



Republic of the Philippines
Sandiganbayan
Quezon City

Special Seventh Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0052

- versus -

Present:

ALEX RULLON JAJALLA,
Accused.

Gomez-Estoesta, J.
Chairperson
Trespeses, J.
Jacinto*, JJ.

Promulgated:

September 24, 2018 ijz

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DECISION

TRESPESES, J.:

Before the Court is a complaint for violation of Section 3(e) of Republic Act No. 3019 (R.A. No. 3019) otherwise known as the Anti-Graft and Corrupt Practices Act against accused Alex Rullon Jajalla (accused), former municipal mayor of Mahinog, Camiguin, for allegedly approving his brother Misael Rullon's rehabilitation leave with pay for six months, notwithstanding that the latter was not qualified or entitled to avail of the same.

INFORMATION

The body of the Information¹ dated 11 January 2016 and filed with this Court on 2 February 2016 reads:

*As Special Member per Administrative Order No. 284-2017 dated 18 August 2017.

¹ *Rollo*, Vol. 1, pp. 1-3.

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That on or about 01 July 2008, or sometime prior or subsequent thereto, in the Municipality of Mahinog, Province of Camiguin, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Alex Rullon Jajalla, a high-ranking public official, being the Municipal Mayor of Mahinog, Camiguin, while in the performance of his official functions, taking advantage of his position and committing the offense in relation to his office, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally give unwarranted benefits, advantage or preference to one Misael R. Jajalla, accused's brother, by approving the application for Rehabilitation Leave with Pay of said Misael R. Jajalla for a period of six (6) months beginning 01 July 2008 to 31 December 2008, knowing fully well that said Misael R. Jajalla was not qualified or entitled to avail of such rehabilitation leave as the injuries suffered by him were not sustained while in the performance of his official duties, thereby enabling said Misael R. Jajalla to receive salaries and other allowances for the period of his leave in the amount of Sixty-Nine Thousand Three Hundred Sixty-Six Pesos (Php69,366.00), and thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.

PROCEEDINGS BEFORE THE SANDIGANBAYAN

On 11 February 2016, accused Jajalla posted a cash bond to secure his temporary liberty.² Thereafter, on 7 June 2016, accused, assisted by counsel, was arraigned and pleaded "not guilty" to the crime charged.³

In the Pre-Trial Order, the Court noted that the parties agreed to the following stipulations of facts:⁴

1. The identity of Alex Rullon Jajalla;
2. That at the time material to this case, accused is a public officer discharging administrative and official functions as Municipal Mayor of the Municipality of Mahinog, Camiguin;
3. That at the time material to this case, Misael Jajalla is an employee of the Municipality of Mahinog, Camiguin;
4. That Misael Jajalla applied for Rehabilitation Leave for six months or from 1 July, 2008 to December 31, 2008;
5. The accused approved the Application for Rehabilitation Leave of Misael Jajalla from July 1, 2008 to December 31, 2008;
6. That accused approved the release of salaries and other allowances of Misael Jajalla from July 1, 2008 to December 31, 2008;
7. That Misael Jajalla is the brother of the accused;
8. That the accused, in his capacity as the Mayor, issued a Designation Order to Misael Jajalla apart from Administrative II as also his Security Officer effective July 10, 2007, based on trust and confidence;

² *Rollo*, Vol. I, p. 409.

³ *Id.* at 478.

⁴ *Rollo*, Vol. II, pp. 38-39.

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9. That Misael Jajalla was appointed Administrative Officer before the accused mayor was elected as mayor in 2007;
10. That on May 18, 2008, Misael Jajalla met/had an accident;
11. That because of the incident, Misael Jajalla initially applied for leave for thirty (30) days before the application for rehabilitation; and
12. That on June 23, 2008 while confined in the hospital, Misael Jajalla applied for rehabilitation leave covering the period July 1, 2008 to December 31, 2008.

Thereafter, trial on the merits ensued with the prosecution presenting its evidence.

PROSECUTION EVIDENCE

The prosecution presented the following witnesses:

A. SPO1 Joey Ayuban Labadan

Witness Labadan's direct testimony was stipulated⁵ as follows:

1. That witness SPO1 Joey Ayuban Labadan is presently a police officer, Philippine National Police, Municipality of Mahinog, Camiguin;
2. That on May 18, 2008, witness Labadan is a police officer occupying the rank of Police Officer 1, Philippine National Police, Municipality of Mahinog, Camiguin;
3. That on May 18, 2008, witness Labadan was the police officer-on-duty who was in charge, among others, of making entries in the police blotter of PBP-Mahinog, Camiguin;
4. That he will identify the document described as Police Blotter No. 091777 dated May 18, 2008, marked as Exhibit "Q" for the prosecution and Exhibit "17" for the defense;
5. That he made the entry in the Police Blotter No. 091777 dated May 18, 2008 at 5:24 p.m., PNP Mahinog, Camiguin relevant to the accident, which transpired involving one Misael Jajalla, among others, at Zamora-Pontod Road, Baragay Pontod, Mahinog, Camiguin; and
6. That the entry in the official Police Blotter No. 091777 dated May 18, 2008 at 5:24 p.m., PNP Mahinog, Camiguin was made by witness in the performance of his official duties and functions as police officer-on-duty at PNP Mahinog, Camiguin.

⁵ Rollo, Vol. II, pp. p. 79.

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On cross-examination, Labadan admitted that he relied only on the information relayed by his Chief of Police Richard Catipay in making his entry in the police blotter. He neither validated nor verified the truth of the said report and neither was there a traffic accident report submitted regarding the incident. He also confirmed that he was “not able to verify if Misael Jajalla was there because of some instruction from the Mayor.”⁶

Labadan further clarified that the basis of his entry in the blotter was the narration of SPO1 Estrobo, who responded to the incident involving one Misael Jajalla in Zamora-Pontod, Mahinog, Camiguin.⁷ He also confirmed that Estrobo did not submit any traffic accident report when the latter went back to the office.⁸

B. Luz O. Babanto

Witness Babanto’s direct testimony was stipulated⁹ as follows:

1. That witness Luz O. Babanto is presently the Administrative Officer II, Municipality of Mahinog, Camiguin;
2. That at the time material to this case, witness Babanto was the PDA/HRMO-Designate, Municipality of Mahinog, Camiguin;
3. That she received the Application for Rehabilitation Leave filed by Misael Jajalla on June 23, 2008, through his representative, marked as Exhibit “A” for the prosecution and Exhibit “5” for the defense;
4. That she certified as correct the available leave credits of Misael Jajalla in the Application for Rehabilitation Leave;
5. That she submitted the Application for Rehabilitation Leave filed by Misael Jajalla to accused Alex R. Jajalla for his approval, as the recommending supervisor and Head of the agency;
6. That the Application for Rehabilitation Leave dated June 23, 2008 filed by Misael Jajalla was approved by accused Alex R. Jajalla without the required Medical Certificate and written concurrence by a government physician, as provided in the CSC-DBM Joint Circular No. 1, Series of 2006, the Guidelines for Availing of the Rehabilitation Leave, (with qualification on the part of the defense that the said CSC-DBM Joint Circular No. 1-2006 was not furnished to the Human Resource Management Office); and

⁶ TSN, 23 January 2017, p. 11.

