior to the confirmation of the implementing agency. Under this arrangement, the remaining balance for kickbacks would be paid once a copy of the SARO is given. According to Luy, accused Napoles told Jaraula that his kickbacks will be 50%, but most of the payments given were 45%, less 5% tax. Additionally, Luy testified that a total amount of Five Million Seven Hundred Twenty-Five Thousand Pesos (Php5,725,000.00) was given to accused Jaraula as his advanced kickback for three (3) SAROs based on his Summary of Rebates.⁵⁴

⁵⁴ Exhibit "H", p. 14.

Handwritten signature and initials in blue ink, located in the bottom right corner of the page. The signature appears to be a stylized name, and there are initials below it.

According to Luy, accused Jaraula personally received his advance kickbacks from him on different occasions, which can be summarized as follows:

Date	Amount	Description
October 30, 2006	Php225,000	<ul style="list-style-type: none">• Partial, advance rebate for the three (3) SAROs• Reflected in the DDR and Summary of Rebates as Php500,000 since the Php275,000 was full payment for another transaction involving a 2006 SARO)
October 31, 2006	Php500,000	<ul style="list-style-type: none">• Advance rebate
February 2, 2007	Php500,000	<ul style="list-style-type: none">• Advance rebate
February 9, 2007	Php500,000	<ul style="list-style-type: none">• Advance rebate for SARO No. ROCS-007-00580
February 22, 2007	Php2,000,000	<ul style="list-style-type: none">• Advance rebate for SARO No. ROCS-007-00861
March 27, 2007	Php2,000,000	<ul style="list-style-type: none">• Advance rebate for SARO No. ROCS-007-005450
	TOTAL: Php5,725,000	

On April 3, 2007, Luy gave accused Jaraula the remaining balance of Six Million One Hundred Thousand Pesos (Php6,100,000.00) as full payment for the three (3) SAROs, making the total amount of kickbacks allegedly received by accused Jaraula at Eleven Million Eight Hundred Twenty-Five Thousand Pesos (Php11,825,000.00). Luy stated that these details are shown in his Summary of Rebates⁵⁵ which was culled from the entries in the Daily Disbursement Record from year 2004 up to 2007.⁵⁶

Luy also testified that he was instructed by accused Napoles to follow-up with the DBM on the release of the SAROs involved in these cases and he was able to speak with accused Nuñez, Paule or Bare, but most of the time, it was accused Nuñez with whom he spoke to.

⁵⁵ Exhibit "H".

⁵⁶ Exhibit "E".

According to Luy, these people are the staff of accused Relampagos, as the latter is Napoles' contact in the DBM, as well as a close friend.

As to CARED, Luy averred that it was accused Napoles who came up with the idea of establishing the said NGO, and she also assigned accused Encarnacion as its President. Accused Encarnacion was Luy's officemate and a Secretary of JLN Corporation. Accused Encarnacion, under the instructions of accused Napoles, supplied the names of the incorporators. Accused Napoles then supposedly delegated to a Marina Sula the task of registering CARED with the SEC. Luy testified that accused Encarnacion, as the President of CARED, was required by Napoles to sign blank withdrawal slips and submit the passbook of the NGO's bank account to accused Napoles.

With respect to the other public officials implicated, Luy testified that accused Napoles told him about her agreement with the implementing agencies, in this case, the TRC, to the effect that every award of project to Napoles' NGOs would entitle TRC a percentage commission or kickback called SOP, equivalent to 10% of the check released by TRC, as well as bonus money to accused Concepcion. Accused Ortiz allegedly received a total of Seven Million Six Hundred Ten Thousand Pesos (Php7,610,000.00) worth of commissions, while for accused Cunanan, Luy claimed that the TRC official received Five Million Nine Hundred Ten Thousand Pesos (Php5,910,000.00), delivered by Evelyn de Leon, a JLN employee. For accused Concepcion, Luy testified that in the DDRs, it was stated that the amount of SOP given to her was One Hundred Fifty Thousand Pesos (Php150,000.00) but the same was charged to Jaraula and two other legislators.



Subsequently, the prosecution presented **Atty. Vernard Manuel Villarin**⁵⁷ who is an Assistant Special Prosecutor of the Office of the Ombudsman and part of the Special Team of Investigators who conducted a fact-finding investigation regarding the PDAF transactions of accused Jaraula. Atty. Villarin testified that it was Assistant Ombudsman Joselito Fangon who endorsed to the team the documents pertaining to Jaraula's PDAF, which include the COA SAO Report 2012-2013 and the *Pinagsamang Sinumpaang Salaysay* of Luy dated September 11, 2013, and other relevant documents.⁵⁸ After validating and evaluating the documents gathered, the team formulated its findings and conclusions embodied in the FIO Investigation Report⁵⁹ which was the basis of the Complaint⁶⁰ filed in these cases. Atty. Villarin however explained that that they did not verify with either the DBM, the Appropriations Committee, or the TRC, on their respective processes in relation to the PDAF, and only referred to the COA Report. He also testified that the team no longer conducted a field verification on the PDAF-funded projects of accused Jaraula since there are no liquidation reports to support the implementation of the projects.

The last witness for the prosecution was Bank Officer V of the Anti-Money Laundering Council (AMLC), **Atty. Arnold T. Kabanlit**⁶¹ who conducts investigations on suspicious transactions, money laundering cases and other cases covered by the AMLC. Kabanlit testified that his team conducted a financial investigation on the PDAF of accused Jaraula and CARED stemming from a letter dated July 17, 2013,⁶² from the NBI to the AMLC Secretariat Executive Director requesting for an investigation on the matter and another letter dated

⁵⁷ TSN dated October 24, 2017 and November 7, 2017.

⁵⁸ Exhibit "B".

⁵⁹ Exhibit "C".

⁶⁰ Exhibit "D".

⁶¹ TSN dated February 13, 2018 and February 27, 2018.

⁶² Exhibit "T-1".

October 11, 2013⁶³ from the Ombudsman to the AMLC-LMCS Executive Director requesting for the conduct of an examination of bank accounts and secured bank records.

Kabanlit testified that a database search showed that there were covered suspicious transactions report filed by the banks and other financial institutions regarding the accounts of accused Jaraula and the entities involved in the PDAF scam. Atty. Kabanlit and his team wrote the banks to request for documents that were used to open the bank accounts, also known as Know-Your-Customer (KYC) documents. The team was able to secure the account opening form⁶⁴ of CARED, and a Board Resolution⁶⁵ authorizing Encarnacion to act in behalf of CARED. Through AMLC Resolution No. 95, s. 2013,⁶⁶ the team filed an application for bank inquiry with the Court of Appeals to look into the bank accounts, deposits and investment of those involved in the PDAF scam, which the CA granted in a Resolution dated November 28, 2013.⁶⁷ They were also provided with documents by the Office of the Ombudsman and the NBI, such as the sworn statement of the witnesses, the COA Report, copies of Luy's ledger and summaries of rebates, as well as other pertinent documents.

Based on their analysis of the bank accounts and documents gathered,⁶⁸ the team prepared an Inquiry Report⁶⁹ which showed that CARED's LBP Account No. 33410175-39 received funds from the TLRC through checks, representing releases of SARO of PDAF projects of accused Jaraula. On the same day or just a few days later, the entire amount constituting the PDAF deposited is withdrawn from the CARED

⁶³ Exhibit "T-3".

⁶⁴ Exhibit "T-13".

⁶⁵ Exhibit "T-14".

⁶⁶ Exhibit "T-6".

⁶⁷ Exhibit "T-8".

⁶⁸ Exhibits "T-15" to "T-23".

⁶⁹ Exhibit "T".

account together with other deposits. Kabanlit further testified that several transactions of accused Jaraula in his LBP Current Account No. 3125005-40 from March 2007 to May 2007 substantially matched the entries in Luy's records.⁷⁰ Kabanlit noted that from March 27, 2007 up to April 3, 2007, Luy's records reveal that accused Jaraula received a total of Eight Million One Hundred Thousand Pesos (Php8,100,000.00). Comparing side-by-side with accused Jaraula's bank records, it is shown that there was a total amount of Four Million Five Hundred Sixty-Two Thousand Pesos (Php4,562,000.00) deposited in accused Jaraula's LBP account from April 19, 2007 up to May 7, 2007.⁷¹ The team then furnished the Office of the Ombudsman a copy of the inquiry report.

At the conclusion of Atty. Kabanlit's testimony, the prosecution formally offered its evidence on June 25, 2018.⁷² After hearing the objections of the defense, the court resolved to admit Exhibits E and its sub-markings, F, G, H, I, T and sub-markings, BB-2, BB-15 and sub-markings, BB-16 and sub-markings, BB-18, CC-2, CC-6, CC-6-c, CC-7 to CC-15-c, CC-11, CC-16, CC-19, CC-24 (p.7-a), DD-2, and DD-2-a, DD-3 to DD-4-a, DD-5 to DD-5-h, DD-7 to DD-7-b, DD-8 to DD-14, DD-15 and sub-markings up to DD-17-a, DD-18, to DD-23, EE, EE-1, GG, and GG-1, in the tenor that these documents were testified on by the witnesses or stipulated upon by the parties, and to admit the rest of the exhibits for the purposes for which they were offered in evidence.⁷³

On July 31, 2018, accused Relampagos, Bare, Nuñez, Paule, Cunanan, Figura, Jover, Dimaranan, Lacsamana, Concepcion, Napoles and Encarnacion orally moved for leave to file demurrer to evidence

⁷⁰ Exhibit "T-20".

⁷¹ Exhibit "T", p. 35.

⁷² Records, Vol. XII, pp. 451-496, Vol. XIII, pp. 1-1011, Vol. XIV, pp. 1-868 and Vol. XV, pp. 1-759.

⁷³ Records, Vol. XVI, pp. 343-344.

arguing mainly on the issues of authenticity and veracity of the prosecution's testimonial and documentary evidence.⁷⁴ After hearing the exchange of arguments between the prosecution and the defense, the court resolved to deny the motion.⁷⁵

Despite the court's denial of the accused's oral motions for leave to file demurrer to evidence, accused Relampagos and Cunanan filed their Demurrer to Evidence on August 9, 2018⁷⁶ and August 10, 2018⁷⁷ respectively. Meanwhile, accused Jaraula filed an Ad Cautelam Motion for Leave to File Demurrer to Evidence dated August 6, 2018⁷⁸ which was denied by the court in a Resolution dated September 24, 2018 citing the need for accused Jaraula to present his evidence.⁷⁹

In a Resolution dated January 18, 2019,⁸⁰ the court resolved to grant accused Relampagos' and Cunanan's Demurrer to Evidence citing the failure of the prosecution to prove their guilt beyond reasonable doubt. Hence, all criminal charges against accused Cunanan, specifically, Criminal Cases No. SB-15-CRM-0016, SB-15-CRM-0017, SB-15-CRM-0018, SB-15-CRM-0019, SB-15-CRM-0020, and SB-15-CRM-0021 including the remaining cases⁸¹ against accused Relampagos were dismissed. In addition, since accused Ortiz has remained at large for more than six (6) months from the issuance of the warrant for his arrest, the court issued a Resolution dated January 21, 2019,⁸² ordering that the cases against accused Ortiz be archived.⁸³

⁷⁴ TSN dated July 31, 2018.

⁷⁵ Order dated August 6, 2019, Records, Vol. V, p. 67.

⁷⁶ Records, Volume XVI, pp. 369-388.

⁷⁷ Records, Volume XVI, pp. 389-404.

⁷⁸ Records, Volume XVI, pp. 497-523.

⁷⁹ Records, Volume XVII, pp. 44-49.

⁸⁰ Records, Volume XVIII, pp. 48-82.

⁸¹ Criminal Cases No. SB-15-CRM-0016, SB-15-CRM-0018, SB-15-CRM-0019, and SB-15-CRM-0021.

⁸² Records, Volume XVIII, p. 83.

⁸³ Pursuant to Item III (6) of the Revised Guidelines for Continuous Trial of Criminal Cases and Supreme Court Administrative Circular No. 7-A-92 on the Guidelines in the Archiving of Cases.

Thereafter, trial resumed for the presentation of defense evidence. The defense presented as witnesses Rodolfo V. De Luna, Crisane L. Lazatin, Griscelda M. Joson, Erwin B. Culanag, accused Constantino G. Jaraula, Raul L. Lambino, Hong Cua See, Francis Saturnino C. Juan, accused Rosario D. Nuñez, accused Marilou D. Bare, accused Lalaine N. Paule, Janet B. Abuel, accused Marivic V. Jover, accused Maurine E. Dimaranan, accused Atty. Francisco B. Figura, accused Maria Rosalinda M. Lacsamana, and accused Belina A. Concepcion. Their testimonies are summarized as follows:

Rodolfo V. De Luna,⁸⁴ is Assistant Vice President and Branch Head of Landbank of the Philippines, Batasan Branch. De Luna testified that he sent a letter dated February 26, 2018⁸⁵ to accused Jaraula in response to his inquiry regarding transactions in his LBP Current Account No. 3125-0005-40. He confirmed that there are several transactions reflected in accused Jaraula's account during the period relevant to these cases. Specifically, there are three (3) deposit transactions from April 27, 2007 up to May 7, 2007 and one encashment transaction on May 8, 2007. He also testified that two (2) out of the three (3) deposits were made by a certain Jerry Go at the Greenhills branch while the other deposit was made by Francis S.C. Juan at the Malacañang branch, as indicated in their respective deposit slips.

Crisanee L. Lazatin⁸⁶ was a former staff of accused Jaraula in the House of Representatives who was assigned to coordinate with the Committee on Appropriations. She testified that in accordance with established practice in the House of Representatives, when the SAROs are released, the Committee will call the office of accused Jaraula to inquire what projects would the lawmaker like to propose. Specifically in

⁸⁴ Records, Volume XVII, pp. 218; TSN dated October 9, 2018, pp. 10-29.

⁸⁵ Exhibit "1" – Jaraula.

⁸⁶ Affidavit, Records, Volume XVII, p. 549; TSN dated November 6, 2018, pp. 26-45.



this case, the Committee called accused Jaraula since he earlier refused to release his PDAF then assigned to the Department of Agriculture (DA) due to the on-going investigation in the fertilizer fund scam. Accused Jaraula then wrote to the Committee that the first and second SARO be used to purchase an ambulance with x-ray machine and dental chair, one big fire truck, mechanical dryers, and farm implements. The committee then asked for a justification which prompted accused Jaraula to write two (2) "justification letters"⁸⁷ addressed to the Committee on Appropriations. A day later, Lazatin was informed that the DBM had already approved the proposal and at the same time that it be assigned to TRC. She also testified that it was the DBM which identified TLRC (TRC) as implementing agency since accused Jaraula's only request was that it would not be given to the DA. Thereafter, she picked-up the letters and wrote the words "OK with DBM - To TLRC" on the face of the documents, before submitting them to the TRC.

Griscelda M. Joson⁸⁸ was the Acting City Administrator of Cagayan De Oro City during accused Jaraula's term as city mayor. She testified that during accused Jaraula's mayoralty campaign in 2007, he mentioned that two ambulances, two fire trucks, and two six-toner mechanical dryers have been programmed from his PDAF for the two (2) newly-created congressional districts. She testified that due to the delay in the delivery of these promised projects, accused Jaraula requested their sister city, Tainan, Taiwan to donate fire trucks in 2008. These Taiwan donated fire trucks were delivered six (6) months later. Joson testified that accused Jaraula expressed his anger and exasperation, especially since TRC allegedly gave an unsatisfactory reply to his follow-up.⁸⁹ Joson stated that accused Jaraula, after consulting with his staff, then decided to send an unsigned letter around

⁸⁷ Exhibit "6" and "7" - Jaraula.

⁸⁸ Affidavit, Records, Volume XVII p.566; TSN dated November 20, 2018, pp.15-19.

⁸⁹ Exhibit "6-A" - Jaraula.