⁷ Id. at 13.

⁸ Id. at 16.

⁹ *Rollo*, Vol. II, p.83.

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7. That the Certification (Exhibit "P" of the prosecution) dated July 19, 2016 was issued by witness Babanto, pertaining to the Application for Rehabilitation Leave filed by Misael Jajalla dated June 23, 2008.

On cross-examination, Babanto admitted that she did not examine the rules and regulations pertaining to the application for rehabilitation leave because she has not personally seen CSC-DBM Joint Circular No. 01-2006 at the time. She also did not try to verify the requirements when she encountered the application.¹⁰ Hence, she was not able to inform the mayor of the requirements thereof.¹¹

Babanto reasoned that she had been occupying the position of designated HRMO of the municipality for less than a month when Misael's application for rehabilitation leave was filed.¹² When she was made aware of the circular, she did not bother to check the concerned office regarding the rehabilitation leave because her designation was only for four months or less than a year. In fact, she only saw a copy of the circular last January 2016.¹³

Babanto also confirmed that the medical certificate and written concurrence of a government physician were not attached to Misael's application for rehabilitation leave. Misael did not submit them, even when the case was filed.¹⁴

C. Allan Santos Estrobo

Witness Estrobo's direct testimony was stipulated¹⁵ as follows:

1. On May 18, 2008, witness Allan Santos Estrobo is a police officer, occupying the rank of Senior Police Officer 1, PNP, Municipality of Mahinog, Camiguin;¹⁶
2. On May 18, 2008 at around 5:24 p.m., witness SPO1 Estrobo responded to the vehicular accused, which transpired in the area of Zamora, Porto Road, Barangay Puntod, Mahinog, Camiguin involving a motorcycle driven by Misael Jajalla which collided with another motor vehicle driven by one Anthony Tan;¹⁷

¹⁰ TSN, 24 January 2017, p.17.

¹¹ Id. at 12.

¹² Id. at 13-14.

¹³ Id. at 16.

¹⁴ Id. at 14-15.

¹⁵ TSN, 5 April 2017, pp. 7-9.

¹⁶ Id. at 7.

¹⁷ Id. at 8

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3. Immediately after SPO1 Estrobo responded to the vehicular accident involving Misael Jajalla on May 18, 2008, he went back to the police station of PNP Mahinog, Camiguin to officially report the circumstances of the accident based on the accounts stated by Anthony Tan and witnesses who were still at the accident site;¹⁸
4. Immediately after the accident on May 18, 2008 involving Misael Jajalla and Anthony Tan, SPO1 Estrobo reported or narrated to the Desk Officer in-charge on duty, then PO1 Joel Ayudan Labadan, the circumstances of the accident based on the account stated by Anthony Tan and some of the witnesses who [were] still within the accident site;¹⁹ and
5. The report or narration of SPO1 Estrobo relevant to the accident, which transpired involving Misael Jajalla and Anthony Tan was entered and reflected in the Police Blotter No. 091777 dated May 18, 2008 at PNP Mahinog, Camiguin made or entered by PO1 Labadan marked as Exhibit "Q" for the prosecution and Exhibit "17" for the defense.²⁰

On cross-examination, Estrobo admitted that he was not the traffic investigator at the time.²¹ He forgot the name of the traffic investigator from their station but confirmed that one was so assigned. Estrobo did not call the traffic investigator to assist him because it was the Chief of Police who instructed him to respond.²²

Estrobo was the driver of the PNP Station of Mahinog. He was driving the mobile patrol at the time. Hence, he no longer asked the Chief of Police to call the traffic investigator.²³

He did not prepare even a small sketch of the accident because he just focused on the accident.²⁴ For this same reason, he cannot name the witness from whom he gathered information, apart from Anthony Tan.²⁵ He was also no longer able to validate the allegation that Misael was to attend mass at the time of the accident.²⁶

¹⁸ TSN, 5 April 2017, p. 8.

¹⁹ Id. at 9

²⁰ Id.

²¹ Id. at 10.

²² Id. at 11.

²³ Id. at 12.

²⁴ Id. at 14.

²⁵ Id. at 15.

²⁶ Id. at 16.

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On 19 April 2017, the prosecution filed its formal offer of evidence.²⁷ In its Resolution dated 28 June 2017,²⁸ the Court admitted all of the offered documentary exhibits (Exhibits “A” to “N”, “O” to “O-2,” “P” to “S,” “T” to “T-37” and “U” to “U-1”) in evidence over the objection²⁹ of the defense.

On 2 August 2017, accused filed a motion for leave of court to file demurrer to evidence (with attached demurrer to evidence),³⁰ which the prosecution objected to.³¹ After accused filed his rejoinder,³² the Court issued its Resolution³³ dated 5 September 2017 denying the motion for lack of merit.

DEFENSE EVIDENCE

The defense presented the following witnesses:

1. *Alex Rullon Jajalla*

In his Judicial Affidavit dated 15 November 2017,³⁴ accused Alex Jajalla testified that Misael Jajalla is his brother. Misael was their municipality’s Administrative Officer, as shown by his Appointment marked as Exhibit “1.” Accused also appointed him as his Security Officer, as shown by the Designation effective 15 July 2007, marked as Exhibit “2.”³⁵

Accused said he appointed Misael as his Security Officer because being his brother, he had full trust and confidence in the latter. He also claims that when directed to be with him, Misael worked 24/7 until his official activities are over. Misael died on 15 December 2011 due to an accident that occurred on 18 May 2008.

Misael was on duty as accused’s Security Officer on the morning of 18 May 2008 when accused had a breakfast meeting with Mayor Rodolfo Buray and party at J&A Fishpen at Benoni, Mahinog, Camiguin. Misael was also directed to be accused’s advance party in the afternoon at the fiesta celebration in Barangay Pontod, Mahinog, Camiguin, at the invitation of former Barangay Captain Jeffry Ranoa and former Kagawad Florentino Babanto, as shown by Office Order dated 16 May 2008, marked as Exhibit “3.”³⁶

²⁷ *Rollo*, Vol. II, pp. 95-203.

²⁸ *Id.* at 204-205.

²⁹ *Id.* at 197-203.

³⁰ *Id.* at 215-236.

³¹ *Id.* at 211-214.

³² *Id.* at 242-245.

³³ *Id.* at 250-252.

³⁴ *Id.* at 362-388.

³⁵ *Id.* at 363.

³⁶ *Id.* at 364.

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It was *en route* to Barangay Pontod that Misael met an accident. Due to the gravity of his injuries, he was brought to Capitol University Medical Center in Cagayan de Oro City for treatment and medication. He was confined from 19 May to 10 July 2008, as shown by various medical certificates.³⁷

Misael's wife filed an application for leave on his behalf, initially for 30 days, as shown by the Leave Application marked Exhibit "4." The application was filed at the office of the Human Resource and Management Office (HRMO), which was headed by Luz Babanto.³⁸

As Misael needed further treatment and rehabilitation, he applied for Rehabilitation Leave at the HRMO, as shown by the leave application marked as Exhibit "5."