April 13, 2009 to the COA, which stated: *"Please check our PDAF assigned to TLRC/TRC for implementation. I smell dead rats."* Thereafter, accused Jaraula instructed Joson and then City Information officer, Erwin B. Culanag, to send the unsigned letter via airmail. After this, Joson allegedly photocopied the unsigned letter and made a notation on the bottom as her copy and as proof of the fact of mailing.⁹⁰ The defense also presented **Erwin B. Culanag**⁹¹ who corroborated Joson's testimony. Culanag was the former City Information Officer for Cagayan De Oro City from 2007 to 2010. He added that he personally sent the unsigned letter through air mail special delivery at the post office.

Accused **Constantino G. Jaraula**⁹² was then called to testify. In his testimony, he claimed that there is absolutely no truth to any of Luy's statements and he categorically denied having received any amount of money from Luy or Napoles. He also pointed out several alleged contradicting statements in Luy's testimony, such as the terms used ("kickbacks" vs. "advances") and the details of the meetings Luy claimed to have with him. He also belied the AMLC findings stating that the deposit dated May 7, 2007 evidenced by Landbank Certification dated February 26, 2018,⁹³ in the amount of Two Million Two Hundred Sixty-Two Thousand Pesos (Php2,262,000.00) was allegedly a cash contribution from Lakas-CMD to his regional party, Padayon Pilipino, being an adopted candidate of the political party. He also presented several photos of a trip to China together with other members of Lakas-CMD as part of the party's official delegation.

⁹⁰ Exhibit "15" and "15-A" – Jaraula.

⁹¹ Affidavit, Records, Volume XVII, p. 569; TSN dated February 1, 2019, pp. 10-19.

⁹² TSN dated June 18, 2019, pp. 7-40.

⁹³ Exhibit "1" - Jaraula (marked 3/12/18).



He claimed that he had been calling TRC several times to complain about the delayed implementation of his projects, and in fact, on one occasion, wrote to accused Ortiz regarding the matter but instead, he received a rather confusing reply⁹⁴ which discussed other matters that were not the subject of his letter. This allegedly prompted him to write an unsigned letter⁹⁵ dated April 13, 2009 to the COA asking the latter to investigate the TRC.

Accused Jaraula testified that a few years later, he received COA Commissioner Arcadio Cuenco's letter asking for confirmation of his signatures, to which he sent a Letter-Reply⁹⁶ dated October 30, 2011 where he admitted that he signed two (2) MOAs relative to SARO No. ROCS-07-00861 dated January 19, 2007 and SARO No. ROCS-07-05450 dated March 21 2007. He also admitted the authenticity of his signature on one (1) letter addressed to Ortiz pertaining to SARO No. ROCS-07-05450 requesting that the project covered by the said SARO be implemented by CARED. However, accused Jaraula maintains that he signed those documents after receiving a call from TRC that several documents have been retained in his office. He then signed them in good faith. Regarding the other documents with his purported signature, accused Jaraula claimed that all these others have been forged. Lastly, Accused Jaraula noted that he even put "Congratulations" on his letter-reply since he thought that the COA was already investigating his PDAF with the TRC. Accused Jaraula claims that the sequence of events would point to the fact that the unsigned letter he earlier sent has been given due course by the COA.

⁹⁴ Exhibit "9"-Jaraula.

⁹⁵ Exhibit "15"-Jaraula.

⁹⁶ Exhibit "4"-Jaraula.



After concluding accused Jaraula's testimony, the defense presented **Atty. Raul L. Lambino**.⁹⁷ Lambino was former Legal Counsel and Deputy Secretary General of Lakas-CMD. In his testimony, Lambino confirmed that accused Jaraula and his local party, Padayon Pilipino, were adopted candidates by Lakas-CMD in the 2007 elections. As a result, Lakas-CMD gave cash contributions in May 2007 to Padayon Pilipino through accused Jaraula; however, he no longer recalls how much the amount was. Lambino also claimed that he does not know any person with the name Jerry Go, who appears to have deposited money in accused Jaraula's account during the time relevant to these cases. Lambino corroborated accused Jaraula's testimony that he was part of the Lakas-CMD delegation to the exchange program with the Communist Party of China. To further support accused Jaraula's claim of membership with Lakas-CMD, the defense presented **Hong Cua See**⁹⁸ who took the photos of accused Jaraula with other members of Lakas-CMD during their official visit to China.

Atty. Francis Saturnino C. Juan⁹⁹ is accused Jaraula's son-in-law, who testified that he was the one who deposited the amount of Two Million Two Hundred Sixty-Two Thousand Pesos (Php2,262,000.00) in the Landbank account of accused Jaraula, upon the latter's request, on May 7, 2007 as campaign contributions from the office of Lakas-CMD. He also testified that upon presenting the deposit slip to the bank teller, the teller returned the same, asked for an ID, and instructed him to indicate the reason or nature of the transaction. Thus, he wrote the words "political exercise" on the face of the deposit slip.

⁹⁷ Judicial Affidavit, Records, Volume XVIII, p.368-372; TSN dated July 16, 2019, pp. 5-20.

⁹⁸ Judicial Affidavit, Records, Volume XVIII, p.378-382, TSN dated July 16, 2019, pp. 24-30.

⁹⁹ TSN dated December 4, 2018, pp. 15-23



Accused **Rosario D. Nuñez**¹⁰⁰ was the former Chief of Staff and Technical Support of the Office of the Undersecretary for Operations at the DBM. She took the witness stand and testified that it is the ROCS that evaluates the request from the lawmaker and prepares the necessary SAROs and NCAs. Once these have been prepared, it will be hand carried by the director of the ROCS to the Office of the Secretary for his signature. If the latter is not available, the Undersecretary for Operations signs on his behalf. She claims that the documents never reached her even if she was the Chief of Staff because the ROCS director hand-carries these to the Undersecretary herself. Neither does she have any participation in the preparation or evaluation of the SARO. Lastly, she denied having met nor transacted with the other accused in these cases.

Accused **Marilou D. Bare**¹⁰¹ was then an Administrative Assistant in the Office of the Undersecretary for Operations. She corroborated the earlier testimony of accused Nuñez, insisting that the Office of the Undersecretary for Operations does not evaluate or process SAROs. Meanwhile, accused **Laline N. Paule**,¹⁰² former Secretary of Undersecretary Relampagos, testified on the same matters earlier testified upon by accused Nuñez and Bare. Accused Nuñez, Bare, and Paule all maintain that they are not part of the bureau that evaluates and processes SAROs and NCAs. They likewise deny ever receiving anything of value or consideration from Luy, Napoles, or any other co-accused in these cases.

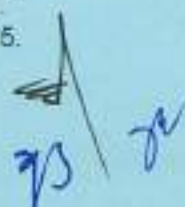
Defense witness DBM Undersecretary **Janet B. Abuel**¹⁰³ was the Chairperson of the Task Force that validated the FY 2013 COA Report

¹⁰⁰ Judicial Affidavit, Records, Volume XVIII, pp. 424-433; TSN dated August 13, 2019, pp. 12-28.

¹⁰¹ Judicial Affidavit, Records, Volume XVIII, pp. 505-513; TSN dated August 27, 2019, pp. 6-36.

¹⁰² Judicial Affidavit, Records, Volume XVIII, pp. 468-477; TSN dated August 27, 2019, pp. 36-45.

¹⁰³ Affidavit, Records, Volume XIX, p. 89-90; TSN dated September 24, 2019, pp. 7-27.



on the PDAF created under DBM Office Order No. 2-13-320 dated August 16, 2013. The validation was conducted to determine the process flow for the preparation and release of funds sourced from the PDAF for the covered period. Abuel illustrated the procedure by which a SARO is released based on the Detailed Narrative Procedure for Release of PDAF (Manually-Prepared SARO)¹⁰⁴ and the SARO Process Flow for PDAF CY 2007-2009.¹⁰⁵

First, the lawmaker forwards to the DBM a list of projects or programs together with the requisite documents as endorsed by the Speaker or Senate President and the Chairperson of the Committee on Appropriations. Thereafter, the Regional Operations and Coordination Service (ROCS) receives and records these requisite documents and evaluates the same for release of funds. Once validated to have complete documentary requirements and have complied with the project list submitted with the menu and the authorized implementing agency under the General Appropriations Act (GAA), the ROCS processes the release of the documents. The Director of the ROCS or a designated staff then hand-carries the release documents to the Office of the Secretary or the Office of the Undersecretary for Operations (Undersecretary Mario L. Relampagos, at the time). After it has been approved, the ROCS forwards the subject SARO to the Budget Technical Service – Central Printing and Releasing Unit (BTS-CPRU) for release to the implementing agency. Proceeding therefrom, Abuel concluded that the staff of the Undersecretary for Operations are not involved in the actual preparation of the documents for the release of funds sourced from the PDAF.

¹⁰⁴ Records, Volume XIX, p. 93.

¹⁰⁵ Records, Volume XIX, p. 94.



Thereafter, the defense presented accused **Maurine E. Dimaranan**,¹⁰⁶ who is the Internal Auditor V at the TRC. She testified that before these transactions reached her office, the pertinent documents already had the approval of higher authority for processing considering that these requests originates either from the senate or the lower house. She claims that her participation was limited to signing the verification portion of the disbursement voucher as to the completeness of documents attached. She claims that it was just part of due diligence and for verification of the attached supporting documents prior to the preparation of the corresponding checks. Dimaranan noted that whenever there were missing documents, she would note the same and address it to the Cash Division. It was precisely what she did with DV No. 012007040660,¹⁰⁷ where she placed a note advising the cash division to require, as a pre-release condition, compliance or completion of the incomplete attached documents.¹⁰⁸

Accused **Marivic V. Jover**¹⁰⁹ was the Chief Accountant of TRC at the time of the questioned transactions. Accused Jover claimed that her actions were all in accordance with the Revised Implementing Guidelines on PDAF accounts covered by Office Circular No.OOOP0100 dated November 27, 2007¹¹⁰ which superseded Office Circular No. OOOP099 dated September 3, 2007.¹¹¹ Accused Jover explained that the Accounting Division becomes involved in the process only after the signatory for Box A of the DV had signed the same. Thereafter, she fills out the accounting entries box, assigns and stamps a number to the DV, and checks the supporting documents, then she signs Box B of the DV. She certifies the availability of funds, that

¹⁰⁶ Counter Affidavit, Records, Volume XIX, p. 180; TSN dated October 8, 2019, pp. 6-10.

¹⁰⁷ Pertains to SARO No, ROCS-07-05450 dated March 21, 2007.

¹⁰⁸ Exhibit "CC-7-A".

¹⁰⁹ Judicial Affidavit, Records, Volume XIX, p.184; TSN dated October 8, 2019, pp. 39-43.

¹¹⁰ Exhibit "1"-Jover/Figura.

¹¹¹ Exhibit "2"-Jover/Figura.



X-----X

expenditure is properly certified, that expenditure is supported by documents, that the account codes are proper and that previous cash advances, if any, had been liquidated.

Accused Jover further stated that she had no choice but to affix her signature in accordance with Office Circular No. OOFN0059 dated July 18, 1995 provided that transactions were supported by the necessary documents.¹¹² She explained that the process is outlined in the said circular where the DVs are to be routed from one office to another, and signatories will be sequential. She also claimed that her signature on the DVs were based on specific set of facts. Lastly, she denied knowing accused Jaraula, Napoles, or any other representative of CARED.

Accused **Atty. Francisco B. Figura**¹¹³ was the former officer-in-charge of the Corporate Support Services Group (CSSG) which consists of the Legal and Administrative Department, Financial Services Department, and Corporate and Acquired Assets Department of the TRC. Accused Figura mentioned Office Circular No. OOG0098 dated January 19, 2007¹¹⁴ and Office Circular No. OOFN0059 dated July 18, 1995,¹¹⁵ which primarily govern their PDAF transactions. Accused Figura testified that after the PDAF projects poured in, the TRC had a management committee meeting at around January 2007. In the said meeting, it was discussed that as regards the selection of the conduit NGO, livelihood training is part of "soft" portion of the PDAF which will not require public bidding, as opposed to "hard" projects such as infrastructure, among others. It was also discussed that since PDAF was a discretionary fund of the legislator, the implementing agency has to

¹¹² Exhibit "4"-Jover/Figura.

¹¹³ Judicial Affidavit, Records, Volume XIX, p.235; TSN dated October 22, 2019, pp. 17-52.

¹¹⁴ Exhibit "3" – Jover & Figura.

¹¹⁵ Exhibit "4" – Jover & Figura.

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respect the lawmaker's wishes especially in having projects implemented by the latter's chosen NGO. With respect to the questioned transactions, accused Figura admitted that the MOAs were sent to the Legal Department for review and that he co-signed the checks released to the NGO as part of his ministerial duty. Accused Figura also testified that he made known his concern about the possible implications of the transactions of TRC involving the lawmakers' PDAF through several Memoranda¹¹⁶ addressed to the Director General and Deputy Director General. Finally, accused Figura claimed that his office does not have any role in coordinating with the legislators on their PDAF as it was the task of the Legislative Liaison Office.

Subsequently, accused **Maria Rosalinda M. Lacsamana**¹¹⁷ took the witness stand and testified that among her duties was to ascertain that the supporting documents relating to the projects undertaken by the TRC were signed, complete, and in order. She admitted to having signed the two memoranda involved in these cases but adds that her duties are part of standard operating procedures in the TRC and are ministerial in nature. She also denied receiving anything of value in consideration of TRC's implementation of PDAF projects. Accused Lacsamana claimed that she signed the memoranda and voucher in good faith seeing that the necessary procedures for the release of the PDAF was already made, complied with, and completed.

Accused **Belina A. Concepcion**¹¹⁸ testified that as then Legislative Liaison Officer, she was tasked to check the completeness of documents stated in the checklist of PDAF projects; thereafter, she issues a recommendation memorandum for the release of the PDAF to implement the project. Accused Concepcion admitted to drafting and

¹¹⁶ Exhibit "14" and Exhibit "13" – Jover & Figura

¹¹⁷ Judicial Affidavit, Records, Volume XIX, p.149; TSN dated December 3, 2019, p. 9-20.

¹¹⁸ Judicial Affidavit, Records, Volume XIX, p.359; TSN dated January 14, 2020, pp. 5-35.



signing Memorandum dated January 2, 2007¹¹⁹ recommending the release of accused Jaraula's PDAF to CARED but she merely did so after ascertaining that the documents required by the PDAF checklist were complete.

On the date of her scheduled presentation of evidence, accused Encarnacion and her counsel failed to appear in court despite due notice and without justifiable reason.¹²⁰ On the next scheduled hearing date, her counsel stated in open court that he would no longer be presenting any testimonial evidence as accused Encarnacion will adopt the evidence on record for her defense. The counsel for accused Napoles likewise gave the same manifestation.¹²¹

On the other hand, the prosecution manifested that it would be presenting a rebuttal witness from the COA to testify on the Audit Reports conducted on TRC involving its PDAF transactions for the years 2006 to 2007 which the court initially set on April 14, 2020.¹²²

On June 23, 2020, the prosecution filed a Motion to Set Hearings for October 2020 or Later¹²³ citing the unprecedented restrictions imposed by community quarantine brought about by the COVID-19 global pandemic.

Meanwhile, the defense formally offered its evidence which was resolved by the court in a Resolution dated June 24, 2020¹²⁴ admitting the following exhibits as evidence for the defense: For accused Lacsamana: Exhibits 1, 2, 3 and 4; for accused Concepcion: Exhibits 1,

¹¹⁹ Exhibit "BB-7".

¹²⁰ Order dated January 28, 2020, Records Volume XIX p. 389.

¹²¹ TSN dated February 11, 2020, p. 5.

¹²² Records, Volume XIX, p. 406.

¹²³ Records, Volume XX, pp. 348-350.

¹²⁴ Records, Volume XX, pp. 363-365.



1-A, 2, 4 and 11; for accused Figura, Jover and Dimaranan: Exhibits 1, Exhibit 1 (Dimaranan), 2, 4, 5, 6, 7, 8 (Jover & Figura), 9, 10 (Jover & Figura), 13 and 14 (Figura), and 14-A (Jover & Figura); for accused Napoles: Exhibits 39, 39-A, 39-B, 39-C and 39-D, 50, and 61 and series; for accused Jaraula: Exhibits 1 (3/28/17), 1 (7/28/15), 3, 4, 5, 5-A, 6, 6-A, 6-B, 7, 7-A, 7-B, 8, 9, 13, 13-A, 14, 14-A 15, 15-A, 21 and Exhibit E, and lastly for accused Bare, Paule and Nuñez: Exhibit 9, 9-A, 10, 11, 12, 13, 14, 14-A, 14-B, 15, 15-A, 15-B, 16, 16-A, 16-B, 17, 17-A, 18, 18-B, 18-C, 18-D, 22, 22-A, 22-B, 23-A, 23-B, and 25. The court resolved to deny admission of accused Lacsamana's offer of the testimonial evidence.¹²⁵

On September 21, 2020, the prosecution filed another Manifestation with Motion to Cancel Hearing set for October 13, 2020. In view thereof, the court in a Resolution dated September 22, 2020¹²⁶ cancelled the scheduled hearing and directed the parties, to file their respective memoranda within thirty (30) days from receipt. Thereafter, these cases were deemed submitted for decision.¹²⁷

The origin of the cases before this court is rather peculiar. The cases originated from a personal issue between an employee, Benhur K. Luy, and his principal, Janet L. Napoles. An illegal detention case was filed against Napoles, but in the course of the investigation, an allegedly more flagrant violation of the law has been brought to light. According to Luy, the business dealings of accused Napoles involved legislators from both houses of congress where public funds are syphoned from a lawmaker's PDAF to spurious NGOs and which will later on be divided among the lawmaker, accused Napoles, and other agency officials who

¹²⁵ Ibid.

¹²⁶ Records, Volume XX, p. 426.

¹²⁷ Ibid.



facilitate the release of funds. To prove his claim, Luy has a copy of his Daily Disbursement Report which allegedly details these transactions.

In these cases, the prosecution forwards that the principal accused is one of the many lawmakers who transacted with Napoles. The prosecution claims that all the accused, in conspiracy with each other and with manifest partiality and/or evident bad faith, made use of an elaborate scheme using their public positions and in disregard of the law, gave unwarranted benefits to private individuals and allowed them to take public funds, ultimately causing undue injury to the government thereby committing the crimes of violation of Section 3 (e) of R.A. No. 3019, as amended, Malversation under Article 217 and Direct Bribery under Article 210, both of the Revised Penal Code.

On the other hand, herein accused public officials, from three (3) different government agencies, all claim regularity in the performance of their duties and belie any association with Benhur K. Luy or his former principal, accused Napoles. In addition, the defense claims that at the time of these transactions, the PDAF was good law as it was not yet rendered unconstitutional.

While it is true that the ruling in *Belgica vs. Ochoa*¹²⁸ is prospective in application, it does not mean blanket immunity for all those who sullied their hands in the PDAF transactions. In fact, the Supreme Court itself in the dispositive portion of *Belgica*, directed the prosecutorial organs of the government to investigate and accordingly prosecute all individuals for possible criminal offenses related to the irregular, improper and/or unlawful disbursement of all funds under the Pork Barrel System.

¹²⁸ G.R. No. 208566, November 19, 2013.



The concerned accused are now charged with three (3) counts of violation of Section 3 (e) of R.A No. 3019 and three (3) counts of Malversation pertaining to PDAF transactions covered by SARO Nos. ROCS-07-00580,¹²⁹ ROCS-07-05450,¹³⁰ and ROCS-07-00861.¹³¹ Accused Jaraula and Napoles are likewise charged with three (3) counts of Direct Bribery on account of the said PDAF transactions. These charges will be discussed sequentially.

Section 3 (e) of R.A No. 3019 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:

x x x

(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 *Consigna vs. People of the Philippines*,¹³² the Supreme Court enumerated the essential elements of a violation of Sec. 3 (e) of R.A No. 3019, thus:

1. The accused must be a public officer discharging administrative, judicial, or official functions;
2. He must have acted with manifest partiality, evident bad faith, or inexcusable negligence; and

¹²⁹ Exhibit "BB".

¹³⁰ Exhibit "CC".

¹³¹ Exhibit "DD".

¹³² G.R. No. 175750-51, April 2, 2014; *Cabrera vs. Sandiganbayan*, G.R. Nos. 162314-17, October 25, 2004, citing *Jacinto vs. Sandiganbayan*, G.R. No. 84571, October 2, 1989.

3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions.

The presence of the first element is not disputed. As stipulated by the parties,¹³³ all of the accused, with the exception of accused Napoles and Encarnacion, held public positions at the time material to these cases.

As to the second element, the Supreme Court, in *Sison vs. People of the Philippines*,¹³⁴ explained the three ways of committing the crime of violation of Section 3 (e) of R.A No. 3019, i.e., through manifest partiality, evident bad faith or gross inexcusable negligence. In explaining what "partiality," "bad faith" and "gross negligence" mean, the Supreme Court held as follows:

"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 wilfully 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." (Emphasis supplied)

The prosecution averred that the accused's manifest partiality and evident bad faith were exemplified through their individual yet concerted acts which eventually led to the release of accused Jaraula's PDAF to an unscrupulous NGO managed by accused Napoles.

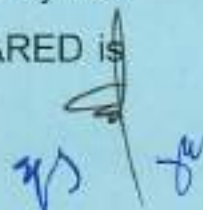
¹³³ Records, Volume IX, pp. 120-180.

¹³⁴ G.R. Nos. 170339, 170398-403, March 9, 2010.



The process of releasing a lawmaker's PDAF begins with the proponent lawmaker's submission of a Project Listing or a request for PDAF allocation addressed to the Committee on Appropriations. In this request, the lawmaker identifies two things; *first*, the project he wishes to implement for funding out of his PDAF and *second*, an implementing agency that will facilitate the same. The Appropriations Committee, in turn, indorses this project listing to the DBM for evaluation. The DBM ROCS then evaluates the project list, the endorsement, and the letter-requests of the lawmaker on the basis of the provision of the General Appropriations Act (GAA). Thereafter, the DBM ROCS releases the corresponding SARO and NCA to the selected implementing agency. Once the SARO and NCA are issued, the lawmaker indorses an NGO to the implementing agency which will ultimately be the project implementer. The NGO that was indorsed by the lawmaker submits a project proposal to the implementing agency, and proceeds to enter into a tripartite memorandum of agreement (MOA) with the implementing agency and the lawmaker. After the signing of the MOA, the project proposal is attached to the Special Allotment Release Order (SARO), which allows the implementing agency to incur the expenses that are stated in it. This authorizes the payment of the allocated amount to the implementing agency. After the amount is credited to its account, the implementing agency prepares the Disbursement Vouchers (DV) and checks payable to the identified NGO. The NGO may then withdraw the funds for purposes of implementing the project pursuant to the tripartite MOA.

The prosecution, in these cases, claimed that accused Jaraula unilaterally chose and indorsed CARED, a non-governmental organization (NGO) operated and/or controlled by accused Napoles as its "project partner" in implementing livelihood projects funded by his PDAF in his legislative district. The prosecution averred that CARED is



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unaccredited and unqualified to undertake the implementation of the project being a fake NGO managed by accused Napoles. Hence, accused Jaraula's indorsement was made in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations.

For his part, accused Jaraula categorically denied the accusations made by Luy. He denied knowing Luy and accused Napoles. He stated that he observed the customary processes and procedures in the House of Representatives for the release of his PDAF. Specifically, accused Jaraula claimed that in 2007, he did not request the DBM to release his PDAF. Chrisanee L. Lazatin testified on accused Jaraula's behalf on this matter as his former staff in the House of Representatives. Lazatin testified that their office was then informed by the Committee on Appropriations of their receipt of SARO No. ROCS 07-00580 and SARO No. ROCS 07-00861 but the committee requested for "justification letters" since accused Jaraula earlier refused to have his PDAF allocation assigned to the Department of Agriculture due to the on-going investigation on the fertilizer fund scam. Accused Jaraula claims that he did not choose nor select TRC as the implementing agency for the January 2007 PDAF in his name and this was corroborated by Lazatin to the effect that the Committee on Appropriations called her to say that the DBM has approved the proposal of accused Jaraula but that the same had to be assigned to TRC. Lazatin added that due to this call, she personally wrote "OK with DBM – to TLRC" on the justification letters.

However, the prosecution presented in evidence two letters of accused Jaraula dated December 11, 2006¹³⁵ and December 13,

¹³⁵ Exhibit "F-1".

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2006,¹³⁶ addressed to the Hon. Joey S. Salceda, in his capacity as Chairman of the Appropriations Committee of the House of Representatives, specifically identifying the project to be implemented by the TRC denominated as *"financial assistance for agricultural livelihood program"* referring to the third and fourth tranches of his PDAF. On January 29, 2007, another letter was sent by accused Jaraula to the Committee on Appropriations, this time with regard to the first tranche of his PDAF in the amount of Fifteen Million Pesos (Php15,000,000.00),¹³⁷ He stated that Ten Million Pesos (Php10,000,000.00) of which will be used to fund projects denominated as *"financial assistance for agricultural implements, equipment and tools"* to be implemented by the Department of Agriculture, while the remainder will be implemented by the Department of Education. Further, on March 14, 2007, accused Jaraula wrote again to the Committee, stating that the earlier designation¹³⁸ of Department of Agriculture as implementing agency be changed to Technology and Livelihood Research Center (or TRC), with reference to the first tranche of his 2007 PDAF,¹³⁹ and contrary to the assertions of accused Jaraula.

While it is true that the evidence show that he initially designated DA together with DepEd to implement his PDAF-funded project,¹⁴⁰ he, however, later revoked this designation and replaced DA with TRC instead.¹⁴¹ In fact, these letters submitted in evidence, coincide with the testimony of Benhur Luy where he stated that the actual total amount promised by accused Jaraula to accused Napoles was Forty Million Pesos (Php40,000,000.00) but the amount covered by these cases is only the Thirty Million Pesos (Php30,000,000.00) portion thereof. In

¹³⁶ Exhibit "F-2".

¹³⁷ Exhibit "F-5".

¹³⁸ *Id.*

¹³⁹ Exhibit "F-3".

¹⁴⁰ *Supra*, See Note No. 137.

¹⁴¹ *Supra*, See Note No. 139.

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breaking down the 30-Million portion, Luy testified that the 20-Million was initially promised for the year 2006 but the SAROs came out only in 2007; these refer to SARO No. ROCS-07-00580¹⁴² and SARO ROCS No. 07-00861¹⁴³ which were both released in January of 2007. With regard to the remainder, the Ten Million Pesos (Php10,000,000.00) was allocated from the first tranche of accused Jaraula's 2007 PDAF with SARO ROCS No. 07-05450 which was released on March 21, 2007.¹⁴⁴

These documents readily contradict accused Jaraula's claims that he did not designate TRC to be the implementing agency of his PDAF at the time relevant to these cases. The testimony of his former staff and the letters which he allegedly sent to the Committee on Appropriations are not supported by official records. In fact, his "justification letters" are undated and do not bear any stamp that will show that it was actually received by the Committee on Appropriations.

In addition, the records show that accused Jaraula endorsed and entered into several Memoranda of Agreement with CARED as partner NGO. Accused Jaraula explains however, that his signatures in various documents relating to his PDAF are not authentic and have been forged. However, he has admitted the genuineness of his signature in the Memorandum of Agreement for SARO No. ROCS-07-00861,¹⁴⁵ in the Memorandum of Agreement for SARO No. ROCS-07-005450,¹⁴⁶ and in the letter dated March 28, 2007 to Ortiz with regard to the implementation of the project covered by SARO No. 07-05450.¹⁴⁷ Accused Jaraula claims that he signed those documents after receiving

¹⁴² Dated January 12, 2007.

¹⁴³ Dated January 19, 2007.

¹⁴⁴ TSN dated November 8, 2016, pp.44-45.

¹⁴⁵ Exhibit "DD-8" to "CC-11".

¹⁴⁶ Exhibit "CC-12" to "CC-15".

¹⁴⁷ Exhibit "CC-2".



a call from TRC that several documents have been retained in his office and that he signed them in good faith.

The Supreme Court in the case of *Gepulle-Garbo vs. Spouses Garabato*¹⁴⁸ ruled that forgery cannot be presumed. It must be proved by clear, positive and convincing evidence, and the burden of proof lies on the party alleging forgery - in this case, accused Jaraula. One who alleges forgery has the burden to establish his case by a preponderance of evidence, or evidence which is of greater weight or more convincing than that which is offered in opposition to it. The fact of forgery can only be established by a comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is theorized to have been forged.¹⁴⁹

To illustrate, below are reproductions of these **admittedly genuine signatures** as reproduced from the records:



MYLENE
President
ANTONIO G. JARAUI
Representatives
Cagayan De Oro

Signature of accused Jaraula in the MOA for SARO No. No. ROCS-07-00861



MYLENE
President
ANTONIO G. JARAUI
Representatives
Cagayan De Oro

Signature of accused Jaraula in the MOA for SARO No. ROCS-07-005450.



ANTONIO G. JARAUI
(CARED) FOUNDATION
District of Cagayan De Oro
ANTONIO G. JARAUI
Cagayan De Oro

Signature of accused Jaraula in the indorsement letter for SARO No. ROCS-07-005450

Meanwhile, accused Jaraula denied the genuineness of his signatures in all the other documents studied by the COA SAO. Shown

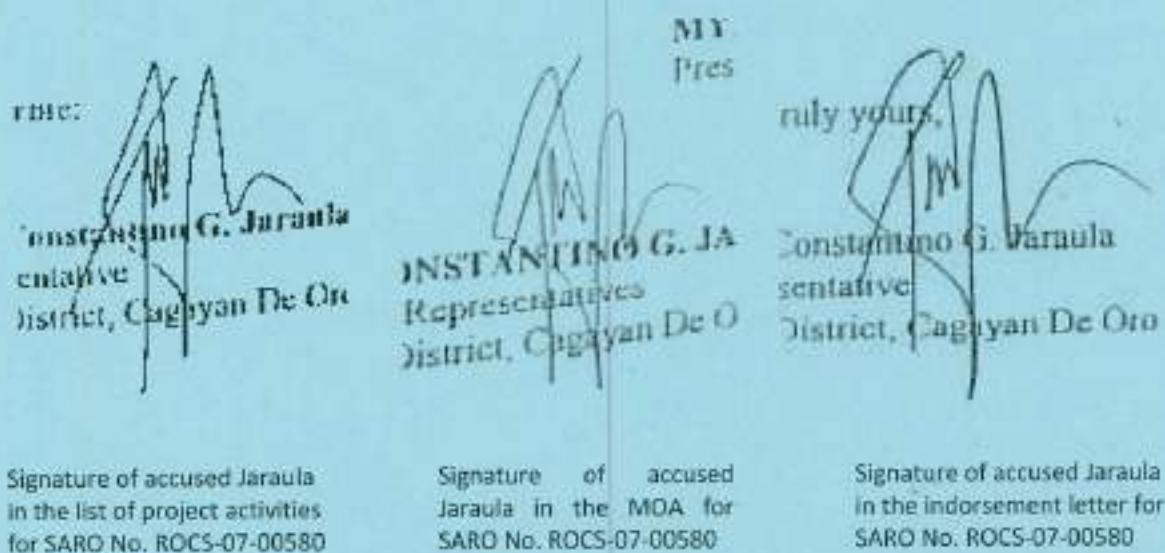
¹⁴⁸ G.R. No. 2000014, January 14, 2015.

¹⁴⁹ Ibid.