Accused stated that he was not aware of the requirements for Rehabilitation Leave, as that is the function of the HRMO headed by Luz Babanto. As a matter of practice and procedure, the HRMO first determines and assesses whether the Leave Application meets or complies with all the regulations, circulars or whatever guidelines before it gives due course thereto. After compliance with all the requirements, as determined and assessed by the HRMO, the application is forwarded to accused's office for approval.³⁹

Hence, upon submission of the Rehabilitation Leave Application to his office, accused believed in good faith that all the requirements for the nature of the leave had already been properly assessed, complied with and satisfied as determined by the HRMO. Accordingly, he exercised his ministerial function and approved the same. He stressed that he did not exert any influence or pressure whatsoever on the HRMO to fast track, much less, act favorably, on the said leave application.⁴⁰

Accused added that Misael again underwent surgery at the Northern Mindanao Medical Center, as shown by the Medical Certificate marked as Exhibit "9."

Accused claimed he was surprised when an anonymous complaint was filed against him on account of the approval of the Rehabilitation Leave. This is because it was not his office that determines and assesses the leave application. Said function is solely vested in the HRMO. When the application

³⁷ These medical certificates (Exhibits "6," "7," and "8") were excluded by the Court in its Resolution dated 2 February 2018 (*Rollo*, Vol. II, pp. 437-439) as they were not identified by the doctors who apparently issued them or by the records-in-charge who prepared them. Accused identified the documents but he was incompetent to do so as he was not alleged to have been present at the time of their execution. Neither was he a party thereto.

³⁸ *Rollo*, Vol. II, p. 365.

³⁹ *Id.* at 366.

⁴⁰ *Id.*

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was transmitted to his office, he acted in good faith and without manifest partiality or bad faith. He did not act with inexcusable negligence.

The leave was already authorized, favorably recommended and found in order by the HRMO, and he had no hand in the latter's determination. Neither did he exert pressure or influence thereon. Also, the Commission on Audit (COA) Findings for the year end 2008⁴¹, marked as Exhibit "12," contained no adverse findings. Accused contends that if the approval of the leave was not in accord with the law and regulations, the COA should have disapproved the same and made them liable for the act.⁴²

Accused asserted that the injuries sustained by Misael are work-connected because when the accident happened, he was already on duty in the morning until the afternoon of 18 May 2008, pursuant to an Office Order.⁴³

As to the prosecution's allegation that the requirements set forth under CSC-DBM Circular No. 1, series of 2006 were not complied with, accused argued that the Information did not allege violation of the said circular, and was merely confined to the claim that the injury suffered by Misael was not work-connected.⁴⁴

Accused narrated that after the HRMO was informed of the requirements set forth in CSC-DBM Circular No. 1, series of 2006, these were all complied with, albeit belatedly. Accused, thus, concluded that granting the HRMO was negligent when she failed to ascertain other requirements as provided for under the circular, this does not automatically imply that accused, as mayor, was also negligent. This is because heads of offices may reasonably rely on their subordinates.⁴⁵

During cross-examination, accused claimed that he filed with the HRMO a copy of his memorandum for Misael on 16 May 2008, or two days before the event.⁴⁶ He admitted that he did not often issue an Office Order designating Misael to perform a specific duty at a particular date and time. He explained that he did so only sometimes, when in his "official capacity as the Municipal Mayor is invited in [sic] mountain(ous) barangays. Not in the lowland barangays (he) seldom issue(s) an Office Order considering that the Office of the Station Commander is near in [sic] the vicinity."⁴⁷

⁴¹ The Financial and Compliance Audit of the accounts and operation of the Municipality of Mahinog, Camiguin for 2008 prepared by State Auditor Adolfa Creala (Exhibit "12") was excluded by the Court in its Resolution dated 2 February 2018 (*Rollo*, Vol. II, pp. 437-439) as the document appeared to be a mere photocopy, and neither author nor recipient of the report was presented to testify on its existence, authenticity and execution.

⁴² *Rollo*, Vol. II, p.367.

⁴³ *Id.*

⁴⁴ *Id.* at 368.

⁴⁵ *Id.* at 369.

⁴⁶ TSN, 22 November 2017 (PM), p. 23.

⁴⁷ *Id.* at 24.

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Accused was not sure whether he issued other Office Orders of the same nature to Misael. He agreed that it was possibly the only Office Order he issued to Misael. He elaborated that Misael acted as his Security Officer a few days after he assumed office during his first term as mayor,⁴⁸ on 30 June 2007. In particular, Misael acted as his Security Officer from July 15, 2007 to May 18, 2008 or around 10 months.⁴⁹

Accused was at his own residence at the time of Misael's accident, and his dinner invitation for the barangay fiesta was between 6 to 7 p.m.⁵⁰ There is more or less a two-kilometer distance between accused's residence and the site of Misael's accident.

Accused is unsure, but agrees that maybe Misael's wife was with him at the time.⁵¹ Accused was then confronted with the police blotter (common exhibit) stating that at that time, Misael was with his wife, Mercy, and his two children as back riders.⁵²

Accused reiterated that Misael's role was as advance party, since accused has no police escort and has trust and confidence in his brother.⁵³ He agreed that the advance party was to ascertain security of a particular place. However, he does not know why Misael would bring his wife and children to conduct a security measure.⁵⁴

Barangay Pontod is more or less one kilometer from the municipal town hall but in their definition, it is part of the mountainous barangay. He added that Barangays Huwakan and San Isidro are both 3 km away from the town hall.⁵⁵

Accused reiterated that his approval of the rehabilitation leave is a ministerial duty, as the HRMO is the one who assesses if the leave is proper and in order.⁵⁶ However, after being confronted with the circular (Exhibit "4"), he eventually conceded that he is both the recommending and approving authority for the rehabilitation leave.⁵⁷

When asked about the basis for his approval of the leave, considering his admitted lack of knowledge of the circular at the time, accused replied that he did not know the required documents.⁵⁸ He presumed that the leave was

⁴⁸ TSN, 22 November 2017 (PM), p.25.

⁴⁹ Id. at 29.

⁵⁰ Id. at 31.

⁵¹ Id. at 32.

⁵² Id. at 33.

⁵³ Id.

⁵⁴ Id. at 34.

⁵⁵ Id at 45.

⁵⁶ Id. at 37.

⁵⁷ Id. at 39.

⁵⁸ Id. at 40-41.

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already in order when it reached his office, stressing that the HRMO is the one that assessed/studied the leave. He learned of the needed requirements only after the filing of the complaint.⁵⁹

2. *Ranil Buhawe Pagaran*

In his Judicial Affidavit, Ranil B. Pagaran testified that he was a waiter at J&A Fishpen and Restaurant at Benoni, Mahinog, Camiguin. On 18 May 2008 at around 8:00 a.m., he took orders from and served food to accused Alex Jajalla, his brother Misael Jajalla, Mayor Rodolfo Buray and about four other persons.

Pagaran personally knows Misael and at that time, he had a short conversation with him, where Misael informed him that he was with his brother as his security officer.

Pagaran stated that accused and his companions left the restaurant at around 10:00 a.m.