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below are reproductions of some of these **allegedly inauthentic signatures** as obtained from the records:



Accused Jaraula faults the prosecution stating that it did not provide any testimony of a handwriting expert to prove that his signatures are indeed genuine. However, the Supreme Court has ruled that a finding of forgery does not depend entirely on the testimony of handwriting experts and that the judge still exercises independent judgment on the issue of authenticity of the signatures under scrutiny.¹⁵⁰

Based on an independent examination of the genuine signatures vis-à-vis the alleged forged ones, the court finds that the signatures thereon are very similar, if not identical. Discrepancies on the signatures, if any, are too minute for the naked eye and it should have been incumbent upon accused Jaraula to present expert testimony to the contrary. It should be noted that these documents that accused Jaraula claim to be forgeries form part of official public records which carry with them the presumption of regularity, which accused Jaraula failed to overcome. Besides, accused Jaraula already admitted the genuineness of his signatures pertaining to two (2) MOAs¹⁵¹ and one (1)

¹⁵⁰ *Mendoza vs. Fermin*, G.R. No. 177235, July 7, 2014.

¹⁵¹ MOAs for SARO Nos. ROCS 07-00861 and ROCS 07-005450.

letter-recommendation¹⁵² addressed to Ortiz which effectively binds him and creates his link to the scheme and conspiracy.

It should be stressed that accused Jaraula never, in any of his testimonies, explained how or why he came to know of CARED as an NGO. Neither did he give any explanation as to why he requested that CARED implement his PDAF projects for year 2007. The fact remains that he selected and indorsed CARED out of a several other options that could have been available to him. Accused Jaraula further claims that at the time of the transactions, CARED was a legitimate NGO as evidenced by its record with the SEC. The same records however will show that CARED was incorporated only in December of the previous year. Barely six (6) months into its operations, it had already been repeatedly chosen as a project partner of PDAF-funded projects worth millions of pesos courtesy of accused Jaraula.

Meanwhile, prosecution witness Luy categorically stated that accused Jaraula's selection of CARED was part of the entire agreement between the lawmaker and accused Napoles. According to Luy, at the very beginning, accused Napoles already had a hand in how accused Jaraula's PDAF will be coursed through TRC and CARED.¹⁵³ The transcript of stenographic notes dated January 17, 2017 bears out the following:

PROS. TORIBIO: Now, do you know why would Congressman Jaraula choose CARED as the implementer of his PDAF funded projects for these three (3) SAROs as stated in those three (3) indorsement letters?

WITNESS: Yes, Sir, because that is part of his agreement with madam Janet Napoles that Congressman Jaraula will indorse the NGO

¹⁵² Letter recommendation for SARO No. ROCS 07-005450.

¹⁵³ TSN dated January 17, 2017, pp. 27-28.

of Madam Janet Napoles in this case which is CARED and in exchange (pause) so Madam Janet Napoles will get the PDAF of Congressman Jaraula and in exchange Congressman Jaraula will be able to get his kickbacks.

In addition, Luy directly admitted to drafting the Project Listing, that accused Jaraula supposedly reviewed and signed, which in turn prompted the release of the latter's PDAF. Luy further testified that once the SARO was available, accused Jaraula will personally give him copies thereof, as part of their agreement, to prove that the PDAF has already been allotted. Once the NCA is issued, Luy now prepares a draft indorsement letter and draft MOA, which accused Jaraula signs before forwarding them to TRC.¹⁵⁴

Accused Jaraula adverts to Special Provision I of the 2007 GAA which provides that funds from PDAF shall be released directly from the DBM to the implementing agency. He further claimed that his signature does not appear on the disbursement voucher for the release of funds. Accused Jaraula proceeds to claim that in accordance with the MOA that he signed, there is no warranty, undertaking, or obligation on his part to verify the status of the NGO or to monitor the implementation of the project. However it must be noted that the DBM will not unilaterally release the funds to an implementing agency without first securing an endorsement from the lawmaker concerned as evidenced by accused indorsements of TRC. In fact, in the testimony of prosecution witness Carmencita Delantar of DBM-ROCS she stated that the office evaluates the project list, the endorsement, and the letter-requests of the lawmaker on the basis of the provision of the GAA.¹⁵⁵

¹⁵⁴ TSN dated January 17, 2017, pp. 24-27.

¹⁵⁵ TSN dated February 16, 2016, March 1, 2016, March 15, 2016, and July 5, 2016.

Accused Jaraula also testified that he even initiated the investigation into the affairs of the TRC.¹⁵⁶ He claims to have repeatedly called to TRC to follow-up on the status of the projects. He even allegedly wrote Director General Ortiz who replied in a letter dated March 20, 2009.¹⁵⁷ However, the reply-letter pertained to a 2006 SARO and made mention of only one of the SARO in this case, SARO No. ROCS-07-00580, the SARO which he completely denied having signed.

From this letter that accused Jaraula himself adduced in evidence, it appears that as early as 2009 he was already made aware of this supposed request-letter that he wrote to TRC dated January 29, 2007 in relation to the SARO No. ROCS-07-00580. Curiously however, he did not find it fitting to reply and rebut the statement made by Ortiz in the subject letter considering that accused Jaraula claimed to not have requested any of his PDAF in 2007.

Instead of clarifying with Ortiz, accused Jaraula claimed to be so exasperated that he wrote an anonymous unsigned letter to the COA¹⁵⁸ asking that TRC's PDAF transactions be investigated. However, accused Jaraula does not have any legitimate proof of these claims. He presented former staff members, Griscelda M. Joson¹⁵⁹ and Erwin B. Culanag¹⁶⁰ to prove that he did send this supposed unsigned letter. Yet their testimonies fail to convince. For one, the unsigned letter looked haphazardly written. Even the fact of its mailing appears to be doubtful as it was a mere handwritten note made by Joson herself. If accused Jaraula was indeed dissatisfied with TRC, he could have simply asked a clarification from Ortiz or better yet, he could have lodged a formal complaint with the Ombudsman. Unfortunately, he did not do so.

¹⁵⁶ TSN dated June 18, 2018, pp. 43-92.

¹⁵⁷ Exhibit "9" –Jaraula.

¹⁵⁸ Exhibit "15" –Jaraula.

¹⁵⁹ Affidavit, Records, Volume XVII p.566; TSN dated November 20, 2018, pp.15-19.

¹⁶⁰ Affidavit, Records, Volume XVII, p.569; TSN dated February 1, 2019, pp. 10-19.

All these acts of accused Jaraula show a clear inclination on his part to favor CARED to become his partner NGO in his PDAF-funded projects. Notably, his indorsement letters and the MOA are among the attachments in the DVs which were TRC's bases for processing the disbursement documents. Without such, TRC could not have disbursed the funds to CARED. The fact that he unilaterally indorsed CARED, without any apparent basis or standard, clearly shows that he acted with manifest partiality in CARED's favor and evident bad faith as a public official.

As regards the participation of accused TRC officials, the prosecution claimed that accused Figura, Jover and Dimaranan, in furtherance of the conspiracy, facilitated, processed, and approved, the disbursement of the subject PDAF by signing the three (3) disbursement vouchers subject of these cases, as well as causing the issuance of the checks in favor of CARED, without them having carefully examined and verified the accreditation and qualifications of CARED as well as the transaction's supporting documents.

Specifically, accused Figura signed Box A of DV No. 012007040660¹⁶¹ in relation to ROCS-07-05450¹⁶² dated March 21, 2007 and the Landbank checks issued in CARED's favor.¹⁶³ The prosecution noted that COA Circular No. 92-839 required that signatories to Box A must review first the DV and the supporting documents, and only if found in order, should one certify that the expenses are necessary, lawful, and incurred under their direct supervision.

¹⁶¹ Exhibit "CC-5".

¹⁶² Exhibit "CC".

¹⁶³ Exhibits "BB-3", "CC-3", and "DD-3".

Handwritten signature and initials in blue ink, located in the bottom right corner of the page. The signature appears to be a stylized name, and the initials are 'SJS' and 'JR'.

On the other hand, accused Jover and Dimaranan signed all three (3) DVs subject of these cases. Accused Jover, as Officer-in-Charge of the Accounting Division, signed Box B of the DVs which certified the adequacy of available funds/budgetary allotment and that the expenditure is properly certified and supported by documents. Meanwhile, accused Dimaranan affixed her signature in the Box for Particulars of Payment below the notation, "verified as to the completeness of the documents attached".

In his defense, accused Figura cites Office Circular No. OOG0098 dated January 19, 2007¹⁶⁴ and Office Circular No. OOFN0059 dated July 18, 1995¹⁶⁵ to prove that his co-signature on the checks with Ortiz and on one (1) of the Disbursement Vouchers subject of this case,¹⁶⁶ is part of his official functions. Hence, when accused Figura signed the DV and co-signed the checks, he was just doing ministerial duties without knowledge of any irregularity in the transactions themselves. Further, accused Figura asserts that he has asked Ortiz to relieve him of his duty to sign the DVs as OIC-DDG whenever DDG Cunanan was out of the country. In a Memorandum dated April 4, 2007¹⁶⁷ addressed to the Director General, he requested to be relieved of the duty to sign Box A of the disbursement voucher in his capacity as OIC-DDG due to the serious implications and responsibilities attached to the act of signing the said disbursement vouchers, not to mention the huge amounts involved.

For her part, accused Jover claims that her actions were all in accordance with Office Circular No. OOFN0059 dated July 18, 1995.¹⁶⁸ The said circular outlined the manner by which the disbursement

¹⁶⁴ Exhibit "3" - Jover & Figura.

¹⁶⁵ Exhibit "4" - Jover & Figura.

¹⁶⁶ DV No. 012007040660 in relation to SARO ROCS-07-05450 is the subject of the case docketed as SB-15-CRM-0017 and SB-15-CRM-0020.

¹⁶⁷ Exhibit "13" - Jover & Figura.

¹⁶⁸ Exhibit "4" - Jover & Figura.

vouchers are processed. Accused Jover explains that the Accounting Division becomes involved in the process only after the signatory for Box A of the DV had signed the same. Thereafter, she fills out the accounting entries box, assigns and stamps a number to the DV, and checks the supporting documents, then she signs Box B of the DV. She certifies the availability of funds, that expenditure is properly certified, that expenditure is supported by documents, that the account codes are proper and that previous cash advances, if any, had been liquidated. Accused Jover further stated that her bases in certifying Box B were the TRC official receipt which shows that the fund was already transferred to TRC by the Bureau of Treasury, the SARO and the NCA, considering that these documents proved availability of funds in relation to the requested expenditure. Accused Jover adds that if the DVs are supported by the necessary documents such as the SARO, MOA, and indorsement letters, she had no choice but to affix her signature in accordance with Office Circular No. OOFN0059.¹⁶⁹ Lastly, she denied knowing accused Jaraula, Napoles, or any other representative of CARED.

Accused Dimaranan explained that as head of the internal audit division, her regular function was to verify the disbursement voucher to see if the documents attached are complete prior to the preparation of the corresponding checks by the Cash Division. Accused Dimaranan averred that it is not part of her function to determine the legality of the transactions. Before the DVs reach her office, these documents already had the approval of higher authority for processing. Accused Dimaranan also claimed that whenever there are missing documents necessary for the release of the check, she would note the same and address it to the Cash Division. This was what she did in DV No. 012007040660,¹⁷⁰

¹⁶⁹ Exhibit "4"-Jover and Figura.

¹⁷⁰ Pertains to SARO No, ROCS-07-05450 dated March 21, 2007.



where she placed a note advising the cash division to require, as a pre-release condition, compliance or completion of the documents to be attached.¹⁷¹ She also denied knowing accused Jaraula, Napoles, Encarnacion or any other officers of CARED.

Finally, both accused Figura and Jover claim that their offices do not have any role in coordinating with the legislators on their PDAF as it was the task of the Legislative Liaison Office pursuant to Memorandum Order No. 07 dated June 22, 2005¹⁷² which reactivated the Legislative Liaison Office and defined the functions of the Legislative Liaison Officer of TRC.

The Court finds that other than accused Figura, Jover and Dimaranan's signatures on these documents, which were done or affixed in the regular course of business, the prosecution was not able to show any other act that would tie them into the web of conspiracy. The mere act of signing the disbursement vouchers, absent any other proof that it was done in furtherance of the conspiracy, or with an unlawful intent, cannot be considered as evident bad faith or manifest partiality.

The Supreme Court in a number of cases has 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 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

¹⁷¹ Exhibit "CC-7-A".

¹⁷² Exhibit "B" – Jover & Figura.

conspiracy in an illegal scheme. The guilt beyond reasonable doubt of each supposed conspirator must be established.¹⁷³

Further, in *Pareño vs. Sandiganbayan*,¹⁷⁴ the Supreme Court ruled that guilt in a conspiracy must be premised on a more knowing, personal and deliberate participation of each individual who is charged with others as part of a conspiracy.

A reading of the pertinent circulars show that accused Figura, Jover, and Dimaranan followed standard protocols. TRC Office Circular No. OOG0098 dated January 19, 2007 provides that due to the rationalization of TRC, the designation of authorized signatories for official documents was reiterated and adjusted to include the counter-signature of the Group Manager of the CSSG, in this case accused Figura, with regard to transactions exceeding the amount of One Million Pesos (Php1,000,000.00). In addition, the same circular provides that for transactions exceeding Php1,000,000.00, the Deputy Director General (DDG) will sign Box A of the DV as recommending authority. At the time accused Figura signed DV No. 012007040660 dated April 16, 2007,¹⁷⁵ he was in fact OIC-DDG. It should be noted that accused Figura's signature on the DV was made while he was OIC DDG, the two (2) other DVs subject of these cases were signed by Dennis L. Cunanan, in his capacity as DDG.

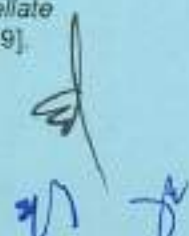
In addition, accused Figura mentioned of a Memorandum¹⁷⁶ dated February 9, 2007 from DDG Cunanan addressed to DG Ortiz which was coursed through him as group manager wherein certain policy issues about the PDAF transactions were raised. He then attached a

¹⁷³ *Albert vs. Gangan*, G.R. No. 126557, March 6, 2001, citing *Gomez vs. Intermediate Appellate Court*, 135 SCRA 620 [1985]; *Macadangdang vs. Sandiganbayan*, 170 SCRA 308, 326 [1989].

¹⁷⁴ G.R. Nos. 107119-20, April 17, 1996.

¹⁷⁵ Exhibit "CC-5".

¹⁷⁶ Exhibit "14" – Jover & Figura.



handwritten note for both of them suggesting that due to the far-reaching implications and consequences of the PDAF matter which may affect the very existence of the center, the same be thoroughly discussed in a management committee meeting and presented to the board of trustees for approval inasmuch as policies related to operations are unavoidably involved. He further mentioned that his office does not have any role in coordinating with the legislators on their PDAF as it was the task of the Legislative Liaison Office pursuant to Memorandum Order No. 07 dated June 22, 2005¹⁷⁷ which reactivated the Legislative Liaison Office and defined the functions of the Legislative Liaison Officer of TRC.

While accused Figura, Jover, and Dimaranan did issue certifications in the Disbursement Vouchers that ultimately led to the disbursement of funds to CARED, the Court is not convinced that their acts of signing these documents alone are tantamount to participation in the conspiracy. It should be pointed out that the DVs signed by accused Figura, Jover, Dimaranan were properly supported by documents such as the SARO, indorsement letters, project proposal and MOAs, which all appeared regular on their face.

The issue of the deficient MOA and the improper accreditation of CARED should have been squarely addressed by the primary office in charge of these transactions which is the Legislative Liaison Office. As indicated in Office Circular No. 00GE0098,¹⁷⁸ which laid down the conditions that a MOA should comply with, it is the LLO which shall endorse the MOA for approval of the Director General, to wit:

"1. All MOA shall be endorsed by the TRC, LLO/GM, TLIDSG for approval by the Director General after being reviewed by the Legal Department and initialed by the GM. CSSG."

¹⁷⁷ Exhibit "8" – Jover & Figura

¹⁷⁸ Exhibit "3" – Jover & Figura



In addition, the testimony of accused Jover who claimed that it is the legislative liaison unit which was tasked to check the eligibility before they indorse the NGO for payment was unrebutted.

PROS. TRASMONTERO: Did you check also the eligibility requirements of CARED?

A: It is not my duty, Ma'am.

Q: It is not your duty, whose duty is it to check the eligibility of CARED?