The prosecution did not ask cross-examination questions. However, the Court further examined Pagaran, who responded that there were six to eight persons with Mayor Buray, while there were about eight persons with accused. He claims that he remembered seeing them on the said date because he was the one who served them and that he remembers all the guests in the restaurant.⁶⁰

3. *Jeffrey B. Ranoa*

The parties stipulated that if allowed to testify, Jeffrey Ranoa will prove “that he was the former Barangay Captain of Pontod, Mahinog, Camiguin and on May 18, 2008, he invited Mayor Jajalla with company that includes his brother(,) to a town fiesta of that barangay and on that date and the Mayor committed to appear before them at about 6 to 8 p.m.”⁶¹

4. *Regina Gecca Jacob*

The parties stipulated that if allowed to testify, Regina Gecca Jacob will prove “that she is the parish Secretary of Saint Michael Parish of Mahinog(,) Camiguin from 1999 up to the present (i)n such capacity, she personally know(s) for a fact that there was no mass held on May 18, 2008 in the

⁵⁹ TSN, 22 November 2017 (PM), p.42-43.

⁶⁰ Id. at 52.

⁶¹ Id. at 55-56.

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afternoon in Brgy. Pontod, Mahinog, Camiguin. ... The mass was only in the morning at 11 o'clock ... on May 18, 2008."⁶²

Accused filed his formal offer of documentary exhibits⁶³ on 11 January 2018 and the prosecution filed its objections thereto.⁶⁴ In its 2 February 2018 Resolution,⁶⁵ the Court admitted Exhibits "1," "2," "3," "4," "5," "9," "10" and "11" over the prosecution's objection. Exhibits "6," "7," "8," and "12" were excluded in evidence.

FACTS BASED ON UNCONTESTED EVIDENCE

Accused Jajalla assumed office as Municipal Mayor of Mahinog, Camiguin on 30 June 2007. He designated his brother, Misael Jajalla, as his Security Officer on 10 July 2007, although the latter's original appointment was as Administrative Officer II of Mahinog from 15 April 2005.

The entry in the pertinent police blotter (a common exhibit) recorded that Misael had an accident on 18 May 2008, at 5:24 p.m., a Sunday. He was driving a motorcycle, with his wife and two daughters as back riders, when he collided with the motorcycle being driven by Anthony Tan. Misael's accident occurred at the Zamora-Pontod Road, Mahinog, Camiguin, while Misael and family were going uphill on their way to Barangay Pontod.

Accused testified that at the time of the accident, he was at his house and not in the company of Misael.

On 23 June 2008, or more than a month after his accident, Misael filed his Application for Rehabilitation Leave with Pay for a period of six (6) months covering the period 1 July to 31 December 2008. The application form showed that Luz O. Babanto, as PDA/HRMO Designate, certified that Misael had 104.60 sick leaves and 61.97 vacation leaves left.

Accused signed the application form twice, first in the Recommendation section, as Authorized Official, and second, in the Approval section, as Supervisor/Municipal Mayor.

At the time it was approved by accused, Misael's Application for Rehabilitation Leave with Pay did not have any supporting documents attached to it to comply with the provisions of the CSC- DBM Joint Circular

⁶² TSN, 22 November 2017 (PM), pp. 59-60.

⁶³ Id. at 411-419.

⁶⁴ Id. at 426-436.

⁶⁵ Id. at 437-439.

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No. 1, Series of 2006 (“Joint Circular”) or The Guidelines for Availing of the Rehabilitation Leave. The Joint Circular took effect on 27 April 2006.

Upon accused’s approval of Misael’s application, the latter was able to receive his salaries and other allowances for the period 1 July to 31 December 2008 amounting to Php 69,366.00. There was no deduction made on his accumulated leave credits for the said six-month period.

SUCCEEDING PROCEEDINGS

On 5 February 2018, the prosecution filed a Manifestation and Offer for Stipulation⁶⁶ dated 2 February 2018, attaching (1) an original copy of the notarized Certification dated 30 June 2017 executed by Luz Babanto, stating that there is no Office Order issued by accused to Misael Jajalla within the period 10 July 2007 to 16 May 2008; and (2) copy of the *subpoeana* dated 25 January 2-17 issued by the Office of the Special Prosecutor to the LGU of Mahinog, Camiguin to issue certified true copy/ies of accused’s Office Order dated 16 May 2008, and other Office Orders issued by accused to Misael Jajalla.

Considering that Luz Babanto had already been presented as witness and the costliness of recalling her as witness, the prosecution manifested that it has decided that instead of recalling Babanto, it will simply offer for stipulation, even the mere existence of the said attached documents.

In his Comment⁶⁷ dated 7 March 2018, accused rejected the proposed stipulation, claiming that the Office Order had been earlier testified to and identified under oath by Luz Babanto, who allegedly categorically testified that the injury sustained by Misael on 18 May 2008 was work-connected in view of the said Office Order, which was served and delivered on 16 May 2008 at 12:20 p.m., as shown on its bottom portion.

In response, the prosecution filed an *Ex-Parte* Manifestation and Motion⁶⁸ dated 21 March 2018, manifesting that upon review of the TSNs, it noted that its witness, Luz Babanto, did not make any declaration as to the existence, authenticity and due execution of the Office Order dated 16 May 2008 (Exhibit “3”) on or before the 18 May 2008 accident of Misael. Moreover, accused, during the 22 November 2017 hearing, failed to categorically prove the existence, authenticity and due execution of the said Office Order on or before 18 May 2008. Hence, the prosecution manifested that it was withdrawing the offer for stipulation as to the existence of the

⁶⁶ *Rollo*, Vol. II, pp. 441-449.

⁶⁷ *Id.* at 457-458.

⁶⁸ *Id.* at 461-464.

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subpoeana and resulting Certification by Luz Babanto. It further moved that the case be deemed submitted for decision.

In its Resolution dated 26 March 2018, the Court noted both parties' manifestations and set the promulgation of judgment for this case on 24 September 2018 at 8:30 in the morning. It also gave the parties thirty (30) days from notice to file their memoranda.⁶⁹

MEMORANDUM FOR THE PROSECUTION

1. *The prosecution argues that based on the facts stipulated by the parties, the first and second elements of the crime charged has been satisfied. Accused is a public officer who approved Misael's application for rehabilitation leave.*

In its Memorandum, the prosecution repeated the stipulations of the parties during Preliminary Conference and during the presentation of testimonial evidence of witnesses Luz O. Babanto, Allan Santos Estrobo and Joel Ayuban Labadan. It also summarized the facts of the case.

The prosecution argues that accused should be held liable for violating Section 3(e) of R.A. No. 3019, as the elements for the said crime have all been satisfied.

The elements of violation of Section 3(e) of R.A. No. 3019 are: (1) the offender is a public officer; (2) the act was done in the discharge of the public officer's official, administrative or judicial functions; (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and (4) the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.

The prosecution claims that the first two elements are indubitably present because the parties stipulated that accused is a public officer at the material time, discharging administrative and official functions as Municipal Mayor of Mahinog, Camiguin.

2. *The prosecution asserts that the third element of the offense was also satisfied*

⁶⁹ Rollo, Vol. II, pp. 465-466.

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because accused approved Misael's rehabilitation leave despite the lack of supporting documents required by the Circular.

As to the third element, the prosecution contends that accused approved Misael's Rehabilitation Leave with Pay through manifest partiality, evident bad faith, or gross inexcusable negligence. Misael was not qualified to avail thereof because the injuries he suffered were not sustained while in the actual performance of his official duty and because there were no supporting documents attached to Misael's Application for Rehabilitation Leave with Pay at the time it was approved by accused.