A: The requesting unit?

Q: And who is that requesting unit, Ms. Witness?

A: The legislative liaison office, Ma'am. ¹⁷⁹

However, it does not escape the Court that accused Figura, Jover and Dimaranan were remiss in their duties indicated in their respective certifications on the DVs. For one, during cross-examination, accused Figura admitted to signing the DV despite his reservations, to wit:

PROS. TRASMONTERO: You were also aware, Mr. Witness, being a lawyer that even if you were signing as an OIC you're still obligated to check the legality of the transaction prior to signing, am I correct?

WITNESS: Yes, ma'am

Q: And during that time, Mr. Witness, you also mentioned that you requested the Director-General that you be relieved as a signatory of Box A, am I correct?

A: Yes, ma'am.

Q: And one of your apprehensions is that, in your Letter dated April 4,

¹⁷⁹ TSN dated October 8, 2019, pp. 52-53.

x-----x

2007, you mentioned therein that there was an Audit Observation Memorandum issued by the COA No. 2007-002 dated February 13, 2007, am I correct?

A: Yes, Ma'am.

Q: And you mentioned that you shared the view of the COA in the said AOM, am I correct?

A: Yes, ma'am.

Q: That it should be the TRC that should implement PDAF funded programs and not NGOs, am I correct?

A: Yes, ma'am.

Q: And you also agree that the NGOs that should be, at the time, in early 2007 before your signing of the check, you are already aware that the NGO should first be accredited prior to being given a... (paused)

A: Yes ma'am, and in fact, I recommended that the accreditation should be a strict process.

Q: Yes. All of those you already knew before you signed Box A of disbursement voucher marked as Exhibit CC-5, am I correct?

A: As I mentioned in the... (interrupted)

Q: Yes or no, sir?

A: I signed it with reservation. I was just doing my official duty as Officer-In-Charge of the Office of the Director General designated to sign box A in that particular account

Q: Yes. But On the face of the disbursement voucher sir you did not indicate there in that you are saying (sic) under protest, am I correct?



x-----x

A: I do not know.¹⁸⁰

Accused Jover, on the other hand, in admitting to signing Box B in the disbursement vouchers, testified:

PROS. TRASMONTERO: Okay. You checked the required documents?

WITNESS: Yes ma'am.

Q: When you check the required documents, you do not only check its presence in the documents, but you also check the authenticity of the documents attached?

A: The details of the documents.

Q: You also check the details of the documents?

A: Because they are attached to the vouchers, and upon looking at them, I checked and verified them against the details in the disbursement vouchers, for instance, the details of the MOA, I checked the names if they are correct or not.

Q: What specific details are these that you checked, if you can recall?

A: Against about the voucher, for example, first, like the signature of the legislature. Then, halimbawa, sa Disbursement Voucher ay kung nakalagay, payable siya sa CARED, sa MOA ay titingan ko kung payable ba siya sa CARED, tapos kung yung amount ng SARO ay equal siya doon sa DV at yun kung indorsed siya ng legislature. At tapos kung sa eligibility may SARO at saka may OR.

Q: So, in short, you only checked whether the documents were signed and that the amount in the disbursement voucher - so, you

¹⁸⁰ TSN dated October 22, 2019, pp. 22-24.



X-----X

checked whether the documents attached to the DV are signed – duly signed? You checked whether the amount in the DV is the same as those attached to the document, am I correct?

A: Yes, Ma'am.

Q: In this particular case, the funds are being transferred to CARED?

A: Yes, Ma'am.¹⁸¹

In addition, accused Jover admitted to having signed the Memorandum of Agreement with Antonio Ortiz, accused Encarnacion, and accused Jaraula. She qualified however, that the MOA was already attached to the voucher when she signed the same and the other signatories have already signed. She also stated that there were occasions when the MOA was already notarized by a notary public before she could even affixed her signature on it, thus:

PROS. TRASMONTERO: My question is, when the MOA reached your office for your signature, is it already acknowledged before the notary public?

A: Sometimes it is already, and sometimes not, sometimes they did not notarize as still I have no signature.

Q: Okay. In this particular instance, the three (3) MOA that you signed in this particular cases, do you recall whether you signed before it was notarized or you signed after it was notarized?

A: May I see the document, ma'am?

Q: Okay. I'm showing to you the documents to help you recall, Ms.

¹⁸¹ TSN dated October 8, 2019, pp. 52-53.



X-----X

Witness. There are Exhibit CC-15, DD-11 and, BB-11?¹⁸²

xxx

COURT INTERPRETER: Witness is referring to Exhibit BB-11.

WITNESS: It was on April 2 when I signed this, ma'am.

COURT INTERPRETER: The witness said, it was on April 2 when I signed this.

PROS. TRASMONTERO: You signed that before it was notarized or after?

A: After the, notarization, Ma'am.¹⁸³

xxx

CHAIRPERSON DELA CRUZ: You are saying that the notarization came first before you sign?

A: Yes, Your Honor. This one.

COURT INTERPRETER: Witness is pointing to Exhibit CC-15-A

WITNESS: I signed on April 16, 2007 and it was notarized on April 2, 2007.¹⁸⁴
xxx

PROS. TRASMONTERO: As the Chief Accountant, do you know how CARED was chosen by the TRC to implement the project?

ATTY. FIGURA: Your honors, the witness will be incompetent, because she is an accountant.

AJ CALDONA: If she knows. May answer.

CHAIRPERSON DELA CRUZ: The question, do you know?

PROS TRASMONTERO: That is why we're asking if she knows.

¹⁸² TSN dated October 8, 2019, pp. 55-56.

¹⁸³ TSN dated October 8, 2019, pp. 56-57.

¹⁸⁴ Ibid.

x-----x

- WITNESS: It was only being based on the Indorsement letter, ma'am. Since the PDAF belongs to the legislature, so, whoever is being mentioned in the Indorsement letter, they will state in their Indorsement letter who will be indorsed by them.
- Q: So that has been the practice of the TRC since the CDF and the PDAF?
- A: Yes, ma'am.
- Q: So, whoever the legislature indorses that is where you transfer the funds, am I correct?
- A: Yes, ma'am.
- Q: And in this case, because it was indorsed by Congressman Jaraula, you transferred it to CARED, am I correct?
- A: Yes, Ma'am.¹⁶⁵

Accused Dimaranan also admitted having signed the disbursement vouchers and indicated thereon, "Verified as to the completeness of the documents attached." During cross-examination, accused Dimaranan was asked, thus:

- PROS. TRASMONTERO: Did you check whether the documents submitted by CARED in its accreditation were complete?
- WITNESS: At the time, yes ma'am. I think it is but honestly I cannot remember anymore.
- Q: You cannot remember anymore. Did you also read the MOA that was attached to the disbursement voucher?
- A: Yes, ma'am.

¹⁶⁵ TSN dated October 8, 2019, pp. 62-63.



X-----X

Q: Yes. Did you verify whether the MOA included the specific requirements needed in the MOA before you sign the disbursement voucher?

A: Specifically what I checked with the MOA is, if they were properly signed by the proper authorities, Ma'am. That was my main concern, if they were properly signed by the authorized parties.

Accused Dimaranan admitted that she did not check the attachments of the MOA or the details of CARED's accreditation. Further, the accused admitted that she only did a rather routinary check of the signatures on the disbursement vouchers and relied on the existing indorsements and signatures thereon, thus:

PROS. TRASMONTERO: And you conduct pre-audit to determine that the transaction is approved by the proper authority and duly supported by authentic underline documents, am I correct?

WITNESS: Yes, Ma'am.

Q: So when you signed the Disbursement Vouchers involved in these cases particularly Disbursement Voucher 01200 – oh by the way, do you remember having signed the Disbursement Voucher in relation to these cases?

A: Yes, Ma'am.¹⁸⁶

xxxx

Q: So do you confirm that the signatures appearing below “verified as to the completeness of the documents” attached are your signatures in all of these three (3) documents?

A: Yes, Ma'am.

Q: And you would confirm, Ms. Witness, that prior to your signature, the signatories in the document already signed the voucher?

¹⁸⁶ TSN dated October 8, 2019, p. 13.



x-----x

A: Yes, Ma'am.¹⁸⁷

xxx

Q: When you signed the voucher, Ms. Witness, and stated therein, "Verified as to the completeness of the documents attached", can you tell us the documents already attached to the voucher, if you can recall?

A: Normally, the attachments were the Memorandum of Agreement – let's start pala with the SARO and the NCA and then the release sheet and then the MOA, and then the Work and Financial Plan and the Project Proposal. These are the basic attachment, Ma'am.

Q: You will agree with me that – (interruption) –

A: I think I forgot to mention the indorsement letter from the legislature.¹⁸⁸

xxx

PROS. TRASMONTERO: Ms. Witness, when you signed the Disbursement Vouchers and you saw that the fund is going to be transferred to CARED, did you bother to check the documents – the registration documents, and other eligibility requirements of CARED, whether or not they were attached to the voucher, yes or no?

WITNESS: Yes, I did check, Ma'am.

Q: You check, whether the eligibility requirement of CARED were attached to the DV?

A: They were not attached. I asked for it because the office maintains a file folder of the NGOs so when the voucher reaches me, I asked for the folder from the operations unit.

Q: Okay and what were these documents pertaining to CARED that you requested from your office?

¹⁸⁷ TSN dated October 8, 2019, p. 14.

¹⁸⁸ TSN dated October 8, 2019, p. 15-16.



x-----x

- A: Well, the folder contains the registration papers
– SEC registration papers.
- Q: SEC Registration Papers. Did it contain financial statements for at least three (3) years prior to 2007?
- A: Ah -
- Q: Yes or no?
- A: I don't remember specifically because sa tagal na and the numerous NGOs that came to our office, I don't remember anymore the specific, Ma'am.
- Q: Okay, you remember whether or not CARED was accredited by the TRC prior to 2007?
- A: I believe when the office or the operation asked for these papers, I think that is their form of accreditation.
- Q: What do you mean that is their form of accreditation? what do you mean?
- A: That is their way of accrediting the NGO, Ma'am.¹⁸⁹

Significantly, during the cross-examination of prosecution witness Benhur Luy, he categorically stated that the names of accused Figura, Jover and Dimaranan do not appear in his DDR. Neither could he recall having given any gift or consideration to the said accused, thus:

- ATTY. FIGURA: Mr. Luy, you mentioned in your direct testimony that you have a list of people from Technology Resource Center or TRC who received commissions or kickbacks from your alleged principal, Mrs. Janet Napoles, is that correct?
- A: A list from what, sir?

¹⁸⁹ TSN dated October 8, 2019, p. 22-23.



x-----x

- Q: A list of persons or officers from the Technology Resource Center who received kickbacks or commissions from your alleged principal, Madam Napoles?
- A: Appearing on what, sir? The DDR?
- Q: Your list. Yes, the DDR?
- A: The DDR. The Daily Reimbursement Report, yes, sir.
- Q: And does the name Marivic Jover, Chief Accountant, TRC, appear in the said DDR?
- A: No, sir. As far as I remember no, sir.
- Q: And how about the name of Maureen Dimaranan, Head, Internal Audit Division, does it appear in your DDR?
- A: None, sir.
- Q: How about the name of Atty. Francisco Figura, does it appear in your DDR?
- A: The DDR, sir, none that I remember, sir.
- Q: Now, when you said kickback or commission, you are referring to cash money, is that correct?
- A: Yes, sir, the SOP.
- Q: Now, how about a gift or favor, did your record show that any gift or favor was given to Marivic Jover?
- A: None, sir.
- Q: How about Maureen Dimaranan?
- A: None, sir.
- Q: How about Francisco Figura?
- A: None, sir.¹⁹⁰

¹⁹⁰ TSN dated August 15, 2007, pp. 21-28.

In fact, Luy admitted that it was only during the said cross-examination, where he met accused Figura, Jover and Dimaranan, to wit:

ATTY. FIGURA: In all those frequent visits that you did to the office of TRC, did you have in any occasion approach accused Marivic Jover in that said office?

A: No, sir.

Q: Your Honors, before I proceed with my next question, may I request that accused Marivic Jover to come forward?

JUSTICE ECONG: All right. Call Marivic Jover.

THE INTERPRETER: Ms. Marivic Jover? Approaching, Your Honors.

ATTY. FIGURA: Mr. Luy, here is Marivic Jover, the crying lady on television, mentioned by Sen. Grace Poe during the Senate inquiry, did you ever approach her before?

A: No, sir.

Q: In fact, this is the first time that you met each other?

A: Yes, sir.

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ATTY. FIGURA: Thank you, Mr. Witness. May I request, Your Honors, that the accused be excused.

Q: Again, in all your visits to TRC offices to follow up on PDAF transactions not only of former Congressman of Cagayan de Oro, Atty. Jaraula, but in all the PDAFs that were referred to TRC, did you also have occasion to approach Marivic Jover, the Head of the Internal Audit Division?

A: I already answered that question, sir.

Q: No, no, Maureen Dimaranan?

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A: No, sir.

Q: May I again request, Your Honors, that Ms. Dimaranan, who is religiously attending the hearings of this case be allowed to come forward?

JUSTICE ECONG: All right.

ATTY. FIGURA: In front of you, Mr. Witness, is Maureen Dimaranan, the Head of the Internal Audit Division of TRC, who is one of the signatories to the Disbursement Vouchers as part of her official duty, did you ever approach her before?

A: No, sir.

Q: Did you ask any favor from her on your PDAF transactions?

A: No, sir.

ATTY. FIGURA: Thank you, Mr. Luy. May I request that Ma'am Dimaranan be excused, Your Honors.

JUSTICE ECONG: All right.

ATTY. FIGURA: Now, Mr. Witness, I am Atty. Francisco B. Figura, the Head of the Corporate Legal Support Services for TRC, did we ever see each other before?

THE WITNESS: No, sir.

Q: In fact, this is the first time that we met each other face to face?

A: Yes, sir.

Q: And under your present oath, Mr. Luy, will you kindly, honestly tell us if you ever gave any commission, kickback, favor or gift to Francisco Figura being an officer of TRC who is one of the co-signatories to the checks of the said institution?

THE WITNESS: I, personally, sir, no, sir.



- ATTY. FIGURA: Thank you, Mr. Witness. You will also agree with me, Mr. Luy, that you haven't seen Figura, Jover and Dimaranan in any of the parties or activities hosted by your alleged principal Madam Janet Napoles?
- A: *Wala po akong matandaan, sir.*
- Q: And finally, this is my last question, Mr. Witness. You will also agree with me that in all the PDAF projects of legislators, not only that of Congressman Jaraula, that will course through TRC as implementing agency, but ultimately indorsed to the alleged Napoles lead foundations, the names of Jover, Dimaranan and Figura do not appear as recipients of kickbacks, commissions, gifts or favor?
- A: As kickbacks, commissions or favors, none, sir.
- Q: Their names do not appear?
- A: None, sir.¹⁹¹

Proceeding therefrom, it is clear that the prosecution does not have substantial evidence of accused Figura, Jover and Dimaranan's supposed complicity in the conspiracy other than their signatures appearing on the DVs.

The court stresses that accused Figura, Jover, and Dimaranan are well aware of their responsibilities before they affix their signatures on these documents. They are likewise aware of the import of these signatures on the face of public documents such as the disbursement vouchers in these cases. More importantly, these accused public officials are not mere rank-and-file employees who are expected to do clerical work. Their positions require that they should have at least

¹⁹¹ TSN dated August 15, 2007, pp. 21-28.

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exercised better diligence and prudence in the conduct of their affairs. As public employees they are required to perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill.¹⁸² However, to the mind of the Court, the failure of these accused to scrutinize and further check the completeness of the documents attached to the DVs, at most, amounts only to gross negligence.

While conspiracy need not be proved by direct evidence of the acts charged, it may and generally must be proven by a number of indefinite acts, conditions and circumstances.¹⁹³ In the instant cases, the prosecution failed to adduce sufficient evidence to prove that the conspiracy involved accused Figura, Jover and Dimaranan. Other than their signatures on the documents, no other evidence was presented to show their concurrence, implied or express, with the criminal design.

Accused Figura, Jover, and Dimaranan's gross negligence may have facilitated the commission of the crime but their individual acts of signing the pertinent documents in accordance with their established procedure and practice cannot be said to amount to manifest partiality and/or evident bad faith.

Part of accused Figura and Jover's defense is the fact that both their offices do not have a hand in coordinating with the legislators on their PDAF as it was the task of the Legislative Liaison Office pursuant to Memorandum Order no. 07 dated June 22, 2005.¹⁹⁴

¹⁸² Section 4 (b), Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

¹⁹³ *People vs. Maralit*, G.R. No. 71143, Sept. 19, 1988; *People vs. Roca*, G.R. No. 77779, June 27, 1988.

¹⁹⁴ Exhibit "8" – Jover & Figura



A reading of the said Memorandum No. 07 issued by DG Ortiz shows that the Legislative Liaison Office (LLO) was reactivated and organized directly under the Office of the Director General, due to the "continuing clamor/ requests for TLRC products and services by members of Congress". Some of the functions of the LLO were enumerated in the said Memorandum and quoted as follows:

- To establish close working relationship and strong linkages to the Congressional Offices (COs);
- To take charge and/or monitor the Priority Development Assistance Funds (PDAFs) released to TLRC and facilitate the execution of Agreements relative to the utilization of the said funds in accordance with Special Allotment Release Order (SARO)
- To coordinate, monitor and liaise facilitation of partnership programs with Congressional Districts

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Additionally, in a Memorandum issued by Ortiz dated January 10, 2006,¹⁹⁵ he designated accused Belina A. Concepcion as Legislative Liaison Officer who shall be guided by Memorandum Order No. 07 relative to her functions and responsibilities as LLO. Later, DG Ortiz again issued another Memorandum dated December 20, 2007 specifically designating the Group Manager of TLIDSG and concurrently TRC's Legislative Liaison Officer, namely accused Concepcion and Lacsamana, as alternate signatory of the DDG on Box A of the DVs.¹⁹⁶

Accordingly, accused Concepcion wrote a Memorandum dated January 6, 2007¹⁹⁷ addressed to DG Ortiz in her capacity as OIC Division Chief of Sales and Marketing Division, Technology and

¹⁹⁵ Exhibit "9" – Jover and Figura.

¹⁹⁶ Exhibit "10" – Jover and Figura.

¹⁹⁷ Exhibit "BB-7".



Livelihood Information Dessimation Services Group (TLIDSG) and
Legislative Liaison Officer stating, in verbatim:

"In accordance to the Memorandum of Agreement between TLRC and The Countrywide Agri and Rural Economic Development Foundation, Inc., we are recommending the release of Congressman Constantino G. Jaraula's PDAF in the amount of P9,600,000.00 for the implementation of various livelihood projects in the lone district of Cagayan De Oro."¹⁹⁸

For her defense, accused Concepcion claims that her task pertains only to the checking for completeness of the documents forwarded to her, but she is not required to evaluate the same. In answering questions from the court, accused Concepcion stated:

- AJ CALDONA: Were you authorized to evaluate the legality of the documents?
- WITNESS: No. It's not my job to evaluate and to review, it is the legal division who will review the documents, and it is not my job to evaluate.
- Q: So when you signed the release memo, it was because you found that the documents were complete and in order?
- A: Yes, your Honor, complete and in order.
- Q: And were all signed by persons who are required to sign the same?
- A: Yes, Your Honors, and it will still be forwarded to the legal division, if in case they found not complete and not in order.
- Q: So that will be the time when these documents will be forwarded to the legal department to review the legal aspect of the document?
- A: Yes, sir. Your Honors, to review the documents.¹⁹⁹

¹⁹⁸ With reference to SARO No. ROCS-07-00580.

¹⁹⁹ TSN dated January 14, 2020, pp. 32-33.

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Accused Concepcion also submitted a checklist²⁰⁰ supposedly given by their accounting department which, upon inspection, is a plain printout on paper, without any TRC letterhead or marking signifying that it is an official document of the agency.

Meanwhile, accused Lacsamana admitted to writing a Memoranda of similar import to that of accused Concepcion, dated March 7, 2007²⁰¹ and April 3, 2007,²⁰² both addressed to Ortiz, in her capacity as Group Manager and Legislative Liaison Officer, recommending the release of Congressman Jaraula's PDAF. Accused Lacsamana stated that she was tasked to check the completeness of the NGO's SEC documents, part of which is a statement that the NGO has been in operation for at least three (3) years. However, the records will show that this is a lie and a complete impossibility given that CARED was only organized in 2006. On cross-examination, Lacsamana testified:

PROS. TRASMONTERO: What specific documents are these Ma'am, which you mentioned will ascertain the track record of the NGO? Please clarify.

WITNESS: There is a certification from an accountant and auditor that a certain NGO has been performing in good standing for the past three (3) years?

Q: You mean to say that it has submitted financial statements for at least three (3) years' operation prior to the implementation of a certain project with the TRC?

A: And if there is a certification from an accountant or an auditor to that effect.²⁰³

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Q: So you admit Ms. Witness that in the implementation of PDAF funded projects by

²⁰⁰ Exhibit "11" -Concepcion.

²⁰¹ Exhibit "DD-7".

²⁰² Exhibit "CC-8".

²⁰³ TSN dated December 3, 2019, pp. 11-12.



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the TRC, the NGO who implements the project must first submit Certificate of Registration from the SEC, its Constitution and By-Laws, Financial Statement for at least three (3) years, and a certification that this NGO has been in good standing and in operation for the last 3 years, am I correct?

A: Yes, Ma'am.

Q: And all of these, as your duty, ma'am, as Group Manager, you check whether all of these documents are submitted before you make a recommendation?

A: Yes, Ma'am.²⁰⁴

The prosecution asserts that accused Jaraula conspired with the TRC and acted with manifest partiality and/or evident bad faith in unilaterally choosing CARED as its project partner. The prosecution cites violations of R.A. No. 9184, GPPB Resolution No. 12-2007, National Budget Circulars and COA Circulars in the conduct of accused Jaraula's PDAF transactions.

Under the law it is the implementing agency, in this case the TRC, that has the burden of accrediting and monitoring its partner NGOs. COA Circular No. 96-003 provides:

4.0 DUTIES AND RESPONSIBILITIES OF THE GO

The GO shall:

4.1 accredit the NGO/PO after proper verification and validation of required documents and statements;

Further, while GPPB Resolution No. 12-2007 dated June 29, 2007, which provides for the requirement of public bidding in selecting NGOs, took effect after the acts alleged in the Information; nonetheless,

²⁰⁴ TSN dated December 3, 2019, pp. 12.



COA Circular No. 96-003 has, as early as February 27, 1996, laid down the requirements for accreditation of an NGO. This circular provides:

3.0 GENERAL GUIDELINES

The following are the general guidelines in the extension of the fund assistance to the NGO/PO:

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3.2 The NGO/PO shall be accredited by the GO. In the case of non-regularly-funded GOs which generate their funds out of donations and shares from other GOs like the Presidential Management Staff with respect to the President's Social Fund, the implementing GOs shall set the minimum requirements/criteria for the selection of the NGO/PO project partners as stipulated in each program guideline.

3.3 The following shall be the requirements for the NGO/PO accreditation:

3.3.1 Certificate of registration with the Securities and Exchange Commission (SEC), and/or with either the Cooperatives Development Authority (CDA) or the Department of Labor and Employment (DOLE), as the case may be, depending on the nature of the service required or to be rendered. This is to ensure that the NGO/PO has a legal personality, has officers who are responsible and accountable for its operations, and is based in the community where the project shall be implemented.

3.3.2 Financial statements for at least three (3) years operation to ensure that:

- it has a stable financial condition so that the fund assistance shall not be its sole source of funds; and
- It has proven experience in fund management so that the grant shall be managed efficiently and economically.

3.3.3 For NGO/PO which has been in operation for less than 3 years, proof that it had previously implemented similar projects and a certificate from LGU concerned attesting to the credibility and capability of the officers and staff of the NGO/PO shall be submitted in lieu of financial statements.

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3.3.4 **List of projects** it has previously undertaken to show its experience and expertise in implementing the project to be funded.

3.4 The GO and the NGO/PO shall enter into a Memorandum of Agreement (MOA) or similar document, incorporating the following requirements:

- 3.4.1 Project statement including identification of beneficiaries;
- 3.4.2 Standards for project implementation by the NGO/PO and acceptance by the GO to include completion date;
- 3.4.3 Systems and procedures for project implementation such as but not limited to, the procurement of goods and services by the NGO/PO and the schedule of release of the fund assistance by the GO. In the development of the system and procedures, the GO and the NGO/PO shall be guided by generally accepted management principles for economical, efficient and effective operations;
- 3.4.4 Project cost estimates and time schedules; and
- 3.4.5 Reporting, monitoring and inspection requirements.

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It is apparent therefore that the issue of CARED's improper accreditation, the subsequent deficient MOAs, and the inadequate supporting documents or requirements are concerns that fall squarely under the functions of the Legislative Liaison Office through its Legislative Liaison Officers who are directly under the office of Director General Ortiz. It is the primary office in charge of accrediting NGOs and facilitating PDAF transactions as indicated in Office Circular No. 00GE0098.²⁰⁵

In these cases, the prosecution has established that CARED does not have the requirements to become an accredited PDAF project partner NGO. The records of the SEC shows that CARED was incorporated only on December 8, 2006. It did not provide any proof that

²⁰⁵ Exhibit "3" – Jover & Figura.



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it had previously implemented similar projects or any certification from LGU concerned attesting to the credibility and capability of the officers and staff of the NGO. Further, the MOA entered into by accused Jaraula with TRC and CARED likewise appears to be defective since an examination of the MOAs shows that a number of requirements are missing, such as: a) identification of beneficiaries; b) standards for project implementation; c) systems and procedures for project implementation; and d) project cost estimates and time schedules. Despite this, CARED was still given a sizeable amount to implement accused Jaraula's PDAF-funded project.

In addition, prosecution witness Benhur Luy categorically stated that some TRC officials benefit from this scheme, thus:

PROS. TORIBIO: And why would the implementing agency, in this case the TRC, award the three (3) projects to CARED?

A: Because the officers of the TRC, they have an agreement with Madam Janet Napoles that every time that they are going to award the project to the NGOs of Madam Janet Napoles, in this case CARED of Congressman Jaraula, they will be given a percentage commission or kickback. We call it as SOP and a bonus money to Belina Concepcion of GRC [TRC], sir.²⁰⁶

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Q: How do you know that that is the agreement between Janet Napoles and the officials of the TRC including Ms. Belina Concepcion?

A: *Sinabi po ito ni Madam Janet Napoles.*²⁰⁷

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Q: How much was the SOP given to the officials of TRC?

²⁰⁶ TSN dated January 17, 2017, pp.30-31.

²⁰⁷ TSN dated January 17, 2017, p. 32.



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- A: Ten percent (10%) of the amount of check released by the TRC, sir.
- Q: And who are these officials of the Technology Resource Center that you are referring to?
- A: Antonio Y. Ortiz and Dennis Cunanan, sir.²⁰⁸

In further explaining these alleged SOP given to some TRC officials, Luy testified, thus:

- PROS. TORIBIO: What about Antonio Ortiz?
- A: Antonio Ortiz is a Director General, sir.
- Q: **What about Belina Concepcion? You mentioned a Belina Concepcion awhile ago.**
- A: She is one of the staff of the TRC, sir
- Q: Now, again how do you know that that is the agreement between Janet Lim Napoles and Dennis Cunanan, Antonio Ortiz and Belina Concepcion?
- A: Because Mrs. Napoles told us, told me about their agreement. These are her agreement with the TRC officials, sir.²⁰⁹

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- Q: Now, when did she tell you about the agreement that you just mentioned awhile ago?
- A: Every time there is a *(paused)* When congressman Jaraula promises his PDAF allocation to Madam Janet Napoles sa TLRC po, so Mrs. Napoles told us that that is her agreement with the TRC officials po, sir.

Witness Luy specifically identified accused Concepcion as one of those TRC officials who receive benefits on account of TRC cooperation with accused Napoles' scheme, thus:

²⁰⁸ TSN dated January 17, 2017, p. 32.

²⁰⁹ TSN dated January 17, 2017, pp. 33.

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PROS. TORIBIO:

Q: So, with respect to Belina Concepcion....
(witness answered)

A: Belina? Yes, sir.

Q: How much was given to Belina
Concepcion?

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WITNESS: For Belina Concepcion, it stated here
TLRC c/o Bel Concepcion SOP charged
to Jaraula, Baterina, Olano project ---
P150 thousand.²¹⁰

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PROS. TORIBIO:

Q: Now, with respect to Ms. Belina
Concepcion, how do you know that this
amount which you stated awhile ago, P150
thousand was given to her?

A: For Mabel, Belina Concepcion, I was the
one who gave the money to Ma'am Belina
Concepcion, sir.

Q: Do you recall where did you give the money
to Ms. Concepcion?

A: At the office of TLRC, sir. We see each
other at Mann Hann.²¹¹

Considering all the pieces of evidence presented by the prosecution, the acts of accused Lacsamana and Concepcion, when taken together, point to a common and unified design to release the PDAF of accused Jaraula to CARED regardless of the inadequacies in its documentary requirements. The evidence points to the fact that accused TRC officials Concepcion and Lacsamana, taking advantage of their public office, acted with evident bad faith and manifest partiality and in a concerted effort to ensure the release of accused Jaraula's PDAF to CARED.

²¹⁰ TSN dated January 17, 2017, pp. 50-53.

²¹¹ TSN dated January 17, 2017, pp.55.

The Court likewise finds that accused Encarnacion and Napoles acted in conspiracy with accused public officials in committing the crime of violation of Section 3 (e) of R.A. No. 3019. It is well to note that accused Encarnacion did not sign the Pre-Trial Order where she earlier admitted to signing the MOAs in behalf of CARED, CARED official receipts, as President of CARED in the Project Activities List, and as claimant and CARED representative for the checks. As such, she is not bound by such admissions. However, both accused Encarnacion and accused Napoles no longer presented any evidence on their behalf to belie the charges against them claiming that the prosecution was not able to establish their guilt beyond reasonable doubt.

Indeed, in criminal cases the prosecution bears the onus to prove beyond reasonable doubt that a crime has been committed. This burden of proof does not shift to the defense but remains in the prosecution throughout the trial. However, when the prosecution has succeeded in discharging the burden of proof by presenting evidence sufficient to convince the court of the truth of the allegations in the information or has established a prima facie case against the accused, the burden of evidence shifts to the accused making it incumbent upon him to adduce evidence in order to meet and nullify, if not to overthrow, that prima facie case.²¹²

In these cases, the testimony of Benhur Luy and the COA SAO Report has established the extent of the participation of accused Encarnacion and Napoles.

The COA SAO Report discovered a number of irregularities with CARED. First, that its given address is a shanty occupied by the mother of one of the incorporators. Second, that the BIR Permit being used by

²¹² *Dela Cruz vs. People of the Philippines*, G.R. No. 209387, January 11, 2016.



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CARED to print its receipts is the same BIR permit used by another foundation. Third, that the funds transferred in 2007 intended for the implementation of sixteen (16) projects amounting to a total of One Hundred Forty-Four Million Eight Hundred Ninety Thousand Pesos (Php144,890,000.00), remained unliquidated. Fourth, the requests for submission of liquidation documents remained unacted upon as of audit date. Finally, that an interview with Mr. Roman Briones, the son of the owner of the shanty, disclosed that he was no longer connected with the foundation as he claimed that they were just recruited by a Marina Sula, a known employee of accused Napoles.

Benhur Luy was clear and, in fact, in-depth in discussing as to how he knew accused Encarnacion. Luy testified that he knew Encarnacion since 2004 when the latter worked as secretary and receptionist. Later on, she also worked under Smile Partylist that was organized by accused Napoles and eventually became the secretary of JLN Corporation. Luy likewise testified that he knows that accused Encarnacion received commissions for being the President of a Napoles NGO, as it was the practice among them. Luy testified:

ATTY. MUÑEZ:

And if you know for a fact, Mr. Witness, that Mylene Encarnacion, personally received any commission or any amount whether it is in cash or in kind out of the government funds, subject of these SAROs and subject of these cases before this Honorable Court? Do you know that for a fact if she received any amount?