It is apparent in the Police Blotter of the incident that Misael's injuries were not incurred during actual performance of his duties.⁷⁰ Meanwhile, the parties stipulated regarding Estrobo's testimony on the Police Blotter that "immediately after the accident on May 18, 2008 involving Misael Jajalla and Anothony Tan, SPO1 Estrobo reported or narrated to the Desk Officer in-charge on duty then PO1 Joel Ayudan Labadan the circumstances of the accident based on the account stated by Anthony Tan and some of the witnesses who [were] still within the accident site."

The prosecution adds that entries in the said police blotter should be given great weight because under Section 44, Rule 130 of the Rules of Court, "entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated." In particular, the prosecution cites *Lao v. Standard Insurance Co., Inc.*⁷¹ in arguing that although police blotters are of little probative value, they are nevertheless admitted and considered in the absence of competent evidence to refute the facts stated therein.

The prosecution further argues that the entries in the subject police blotter is admissible in evidence as part of independent relevant statement, to prove a particular fact or the surrounding circumstances of the accident involving Misael on 18 May 2008 at 5:24pm. The declarations made by individuals who were interviewed by SPO1 Estrobo were made shortly after the accident. Anthony Tan and the rest of the witnesses to the accident were still under the exciting influence of the startling occurrence, without any prior opportunity to contrive a story that will turn out to be unfavorable to accused Jajalla.

⁷⁰ Exhibit "Q."

⁷¹ 456 Phil. 227-236 (2003).

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Considering that CSC-DBM Joint Circular No. 1, Series of 2006 mandates in Section 3.2 thereof that, for the purpose of availing the Rehabilitation Privilege, “performance of duty” means that ‘the official or employee was already at work...’ The prosecution emphasizes that Misael was not yet at work at the time of his accident, as he was then travelling with his wife and two children to attend mass on a Sunday.

On the other hand, the only basis of accused’s claim that Misael was in the actual performance of his duty at the time of the accident is the self-serving purported “Office Order”, which he apparently issued, but which was not authenticated by the official custodian thereof, and which suspiciously came up only during trial and was never presented during the lengthy preliminary investigation conducted by the Office of the Ombudsman.

Moreover, the prosecution asserts that at the time it was approved by the accused, Misael’s application for rehabilitation leave had no supporting documents attached to it, such as letter request, police report, medical certificate on the nature of the injuries, course of treatment involved and the need for rest, recuperation and rehabilitation, as the case may be, and the written concurrence of a government physician when the recommending physician is a private practitioner. This is contrary to the mandate of Section 4, 4.1. and 4.2 of the CSC-DBM Joint Circular, Series of 2006. Also, Misael’s application for rehabilitation leave with pay was submitted only on 23 June 2008, or more than one and a half months later, contrary to the one-week requirement of the Circular.

In fact, Luz Babanto, HRMO of Mahinog, testified that the required medical certificate and the written concurrence of the government physician were not submitted or attached to Misael’s application, when the same was recommended for approval, and eventually, approved by accused.

The prosecution argues that accused cannot just pass the blame for his irregular approval of Misael’s application on Babanto. The latter only certified as to the correct number of leave credits available. Based on Section 5 of the Joint CSC-DBM Circular, it is the head of the agency who should determine the applicant’s compliance with the requirements of the application.

3. *The prosecution avers that the fourth element of the offense was likewise satisfied as accused approved Misael’s application for rehabilitation leave even if the latter was unqualified. This caused undue injury to the government in the amount of Php69,366.00.*

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The prosecution also claims that accused's approval of Misael's application caused undue injury to the municipality of Mahinog in the amount of Php 69,366.00, or gave unwarranted benefits, advantage or preference to his brother Misael.

Among the parties' stipulations of facts during preliminary conference is that accused approved the release of salaries and other allowances to Misael from 1 July to 31 December 2008 amounting to around Php69,366.00.

Citing *Caugma, et al. v. People*,⁷² the prosecution argues that "undue injury has been interpreted as synonymous to actual damages which is akin to that in civil law." Following this, the prosecution argues that it was able to prove beyond reasonable doubt the basis of the actual damages, which accused caused the local government of Mahinog when he approved his brother's application.

The prosecution cites *Cabrera v. Sandiganbayan*,⁷³ where the Supreme Court held that *unwarranted* means lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. Meanwhile, *advantage* means a more favorable or improved position or condition; benefit or gain of any kind; benefits from course of action. On the other hand, *preference* signifies priority or higher evaluation or desirability; choice or estimation above another. It concludes that it was able to prove that accused gave unwarranted benefits, advantage or preference to his brother, Misael, when he approved the latter's rehabilitation leave with pay, despite his brother not being entitled or qualified to avail of such benefit.

MEMORANDUM FOR THE ACCUSED

To date, the Court has not received the Memorandum for the accused.

In accordance with the Court's Resolution dated 26 March 2018 giving the parties thirty (30) days within which to file their respective Memoranda, and in accordance with the Revised Guidelines on the Continuous Trial of Criminal Cases, the period for filing the Memorandum is non-extendible and shall not suspend the running of the period for promulgation of the decision. Thus, this case was submitted for decision without the memorandum from the accused.

⁷² 521 Phil. 105-136 (2006).

⁷³ 484 Phil. 350-366 (2004).

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ISSUE

The sole issue to be resolved by the Court is whether the prosecution was able to prove accused's guilt beyond reasonable doubt of the crime of violation of Section 3(e) of R.A. No. 3019, when he approved his brother's application for rehabilitation leave with pay.

OUR RULING

We find that the prosecution was able to prove beyond reasonable doubt that accused is **guilty** of violating Section 3(e) of R.A. No. 3019, when he approved his brother's application for rehabilitation privilege.

On its face, the body of the Information charges accused of violation of Section 3(e) of R.A. No. 3019 committed as follows:

That on or about 01 July 2008, or sometime prior or subsequent thereto, in the Municipality of Mahinog, Province of Camiguin, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **Alex Rullon Jajalla**, a high-ranking public official, being the Municipal Mayor of Mahinog, Camiguin, while in the performance of his official functions, taking advantage of his position and committing the offense in relation to his office, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally give unwarranted benefits, advantage or preference to one Misael R. Jajalla, accused's brother, by approving the application for Rehabilitation Leave with Pay of said Misael R. Jajalla for a period of six (6) months beginning 01 July 2008 to 31 December 2008, knowing fully well that said Misael R. Jajalla was not qualified or entitled to avail of such rehabilitation leave as the injuries suffered by him were not sustained while in the performance of his official duties, thereby enabling said Misael R. Jajalla to receive salaries and other allowances for the period of his leave in the amount of Sixty-Nine Thousand Three Hundred Sixty-Six Pesos (Php69,366.00), and thereby causing undue injury to the government in the aforesaid amount.⁷⁴

An accused may be held criminally liable of violation of Section 3 (e) of R.A. No. 3019, provided that the following elements are present:

- a) The accused must be a public officer discharging administrative, judicial or official functions;
- b) He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- c) His action caused any undue injury to any party, including the government, or gave any private party unwarranted

⁷⁴ Rollo, Vol. I, pp. 1-2.