WITNESS:

Yes po.

Q:

As commission?

A:

As commission, yes po.²¹³

²¹³ TSN dated August 15, 2007 pp. 53-54.



Further, Luy has established why he was familiar with the signature of accused Encarnacion having worked with her since 2004 and having close proximity, in fact only one seat apart, from accused Encarnacion's office table at the JLN Corporation which is owned and operated by accused Napoles.²¹⁴

Unfortunately, accused Encarnacion did not even present any evidence to rebut these statements of fact. It has been established that she was indeed the President of CARED at the time of the relevant transactions. Her name and signatures can be found in the authentic records of the SEC, in the Disbursement Vouchers²¹⁵ attesting receipt of the check, and issued Official Receipts under CARED²¹⁶ for the checks that she received.

Anent accused Bare, Paule and Nuñez of the DBM, the court finds that the evidence is not sufficient to prove their guilt beyond reasonable doubt. The acts of accused Nuñez, Bare and Paule do not show complicity in the conspiracy.

The defense presented Janet B. Abuel, the Chairperson of the DBM Task Force charged with validating the procedure for release of SARO who categorically testified that the staff of the Undersecretary for Operations are not involved in the actual preparation of documents for the release of funds sourced from the PDAF.²¹⁷

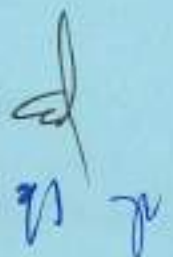
Also, during the cross examination of prosecution witness Luy, the counsel for the accused DBM officials clarified as to what the witness

²¹⁴ TSN dated August 29, 2007 pp. 10-11.

²¹⁵ Exhibit "BB-5", "CC-5", and "DD-5".

²¹⁶ Exhibit "BB-6", "CC-6", and "DD-6".

²¹⁷ Affidavit, Records, Volume XIX, p.89-90.



knew about the work being done by the Office of the Undersecretary, to wit:

ATTY. LUNA: So when you said that you are calling the office of Relampagos and you are speaking to the three ladies, it is your understanding that the function of the three ladies, that they are the ones processing the SARO?

WITNESS: Well, that's my understanding, Sir.

Q: And it's also your understanding that they are the ones who release the SARO?

A: From the office Usec. Mario Relampagos, yes, Sir.

Q: So, you stated only that they expedited, facilitated and accommodated the releasing of the SARO because you presumed that they are the ones processing the SARO and releasing the SARO?

A: That's how Madam Janet Napoles told me na doon ginagawa ang SARO sa office ni Usec. Mario Relampagos.

Q: So you don't have any idea that the processing of the SARO is done under the ROCS?

A: I do not know, sir.²¹⁸

Luy also testified that it has been their practice to call the DBM every time a project list is submitted since the processing of the SARO depended on whether the lawmaker asking for it was part of the administration or opposition block.²¹⁹ However, Luy pointed out that whether there was a follow-up call or not, a SARO pending at the Office of Usec. Mario Relampagos will eventually be approved, to wit:

ATTY. LUNA: So, it is not necessary to call?

²¹⁸ TSN dated August 15, 2007 pp. 34-35.

²¹⁹ TSN dated August 15, 2007 pp. 38-39.



- WITNESS: Well, for us it is necessary to call because that's the instruction of Ms. Napoles to follow up from time to time.
- Q: So, do you know the specific participation of the three ladies in the processing of the SARO, Mr. Witness?
- A: In the documents, is that you are asking, sir?
- Q: Yes.
- A: No, they just informed us that the SARO was already released.²²⁰

Thus, it has been established that the Office of the Undersecretary for Operations only signs in the absence of the Secretary. Although the ROCS is an office under the helm of the Undersecretary for Operations, the office is a mere alternate and does not carry the primary function of approving SAROs, it being lodged with the Secretary himself.

When the SAROs and NCAs reach the office of accused DBM officials, these are already processed and evaluated as complete. There is nothing left for the Undersecretary to do but to sign these documents. Neither can it be said that accused Nuñez, Bare and Paule facilitated the processing of the SARO when in fact, it took the office of the Undersecretary for Operations twenty (20) and twenty-seven (27) days for the processing and release of SARO No. ROCS-07-00580²²¹ and SARO No. ROCS-07-00861²²² respectively, which are more than the recommended period of fifteen (15) days under the DBM's own Citizen Charter.²²³

While accused Bare admitted that she has knowledge whether these SAROs are approved or not by Undersecretary Relampagos, her

²²⁰ TSN dated August 15, 2007 pp. 39.

²²¹ Exhibit "BB".

²²² Exhibit "CC".

²²³ Exhibit "18 and series" - Relampagos et. al.

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only task is to answer inquires over the phone of agencies or individuals who would like to follow-up the approval of their SARO.²²⁴

The evidence presented clearly shows that accused Bare, Paule, and Nuñez did not take part in any conspiracy to commit any of the crimes as charged in the Informations.

The third and final element provides that the action of the accused caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions. The Supreme Court stated in *Llorente, Jr. vs. Sandiganbayan*, that the term "undue injury" in the context of Section 3(e) of R.A. No. 3019 is akin to that civil law concept of "actual damage."²²⁵

In the present cases, the third element is clearly present. In a Letter dated November 15, 2013²²⁶ from COA Director Susan Garcia to FIO of the Office of the Ombudsman, Atty. Joselito P. Fangon, she stated that the liquidation documents for these 2007 SAROs have not been submitted to the team, hence, considered unliquidated. In fact, the TRC even received Notices of Disallowance for SARO 00580,²²⁷ 05450,²²⁸ and 00861.²²⁹

The fact that there was no liquidation of the supposed projects covered by the SAROs in these cases is not disputed. It is clear that up until today, more than ten (10) years after the subject PDAF of accused Jaraula was released, no such financial assistance for agricultural

²²⁴ TSN dated August 27, 2019, pp. 30-31.

²²⁵ G.R. No. 122166, March 11, 1998.

²²⁶ Exhibit "KK".

²²⁷ Exhibit "II".

²²⁸ Exhibit "II-1".

²²⁹ Exhibit "II-2".

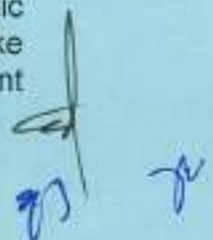
livelihood programs; nor fire trucks, ambulance, mechanical dryers, farm implements, or livelihood training seminar from the said fund was ever given to the constituents of the lone district of Cagayan De Oro City.

It was duly proven that the actions of accused Jaraula, Lacsamana, and Concepcion caused undue injury to the Government as well as gave unwarranted benefits to private parties and herein accused Encarnacion and Napoles after allowing CARED to become the implementer of accused Jaraula's supposed PDAF-funded ghost projects. Their collective acts facilitated the undue release of a sizeable amount of public funds to a bogus or unqualified and unaccredited NGO. Due to their evident bad faith and manifest partiality in CARED's favor, accused Napoles and Encarnacion received unwarranted benefits in the total amount of Twenty Eight Million Eight Hundred Thousand Pesos (Php28,800,000.00), representing the three (3) SAROs subject of these cases, to the loss and detriment of the Government.

The court is convinced that accused Jaraula, Concepcion, Lacsamana, Napoles and Encarnacion acted with unity of purpose and gave unwarranted benefits to accused Napoles and Encarnacion through their evident bad faith and manifest partiality, thereby committing the crime of violation of Section 3 (e) of R.A No. 3019, as amended.

The accused are also charged with three (3) counts of Malversation under Article 217 of the Revised Penal Code for the above-discussed transactions. Article 217 provides:

Art 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, or 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:

x x x

Thus, the elements of malversation of public funds under Article 217 of the Revised Penal Code are: a) that the offender is a public officer; b) that he had the custody or control of funds or property by reason of the duties of his office; c) that those funds or property were public funds or property for which he was accountable; and d) that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.

The first element is not disputed, as the concerned accused had already admitted that they were public officers at the time relevant to the cases.

From the foregoing discussion of each of the accused's individual acts, in furtherance of the conspiracy, the Court likewise finds that the second and third elements of the crime of malversation are present.

An accountable officer under Article 217 is a public officer who, by reason of his office is accountable for public funds or property. Sec. 101 (1) of the Government Auditing Code of the Philippines (P.D. No. 1455) defines accountable officer to be 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 law. 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.²³⁰

Accused Jaraula falls under the definition of an accountable officer who exercised control over the public funds covered by his PDAF. Although accused Jaraula may not have physical custody over his PDAF, it is he alone who can identify where this fund may be allocated thus, bringing the said funds under his direct control. The PDAF is a discretionary lump-sum fund given to legislators through the General Appropriations Act. Its discretionary character is one of the main reasons why the fund was subsequently declared unconstitutional. The Supreme Court, stated:

To recount, insofar as it has allowed legislators to wield, in varying gradations, non-oversight, post-enactment authority in vital areas of budget execution, the system has violated the principle of separation of powers; **insofar as it has conferred unto legislators the power of appropriation by giving them personal, discretionary funds from which they are able to fund specific projects which they themselves determine**, it has similarly violated the principle of non-delegability of legislative power.²³¹

The fourth and last element was also duly established by the prosecution. Article 217 of the Revised Penal Code, as amended, provides the presumption which states that 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, is prima facie evidence that he has put such missing fund or property to personal use.

It was established that accused Jaraula exercised control over the release of his PDAF. He initiated the release of the funds by unilaterally indorsing CARED to implement supposed certain projects. Accused

²³⁰ *Querjero vs. People*, G.R. No. 153483, February 14, 2003.

²³¹ *Belgica vs. Ochoa*, G.R. No. 208566, November 19, 2013.

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Jaraula failed to justify the reason why he indorsed the said NGO which was clearly established by the evidence as fake or unqualified and unaccredited. His unequivocal decision to choose CARED is shown further through the tripartite MOA he voluntarily entered into between CARED and TRC. However, there appears to be no evidence of any form of implementation of the projects covered by the said SAROs, more than ten (10) years after its release, thereby obviously classifying them as ghost projects, as evidenced by the COA SAO Report. Further, Luy testified on the manner by which PDAF is diverted to accused Napoles through the selection and indorsement of the lawmakers of a Napoles NGO to be the project implementer of the former's PDAF.

Additionally, accused Jaraula's indorsement was the springboard from which TRC was able to process the necessary disbursement vouchers with the assent of accused Lacsamana and Concepcion who are tasked with the duty to verify and validate the capabilities of the NGO as well as the PDAF documents and its attachments. But through their willful disregard of applicable laws, they allowed a fake NGO to get hold of public funds. Accused Encarnacion, acting for and in behalf of accused Napoles and CARED, received the proceeds of the checks issued to CARED.

In *Barriga vs. Sandiganbayan*,²³² the Supreme Court ruled that a public officer who is not in charge of public funds or property by virtue of her official position, or even a private individual, may be liable for malversation or illegal use of public funds or property if such public officer or private individual conspires with an accountable public officer to commit malversation or illegal use of public funds or property.

²³² G.R. No. 161784-86, April 26, 2005.



As shown in these cases, the individual acts of the other accused taken collectively show a unity in purpose – to draw out the PDAF of accused Jaraula through an intricate scheme of creating bogus NGOs. Accused public officials Jaraula, Concepcion, and Lacsamana allowed CARED, through accused Encarnacion to divert said PDAF-drawn public funds to the ultimate benefit of accused Napoles.

Further, the Court finds that there is a conspiracy among the accused to commit the crime of violation of Section 3 (e) of R.A. No. 3019, as amended, and the crime of Malversation punishable under Article 217 of the Revised Penal Code.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Once an express or implied conspiracy is proved, all of the conspirators are liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crime or crimes perpetrated in furtherance of the conspiracy because in contemplation of law the act of one is the act of all. The rule is anchored on the sound principle that when two or more persons unite to accomplish a criminal object, whether through the physical volition of one, or all, proceeding severally or collectively, each individual whose evil will actively contributes to the wrong-doing is in law responsible for the whole, the same as though performed by himself alone.²³³

It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design. The existence of the assent of minds which is involved in a conspiracy may be, and from the secrecy of the crime, usually must be, inferred by the

²³³*People vs. Go*, G.R. No. 168539, March 25, 2014; *Zapanta vs. People of the Philippines*, G.R. Nos. 192698-99, April 22, 2015, citing *People vs. Bautista* 636 Phil. 535, *People vs. Geronimo*, G.R. No. L-35700, October 15, 1973.



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court from proof of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiments, then a conspiracy may be inferred though no actual meeting among them to concert means is proved. Thus, the proof of conspiracy, which is essentially hatched under cover and out of view of others than those directly concerned, is perhaps most frequently made by evidence of a chain of circumstances only.²³⁴

In the present cases, the prosecution was able to show that the accused, through their concerted acts, with evident bad faith and manifest partiality, gave CARED, and in turn, accused Napoles, unwarranted benefits.

Accused Jaraula's indorsement of CARED triggered the process of releasing of the fund in its favor. Accused Lacsamana and Encarnacion, who were primarily tasked with verifying the accreditation of CARED, with criminal intent, deliberately and consciously disregarded established rules and procedures, in furtherance of the conspiracy. Accused Napoles and Encarnacion created the conduit NGO to which the funds will be diverted. Without one of the individual acts of the accused, the crime would not have been committed. Thus, this court finds that the accused actively connived and conspired to act in that manner to approve the disbursement of accused Jaraula's PDAF to a fake or unaccredited NGO to the prejudice of the government.

²³⁴ Alvizo vs. Sandiganbayan, G.R. No. 101689, March 17 1993

Lastly, the conspiracy comes full circle in the receipt of accused Jaraula of the proceeds of their elaborate scheme. Accused Jaraula is likewise charged with three (3) counts of Direct Bribery as defined under Article 210 of the Revised Penal Code, as amended. Article 210 provides:

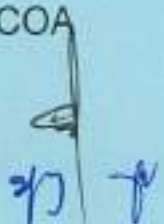
Article 210. Direct bribery. — Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine of not less than the value of the gift and not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

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On the other hand, direct bribery has the following essential elements: a) the offender is a public officer; b) the offender accepts an offer or promise or receives a gift or present by himself or through another; c) such offer or promise be accepted or gift or present be received by the public officer with a view to committing some crime, or in consideration of the execution of an act which does not constitute a crime but the act must be unjust, or to refrain from doing something which it is his official duty to do and; d) the act which the offender agrees to perform or which he executes is connected with the performance of his official duties.

The presence of the first element of the crime of direct bribery is not disputed.

The prosecution, through the testimony of witness Benhur Luy, painted the full picture of this intricate scheme, from start to finish, so to speak. It should be noted that these cases stemmed not from a COA



audit, as it is in most cases, but from the testimony of a whistleblower; whose testimony when placed side-by-side with actual hard facts, bear remarkable accuracy.

Luy categorically testified on the manner by which PDAF is diverted to accused Jaraula and Napoles through the selection and indorsement of accused Jaraula of CARED, a Napoles NGO, to be the project implementer of the former's PDAF. Luy further testified that he personally knows accused Jaraula since 2002 and has personally interacted with him regarding his PDAF transactions.

Luy testified that a total amount of Five Million, Seven Hundred Twenty-Five Thousand Pesos (Php5,725,000.00) was given to accused Jaraula as his advanced kickback for the three (3) SAROs. Later, on April 3, 2007, Luy again gave accused Jaraula Six Million One Hundred Thousand Pesos (Php6,100,000.00) as full payment for the three (3) SAROs.

Luy's testimony are not bare assertions but are based on his Daily Disbursement Report (DDR) which he accomplished in the regular course of business as then Finance Officer of JLN Corporation. As such, the compilation of reports has entries as far back as 2005. This DDR is an extensive record of the day-to-day transactions of JLN Corporation. It contains the names of the lawmakers, the corresponding SARO released, and the NGO project partner indorsed. Remarkably, the details in his DDR match records of relevant government agencies such as the DBM, COA, and even the AMLC.

The AMLC report showed that on the same day or just a few days later, the entire amount constituting the PDAF deposited to CARED's account is withdrawn together with other deposits. Consequently, at or

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about the date in Luy's DDR, there will be a corresponding deposit in accused Jaraula's Landbank account. Luy claimed to have given accused Jaraula his rebates from February 2, 2007 up to April 3, 2007

Kabanlit further testified that several transactions of accused Jaraula in his LBP Current Account No. 3125005-40 from March 2007 to May 2007 matched the entries in Luy's records.²³⁵ Kabanlit noted that from March 27, 2007 up to April 3, 2007, Luy's records reveal that accused Jaraula received a total of Eight Million One Hundred Thousand Pesos (Php8,100,000.00). Comparing side-by-side with accused Jaraula's bank records, it is shown that there was a total amount of Four Million Five Hundred Sixty-Two Thousand Pesos (P4,562, 000.00) deposited in accused Jaraula's LBP account from April 19, 2007 up to May 7, 2007²³⁶ which are covered by four (4) separate transactions illustrated below:

Date	Amount	Depositor	Branch code
April 19, 2007	Php300,000	N/A	N/A
April 27, 2007	Php1,000,000	"Jerry Go"	055 – Greenhills
May 2, 2007	Php1,000,000	"Jerry Go"	055- Greenhills
May 7, 2007	Php2,262,000	Francis Juan	151 - Malacañang
	TOTAL: Php4,562,000		

Witness for accused Jaraula, De Luna presented three (3) of the four (4) deposits slips of the transactions mentioned by the AMLC Report. It should be noted that upon examination by the court of the Deposit Slip dated April 27, 2007,²³⁷ there is a counter signature below the signature of the representative which purports to be the signature of

²³⁵ Exhibit "T-20".

²³⁶ Exhibit "T", p. 35.

²³⁷ Exhibit "1-Jaraula", p. 2.

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one Jerry Go. On the same deposit slip, there also appears to be an initial at the lower corner and a notation which appears to be the word "encashment." De Luna testified that this appears to be an encashment from a different account which appears to be Account Number "0552 1059" the last two numbers of which however, are not easily readable. De Luna further testified that the 055 branch code is that of the Greenhills branch.

Meanwhile on Deposit Slip dated May 2, 2007,²³⁸ the name Jerry Go appears once again as a depositor, this time, there is another notation written on the portion for the relationship of the representative to the depositor, it indicated what appeared to be the words "my sir".

Lastly, for Deposit Slip dated May 7, 2007,²³⁹ accused Jaraula presented his son-in-law, Atty. Francis Juan to testify that the said amount was political contributions from Lakas-CMD personally deposited by Juan as evidenced by his name on the deposit slip. Accused Jaraula also presented Atty. Raul Lambino to testify on his affiliation with the political party. However, Lambino has no personal knowledge as to disbursement of funds and as to how much accused Jaraula received from Lakas-CMD. Lambino, however, testified on cross-examination that he does not know since he is neither the treasurer nor the record keeper of the party's documents and finances. Further, accused Jaraula claims that the sum of money was for his local political party and not for him alone. Nevertheless, he does not have any record of every transmittal of the said funds to the local party, to wit:

PROS. TRASMONTERO: You mentioned earlier also, Mr. Witness, that the deposits made in your account were actually election contributions. My question

²³⁸ Exhibit "1" p. 3 - Jaraula.

²³⁹ Exhibit "1" p.4 - Jaraula.

is you include this in your certificate submitted to the COMELEC?

WITNESS: The treasurer of the party permits me to know that amounts given made in the report.

Q: Do you have a copy of that report, sir?

A: I do not have.

Q: You yourself did not submit a report on those deposits, sir?

A: No, Ma'am, because it was not given to me personally. It was given to our party, regional party Padayon Pilipino.

Q: But it was deposited in your personal account, sir?

A: I turned it over immediately to the Treasurer of the party.²⁴⁰

At this point, it bears stressing that accused Jaraula did not even provide any justification for the other deposits made in his bank account other than the one supposedly deposited by his son-in-law. He never explained who "Jerry Go" was and why would he deposit a sizeable amount of money to a public official's bank account. The court cannot help but compare this equivocation to Luy's straightforward pronouncement that he personally handed the amounts to accused Jaraula.²⁴¹

During the cross-examination of Luy, he categorically stated that in all seven (7) occasions that accused Jaraula allegedly collected his kickbacks, Luy himself personally handed the money, thus:

ATTY. JAROMAY: Mr. Luy, you claim that on at least seven (7) occasions, you handed over money to my client, Congressman Jaraula, is that correct?

WITNESS: Yes, sir. *Ako mismo nagbigay.*

²⁴⁰ TSN dated June 18, 2016, pp. 65-66.

²⁴¹ TSN dated November 8, 2016, pp. 28-44.



- Q: And in all those seven (7) occasions, you said that you personally handed over the money to him?
- A: To Cong, yes.²⁴²

Accused Jaraula tried to undermine the credibility of Luy by pointing out irregularities and inconsistencies in the DDR. However In answering questions from the Court, Luy stated that the inadvertence on pages 493 to 502 was only due to improper sorting of the exhibits in these cases. In addition, the transactions involved in those ten (10) pages erroneously sorted do not include any of the accused in these cases, thus:

- HON. JUSTICE ECONG: Can you tell us based on your observation if the print-outs in the 5th Division before Atty. Pabulayan is the same as the print-outs that you have presented as Exhibit E in this case?
- WITNESS: The same print-out po. Parehas lang po.
- Q: The entries?
- A: Yes, parehas lang po, your Honors, only that yung sa sorting dito napunta sa 2007, doon po 2008 yung nagkasunod sunod siya January.
- Q: Let us go back to page 493 to 502, you said that these documents are supposed to be DDRs of 2008, correct?
- A: Yes, Your Honors.
- Q: Can you see in those ten (10) pages, entries in the name of the accused in this case?
- A: None, Your Honors Gino-over ko na po siya, Your Honors.²⁴³

²⁴² TSN dated March 28, 2017, p. 64.

²⁴³ TSN dated September 26, 2017, pp. 55-58.

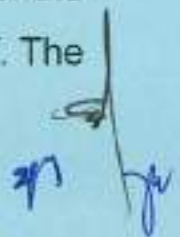


All things considered, the court is of the firm view that accused Jaraula is guilty of direct bribery. Accused Jaraula, in his capacity as Congressman of the lone district of Cagayan de Oro City, accepted and received kickbacks in the amount of Two Million Pesos (Php2,000,000.00) from accused Napoles, a private individual, in accordance with a scheme aimed at funneling out public funds for their personal gain and benefit through accused Jaraula's indorsement of CARED.

It should be highlighted that Luy's testimony was the Pandora's Box that started it all. His initial revelations as reflected in the Summary of Rebates and Daily Disbursement Report are sufficiently backed by available public records.

The court notes the unequivocal statements made by the witness on details of the transactions like the date when the check was issued by TRC on April 2, 2007 and the CARED-issued Official Receipt of even date coincide with the entries in the DDR for April 2 and 3, 2007. There are other minute details like computer passwords, how the excel file looked, and others which are so mundane, ordinary or even unnecessary; and yet, the witness remembers. This specifics could be easily left out in a made-up story. In other words, the details of Luy's testimony are too intricate to be contrived.

The positive unequivocal declaration of the prosecution witness that upon instructions of accused Napoles, Luy handed over to accused Jaraula, a government official, his kickbacks or commissions in the amount equivalent to 45% of the PDAF released for the implementation of projects by the TRC, is credible and undisputed. In fact, accused Jaraula was not able to confront head on and rebut the testimony of the prosecution witness that he received the sums of money for himself. The



declaration of the witness in open court is direct evidence of the commission by accused Jaraula of the particular crimes charged.

In sum, the prosecution has convincingly and satisfactorily established that CARED was used to facilitate the subject sham transactions. By law, the PDAF was allotted to accused Jaraula as a member of the House of Representatives to be used in the implementation of his identified projects. It is at this point that accused Jaraula and accused Napoles conspired to use the latter's NGO – CARED, through the representations of accused Lacsamana and Encarnacion, to be the implementing partner of the TRC so that the funds could be legally transferred from the DBM to the TRC and then, eventually to the Napoles NGO. The indispensable participation of TRC officials and herein accused Legislative Liaison Officers Lacsamana and Concepcion, who accredited CARED despite full knowledge of its ineligibility, ultimately facilitated the complicity between accused Jaraula, TRC, and CARED that eventually led to the release of the PDAF. All these accused had an individual role to play which, in the grand scheme of things, was geared towards the common goal of benefitting a bogus NGO, to the prejudice of public coffers.

At this point, it bears to note that the crime of malversation under Article 217 of the Revised Penal Code has been amended by R.A. 10951 dated July 24, 2017 which increased the threshold amounts and the corresponding penalty for the crime when the amount involved is more than Eight Million Eight Hundred Thousand Pesos (Php8,800,000.00). Since the amendatory law was enacted after the commission of the complained acts in the instant criminal cases, its provisions may not be applied retroactively inasmuch as the same are clearly prejudicial and not advantageous to the accused in these cases. Hence, the penalties of



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Article 217 of the Revised Penal Code shall be made to apply and imposed against them.²⁴⁴

Likewise, it may be well to reiterate that the prosecution was not able to establish beyond reasonable doubt that accused Figura, Jover, and Dimaranan acted with criminal intent and furtive design, with a view towards the fruition of conspiracy. These accused were able to establish that their names and signatures as found on the disbursement vouchers are on account of their usual business practice. However, their gross negligence in signing the disbursement vouchers without judiciously checking its attachments, contributed to expedite the consummation of the subject PDAF transactions. Hence, accused Figura, Jover and Dimaranan are not exempt from civil liability arising from the criminal acts.

As ruled by the Supreme Court in the case of *Ramiscal vs. Honorable Sandiganbayan*,²⁴⁵ the sole purpose for the civil action is for the resolution, reparation or indemnification of the offended party for the damage or injury he sustained by reason of the delictual or felonious act of the accused. The offended party may be the State or any of its instrumentalities, including local governments or government-owned or controlled corporations. For violations of Section 3(e) of R.A. No. 3019, any party, including the government, may be the offended party if such party sustains undue injury caused by the delictual acts of the accused,²⁴⁶ which is in this case, clearly, is the national government of the Philippines.

Finally, the prosecution failed to show any act on the part of accused Bare, Paule and Nuñez which was consciously done in

²⁴⁴ *Venezuela vs. People*, GR. No. 205693, February 14, 2018.

²⁴⁵ G.R. Nos. 140576-99, December 13, 2004.

²⁴⁶ *Ibid.*



furtherance of the conspiracy to commit the above discussed crimes.
They are thus entitled to acquittal.

WHEREFORE, premises considered, judgment is hereby rendered
as follows:

1. In Criminal Case Nos. SB-15-CRM-0016 to 0018, the Court finds accused CONSTANTINO GALAGNARA JARAULA, MA. ROSALINDA MASONGSONG LACSAMANA, BELINA A. CONCEPCION, JANET LIM NAPOLES, and MYLENE T. ENCARNACION **GUILTY** beyond reasonable doubt of three (3) counts of the crime of violation of Section 3(e) of R.A. No. 3019, as amended, and are hereby sentenced to suffer the indeterminate penalty of imprisonment of (6) years and one (1) month, as minimum, to ten (10) years, as maximum, for each count, and to suffer perpetual disqualification from holding public office;

Accused FRANCISCO B. FIGURA, MARIVIC V. JOVER, and MAURINE E. DIMARANAN are hereby **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt. Considering that their acquittal is based on reasonable doubt and that the act or omission from which the civil liability arises exists, civil liability may likewise be assessed against Figura, Jover and Dimaranan.

Accordingly, and by way of civil liability, accused Jaraula, Lacsamana, Concepcion, Napoles, Encarnacion, Jover, Figura, and Dimaranan are hereby ordered to indemnify the national government and return to the National Treasury, jointly and severally, the sum of Twenty Eight Million Eight Hundred Thousand Pesos (Php28,800,000.00) representing the amount wrongfully and illegally disbursed.

2. In Criminal Case Nos. SB-15-CRM-0019 to 0021, the Court finds accused CONSTANTINO GALAGNARA JARAULA, MA. ROSALINDA MASONGSONG LACSAMANA, BELINA A. CONCEPCION, JANET LIM NAPOLES and MYLENE T. ENCARNACION **GUILTY** beyond reasonable doubt of three (3) counts of the crime of Malversation of public funds under Article 217 of the Revised Penal Code, as amended. There being no mitigating nor

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aggravating circumstance in these cases, they are hereby sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to eighteen (18) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, for each count.²⁴⁷

The same accused are ordered to pay a fine of Twenty Eight Million Eight Hundred Thousand Pesos (Php28,800,000.00) equal to the amount malversed. They shall also suffer the penalty of perpetual special disqualification from holding any public office.

Accused FRANCISCO B. FIGURA, MARIVIC V. JOVER, and MAURINE E. DIMARANAN are hereby **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt.

3. In Criminal Case Nos. SB-15-CRM-0022 to 0024, the Court finds accused CONSTANTINO GALAGNARA JARAULA () **GUILTY** beyond reasonable doubt of three (3) counts of the crime of Direct Bribery under Article 210 of the Revised Penal Code, as amended. There being no mitigating nor aggravating circumstance in these cases, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of 4 years, 2 months and 1 day of *prision correccional*, as minimum, to 9 years, 4 months and 1 day of *prision mayor*, as maximum, for each count.²⁴⁸

The same accused is ordered to pay a fine in the amount of Six Million Pesos (Php6,000,000.00), thrice the value of the amount of Two Million Pesos (Php2,000,000.00) received as and in the form of rebates or kickbacks. He shall also suffer the penalty of special temporary disqualification.

4. Accused ROSALINDA SALAMIDA NUÑEZ, LALAINÉ NARAG PAULE, and MARILOU DIALINO BARE are hereby **ACQUITTED** of all charges for failure of the prosecution to prove their guilt beyond reasonable doubt.

²⁴⁷ *Mesina vs. People*, G. R. No. 162489, June 17, 2015.

²⁴⁸ *Mangulabnan vs. People*, G.R. No. 236848, June 8, 2020.

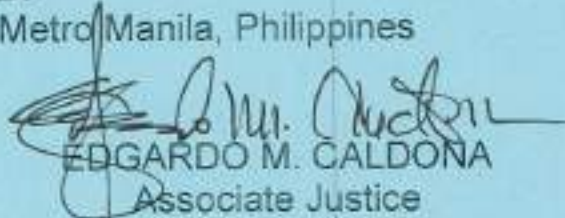


Accordingly, the bonds posted by accused Nuñez, Paule, Bare, Figura, Jover and Dimaranan for their provisional liberty are ordered released, subject to the usual accounting and auditing procedures.

The Hold Departure Order (HDO) dated February 9, 2015 issued against them is also hereby recalled.

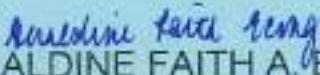
SO ORDERED.

Quezon City, Metro Manila, Philippines


EDGARDO M. CALDONA
Associate Justice

WE CONCUR:


EFREN N. DELA CRUZ
Associate Justice
Chairperson


GERALDINE FAITH A. ECONG
Associate Justice

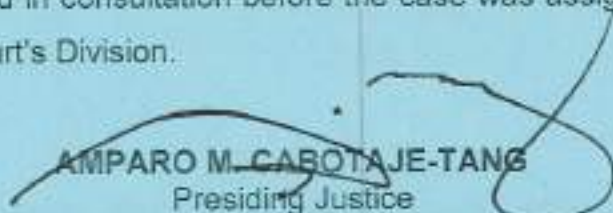
ATTESTATION

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.


EFREN N. DE LA CRUZ
Chairperson, First 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. CABOTAJE-TANG
Presiding Justice