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benefit, advantage or preference in the discharge of his functions.⁷⁵

Based on the foregoing, We evaluate the charge against the accused as follows:

- 1. During the pertinent period, accused was a public officer discharging his official functions.***

During the preliminary conference, the parties stipulated that at the time material to the case, accused was a public officer discharging administrative and official functions as municipal mayor of the Municipality of Mahinog, Camiguin.⁷⁶

The presence of the first element of the offense is, therefore, uncontested.

- 2. Accused acted with manifest partiality, evident bad faith or gross inexcusable negligence in the discharge of his functions.***

We find that the second element of the offense was likewise met, based on the following:

- a. Misael's Rehabilitation Leave with pay failed to comply with the requirements under the Joint Circular***

The guidelines for availing the rehabilitation leave/privilege is outlined in the Civil Service Commission-Department of Budget and Management Joint Circular No. 1, Series of 2006 or the Guidelines for Availing of the Rehabilitation Leave ("Joint Circular" for brevity). The Joint Circular was published in a newspaper of general circulation on 22 June 2006 and, by express provision of Section 7 thereof, took effect immediately. The Joint Circular was, therefore, in full effect at the time that accused approved Misael's application for rehabilitation leave.

The pertinent portions of the Circular are as follows:

3.0 Guidelines

⁷⁵ *Consigna vs. People*, G.R. No. 175750-51, 2 April 2014.

⁷⁶ *Rollo*, Vol. II, p. 14.

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- 3.1 Officials and employees may be entitled to the Rehabilitation Privilege for a maximum period of six (6) months for wounds and/or injuries sustained while in the performance of official duties. The duration, frequency and terms of availing of the privilege shall be based on the recommendation of medical authority. Hence, availing of the privilege may be for less than six (6) months, or may be on a half-time basis or an intermittent schedule as determined by medical authorities provided that the cumulative total period of availing of the privilege will not exceed six (6) months.

Illness or sickness resulting from or aggravated by working conditions or the environment cannot be a basis for availing of the Rehabilitation Privilege even if the same may be compensable under the law and regulations of the Employees Compensation Commission (ECC).

- 3.2 For availing oneself of the Rehabilitation Privilege, performance of duty means situations wherein the official or employee was already at work. The same privilege may be extended to officials and employees in situations where the official or employee meets an accident while engaged in activities inherent to the performance of his/her duties, including being on Official Business outside his/her work station, Official Travel, authorized Overtime, Detail Order, and Special Assignment Orders.

Injuries from accidents that occurred while the official or employee was going to work and going home from work are not considered sustained while in the performance of official duties.

- 3.3 Absence from work during the period of Rehabilitation Privilege shall not be deducted from the accumulated sick or vacation leave credits of the official or employee.

However, officials and employees while on Rehabilitation Privilege do not earn and accumulate vacation leave and sick leave credits.

- 3.4 Officials and employees availing of the Rehabilitation Privilege shall receive their salaries and regular benefits such as Personnel Economic Relief Allowance (PERA), Additional Compensation (AdCom), year-end bonus, and cash gift mandated by law.

They are not entitled however to benefits and privileges that are enjoyed based on the actual performance of duties of positions entitled to these benefits such as Representation and Transportation Allowances.

- 3.5 Claimants of Rehabilitation Privilege Benefits are entitled to reimbursement by their agency for first-aid expenses, preferably in government facilities. Reimbursement is subject to the availability of funds and shall not exceed P5,000.00 unless expenditures beyond said amount are necessary as certified by medical authorities and approved by head of agency.

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For this purpose, first aid refers to the basic medical treatment immediately given to a person hurt in an accident.

4.0 Procedure

- 4.1 Application for Rehabilitation Privilege shall be made through a letter, supported by relevant reports such as the police report, if any, and medical certificate on the nature of the injuries, the course of treatment involved, and the need to undergo rest, recuperation, and rehabilitation, as the case may be. Application should be made within one (1) week from the time of the accident except when longer period is warranted. Applications may be made for the injured official or employee by a member of his/her immediate family.
- 4.2 Written concurrence of a government physician should be obtained relative to the recommendation for rehabilitation if the attending physician is a private practitioner, particularly on the duration of the period of rehabilitation.

5.0 Responsibilities of the Agency Head

- 5.1 The agency head shall determine whether the injuries were incurred while in the performance of duties.
- 5.2 The agency head shall be held responsible and personally liable for any false or fraudulent claims and irregular availing of the privilege.
- 5.3 The agency head, through the agency medical staff and/or the HRMO, should monitor monthly the medical status of the employee undergoing rehabilitation.⁷⁷

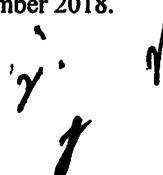
As applied to the established facts, we find that Misael Jajalla's application for rehabilitation leave with pay did not comply with the guidelines in the Joint Circular.

Based on the Joint Circular, the rehabilitation leave with pay is to be granted only for:

1. "wounds and/or injuries sustained while in the performance of official duties;" (Section 3.1) and
2. the maximum period of six months, "as determined by medical authorities" (Section 3.1)

In determining whether the injury is sustained while in the performance of official duties, the Joint Circular provides in Section 3.2 thereof that it refers to situations wherein the official or employee is already at work, or meets an

⁷⁷ <https://www.dbm.gov.ph/wp-content/uploads/2012/03/JC-2006-1.pdf> last accessed on 4 September 2018.



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accident while engaged in “activities inherent in the performance of his/her duties, including being on Official Business outside his/her work station, Official Travel, authorized Overtime, Detail Order, and Special Assignment Orders.” Accidents occurring while going to work and going home from work are not considered sustained while in the performance of official duties.

Was Misael’s injury sustained while in the performance of official duties?

The first argument against Misael’s injury having been incurred while in the performance of his official duties is that 18 May 2008 - the undisputed date of the accident – is a Sunday, which is typically not a work day.

Countering this, accused presented a document entitled “Designation” dated 10 July 2007 issued by accused and addressed to Misael (Exhibit “2”).⁷⁸ The subject is indicated to be “Designation as *Security Officer*” and the body of the document enumerates the duties and responsibilities of Misael as Security Officer of Mahinog effective 15 July 2007.

Accused also adduced a document entitled Office Order dated 16 May 2008 (Exhibit “3”),⁷⁹ in which accused instructs Misael to “assist in the security needs of the undersigned Municipal Mayor in relation to the performance of his social functions and responsibilities on 18 May 2008, a Sunday.” In particular, the document indicates two activities slated for Misael on this date: accompany accused to the Breakfast Meeting at J&A Fishpen in Benoni, Mahinog, Camiguin with Gitagum (Misamis Oriental) Mayor Rodolfo Buray and party, and as advance party in the Fiesta at Barangay Pontod, Mahinog, upon invitation of former Barangay Captain Jeffrey Rañoa and former Barangay Kagawad Florentino Babanto.

However, the prosecution raises doubt on whether this Office Order was actually already in existence at the time it was purportedly issued. According to the prosecution, this document was not among the voluminous documentary evidence presented by the accused during extensive preliminary investigation before the Office of the Ombudsman. Moreover, the official copy thereof, which was supposed to be retained by the local government unit, was not presented for comparison.⁸⁰

Moreover, accused admits that he does not often issue an Office Order designating Misael to perform a specific duty at a particular date and time. In

⁷⁸ *Rollo*, Vol. II, p. 372.

⁷⁹ *Id.* at 373.

⁸⁰ *Rollo*, Vol. II, p. 489. While we ruled to admit in evidence the subject Office Order, we explained in our 2 February 2018 Resolution (*Rollo*, Vol. II, pp. 437-439) that the admission in evidence of the said documentary evidence is still subject to the Court’s appreciation of its probative value and the merit of the purpose for which it is offered.

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fact, he agrees that it is possible that the subject Office Order is the only one he issued to Misael, thus:

PROSEC. DELA TORRE:

Q How often do you issue an Office Order designating your brother Misael Jajalla to perform a specific duty at particular date and time, Mr. Witness?

A Not always(,) just only sometimes when the barangays my official capacity as the Municipal Mayor is invited in [sic] mountain barangays. But in the lowland barangays I seldom issue an Office Order considering that the Office of the Station Commander is near [sic] in the vicinity.

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Q Do you affirm under oath that there are other Officer Order(s) which you have issued of the same nature to your brother Misael Jajalla, Mr. Witness?

A I cannot be sure, Sir.

Q But there is also (a) possibility that this is the only Office Order which you issued to your brother, Mr. Witness?

A Possible, Sir.⁸¹

To lend further support to his claim that Misael was working in his capacity as Security Officer on 18 May 2008, accused presented Ranil Paganan, who testified that he saw accused, Misael, Mayor Buray and party at the J&A Fishpen having breakfast from 8:00 a.m. to 10 a.m. on the said date.

In addition, accused also obtained a stipulation from the prosecution that, if allowed to testify, Jeffrey B. Ranoa will testify that he invited accused, Misael and company to their barangay's town fiesta on 18 May 2008 and that accused committed to be there at about 6 to 8 p.m.⁸²

However, the Police Blotter's description of Misael's circumstances is not consistent with his supposed task of being an advance party to provide security to accused, who was engaged to be at Barangay Pontod at 6:00 p.m. of 18 May 2008.

Entry No. 091777 of the local Police Blotter⁸³ records the following occurrence on 18 May 2008, at 1724H:

⁸¹ TSN, 22 November 2017 (PM), pp. 24-25.

⁸² Id at 55-56.

⁸³ Exhibit "Q" for the prosecution, Exhibit "17" for the defense.

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Vehicular accident: OOA 1724 18 May 2008, call from our Chief of Police PI Richard P. Catipay, notified that vehicular accident ... transpired at the provincial road of Zamora(,) Pontod(,) Mahinog(,) Camiguin, single motorcycle involved, personnel (of) this office in the person of SPO1Allan Santos Estrobo, responded to the area and it was revealed that a single motorcycle Skygo, color blue, bearing plate # KL1746 driven by one (1) Anthony Tan, 15 years old, a minor resident of Damolog, Bukidnon with two backrider(s) Emalyn Madelo and Shielalae Rosite(,) both 15 years old, minors(,) while from Barangay Pontod, Mahinog(,) riding said motorcycle down hill on freewheeling upon reaching Zamora Pontod Mahinog curved lane(,) he was not able to control his motorcycle and cover(ed) the other side of the road and accidentally bumped another single motorcycle color yellow, bearing temporary plate # M6-KJ-9153, driven by the owner Misael Jajalla, (of) legal age, resident of Poblacion Mahinog with his backrider(s) his wife Mercy Jajalla and two (2) children who was on up hill direction to attend mass at Pontod Mahinog. Victims ... suffered injuries at [sic] the different parts of their bodies, and brought to Camiguin General Hospital for proper medical and treatment. For record purposes. (initialed)

As correctly argued by the prosecution, the entries in the police blotter, being entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.⁸⁴ Although police blotters are of little probative value, they are nevertheless admitted and considered in the absence of competent evidence to refute the facts stated therein.⁸⁵

In the present case, both SPO1 Joey Labadan,⁸⁶ who entered the details in the police blotter, and then SPO1 Allan S. Estrobo,⁸⁷ who actually responded to the accident, were presented by the prosecution. They testified that, as reflected in the police blotter report, Misael stated that he was going to Pontod to attend mass and brought along his family.

Accused impugns the veracity of the police blotter report regarding Misael's purpose for going to Pontod by obtaining a stipulation from the prosecution that, if allowed to testify, Regina Gecca Jacob, parish secretary, will state that there was no mass held at St. Michael Parish of Mahinog on the afternoon of 18 May 2008, as the mass that day was held only at 11 a.m.⁸⁸

⁸⁴ RULES OF COURT, Rule 130, Section 44.

⁸⁵ *Lao v. Standard Insurance Co. Inc.*, 456 Phil. 227-236 (2003).

⁸⁶ TSN, 23 January 2017.

⁸⁷ TSN, 5 April 2017.

⁸⁸ TSN, 22 November 2017 (PM), pp. 59-60.

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Assuming that Misael's purpose for going to Pontod was indeed to perform his duties per the Office Order,⁸⁹ his behavior still raises questions, which have not been addressed by the accused.

Accused's supposed basis for deciding to bring along his brother Misael as security officer is based on the peace and order concerns in the area. This is reflected in his aforementioned testimony that he seldom issues a similar Office Order when invited to the lowland barangays because the Office of the Station Commander is nearby. Thus, safety concerns in Pontod that needed time to secure must have prompted accused in asking Misael to be an advance party therein.

But, if Misael was asked to act as advance party to accused, who committed to arrive at Pontod at 6 p.m., why was Misael still on his way to Pontod at 5:24 p.m.? Also, if Misael was supposed to perform an official function providing security to accused at Pontod, why did he bring along his wife and two daughters there? These questions are not explained by accused's theory on Misael's presence at Pontod. Thus:

Q: What was the purpose of being an advance party to proceed in that particular area, Mr. Witness?

A: Since I (was) the Vice Mayor then the Mayor, I have no Police Escort, and considering that I have trust and confidence (in) my brother, after my first term, I issued a designation as Peace Officer and that is the reason why I gave him (the) Office Order, Sir.

Q: On that particular date May 18, 2008, what were your specific instruction to your brother going to Brgy. Pontod, Mr. Witness?

A: As our Peace Officer and also to go to the two (2) houses who invited me if everything is all right.

Q: Do you mean you want to ascertain the security of that particular area, Mr. Witness?

A: Yes, Sir.

Q: Why did he bring with him his wife and his children to conduct a security measure on that particular area, would you know the reason why, Mr. Witness?

A: I don't know, Sir.⁹⁰

⁸⁹ On the other hand, the affidavit complaint (Exhibit "T") had alleged that Misael was with his family to visit the Blessed Trinity Chapel to light candles and attend the fiesta with them.

⁹⁰ TSN, 22 November 2017 (PM), pp. 33-34.



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Thus, despite the claim of the defense that on 18 May 2008 (a Sunday), Misael was performing his job as an advance party for his brother, herein accused mayor, the contrary was shown by the testimonies of the witnesses and the documentary evidence presented by the prosecution. Even the testimony of the accused did little to demolish the theory of the prosecution that at the time of the accident, Misael was not discharging his official duties.

Another factor which the Court considers is the fact that Misael's application for rehabilitation leave is also questionable for being irregular, not having complied with the formal requirements under the Joint Circular.

The Joint Circular indicates the application for rehabilitation privilege/leave should be made:

1. "through a letter, supported by relevant reports such as the police report, if any, and medical certificate on the nature of the injuries, the course of treatment involved, and the need to undergo rest, recuperation, and rehabilitation, as the case may be." (Section 4.1)

2. "within one (1) week from the time of the accident except when longer period is warranted." (Section 4.1)

3. With the "(w)ritten concurrence of a government physician ... relative to the recommendation for rehabilitation if the attending physician is a private practitioner, particularly on the duration of the period of rehabilitation" (Section 4.2)

A simple perusal of these formal requirements shows how they cannot simply be brushed aside as they serve salient functions.

Evidently, it is essential that the relevant reports are attached to the letter-application to substantiate it.

The circumstances surrounding the accident/injury, as embodied in a police report, aids in determining if the injury was incurred in the performance of an employee's functions.

Meanwhile, the medical certificate on the nature of the injury, treatment involved, and necessity of rest, recuperation and rehabilitation will assist in ascertaining the length of the rehabilitation leave. Notably, Section 3.1 of the Joint Circular indicates that the rehabilitation leave may be given for a variable number of days, and six months is simply the maximum period allowed.

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It is also vital to file the application within one week from the time of the accident. As in many instances, the promptness in filing the application curbs fraudulent claims.

Examining the circumstances in the instant case, the parties stipulated that Luz Babanto (then Administrative Officer II of the local government of Mahinog, and its designated HRMO) received on 23 June 2008 Misael's application for rehabilitation leave,⁹¹ which accused approved even without the required medical certificate attached thereto.⁹²

In fact, in Babanto's Certification dated 19 July 2016,⁹³ she certified that the Medical Certificate and written concurrence of the government physician relative to the application for Rehabilitation Leave of Misael are unavailable at their office as these were not filed together with the leave application on 23 June 2008.

Moreover, Babanto testified that no medical certificate or written concurrence of a government physician were submitted to the HRMO to support Misael's application *even after the case was filed*.⁹⁴

Clearly, Misael's application for rehabilitation leave failed to satisfy the requirement for the same to be accompanied by relevant reports, like the police report and the medical certificate on the nature of the injuries, the course of treatment involved and the need to undergo rest, recuperation and rehabilitation.

It is also evident that Misael's application for rehabilitation leave was not submitted within one week from the time of the accident, as required by the Joint Circular. It is not disputed that the accident occurred on 18 May 2008. Based on the Circular, Misael had until 25 May 2008 within which to file his application. However, Misael, through his wife, filed his application for rehabilitation leave on 23 June 2008, about a month after the deadline.

Although the Joint Circular provides an exception on the period of filing the application (i.e., "when a longer period is warranted"), the records are bereft of any allegation that Misael or his agent gave any reason to justify the belated filing.

⁹¹ Exhibit "A", Exhibit "5."

⁹² TSN, 24 January 2017.

⁹³ Exhibit "P."

⁹⁴ TSN, 24 January 2017, pp. 14-15.

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b. *As agency head, accused is responsible both for determining whether injuries were incurred while in the performance of duties and for any "irregular availing" of the rehabilitation privilege.*

Considering that Misael's application for rehabilitation leave was patently deficient, it should not have been approved.

As discussed in the preceding section, accused agreed to the stipulation that he approved Misael's application for rehabilitation leave. However, he qualifies the stipulation with the explanation that accused was not furnished with a copy of the Joint Circular at the time.

Moreover, in his Judicial Affidavit, accused tries to deflect responsibility therefor by alleging that he merely exercised his ministerial functions in the process. He claims that it is the HRMO which has competence and knowledge regarding the requirements and regulations pertaining to leave applications. He admits that he is not familiar with the requirements for granting rehabilitation leave with pay, and insists that he honestly believed that the HRMO had already determined the said leave to be in order.⁹⁵

Accused's assertion is belied by the Local Government Code, which provides in Section 77 thereof that the chief executive of a local government unit is responsible for taking *all personnel actions* therein in accordance with the Constitution, laws, rules and regulations, including those policies, guidelines and standards as the Civil Service Commission may establish:

Section 77. Responsibility for Human Resources and Development.
- The chief executive of every local government unit shall be responsible for human resources and development in his unit and shall take all personnel actions in accordance with the Constitutional provisions on civil service, pertinent laws, and rules and regulations thereon, including such policies, guidelines and standards as the Civil Service Commission may establish: Provided, That the local chief executive may employ emergency or casual employees or laborers paid on a daily wage or piecework basis and hired through job orders for local projects authorized by the sanggunian concerned, without need of approval or attestation by the Civil Service Commission: Provided, further, That the period of employment of emergency or casual laborers as provided in this Section shall not exceed six (6) months. (Underscoring supplied.)

In particular, the Joint Circular, states that the Agency Head shall:

⁹⁵ *Rollo*, Vol. II, pp. 366-367.

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1. “determine whether the injuries were incurred while in the performance of duties” (Section 5.1.)

2. “be held responsible and personally liable for any false or fraudulent claims and irregular availing of the privilege” (Section 5.2)

3. “should monitor monthly the medical status of the employee undergoing rehabilitation” (Section 5.3)

As the Mayor of the Municipality of Mahinog, accused is the head of the agency (i.e., the local government of Mahinog) referred to in the Joint Circular. As such, he is responsible for determining whether the injuries (for which the application for rehabilitation leave is sought) were incurred while in the performance of official duties. Thus, accused’s role in the approval of Misael’s application for rehabilitation leave is not a mere ministerial duty. It involves an exercise of discretion.

Indeed, Misael’s accomplished Application for Leave (CSC Form No. 6, Revised 1984)⁹⁶ shows that Babanto merely certified to the remaining number of leaves of applicant Misael. The recommendation for the application’s approval was signed by accused Alex Jajalla, in his capacity as the applicant’s supervisor. The approval itself was likewise signed by accused, this time as agency head/municipal mayor.

To ensure that the agency head judiciously exercises his discretion in approving rehabilitation leave applications, the Joint Circular concomitantly makes the agency head responsible, not only for false or fraudulent claims. It also makes him liable for the *irregular availment* of the privilege.

Accordingly, in order to sustain the validity of a grant of rehabilitation leave/privilege, it is not sufficient that the government employee’s injury is incurred while in the performance of his official duties. It is also necessary that his rehabilitation leave application follows the formal requirements under the Joint Circular.

As discussed in the preceding section, Misael’s application for rehabilitation privilege was irregular, not having complied with the formal requirements under the Joint Circular – i.e., filing of the application for rehabilitation leave within one week from the accident and attaching thereto supporting documents such as the police report, medical report and concurrence of a government physician relative to the recommendation for rehabilitation, particularly on the duration thereof.

⁹⁶ Exhibit “A”/ Exhibit “5.”

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For this reason, accused, who approved Misael's irregular application for rehabilitation leave, must be "held responsible and personally liable" therefor, in accordance with the emphatic wording of the Joint Circular.

c. Accused acted with manifest partiality, evident bad faith, or at least, gross inexcusable negligence, when he approved his brother's irregular application for rehabilitation privilege/leave.

Having established that accused approved Misael's irregular application for rehabilitation leave, we now proceed to examine whether such approval was attended by manifest partiality, evident bad faith or at least, gross inexcusable negligence.

In the present case, the prosecution claims that accused acted with manifest partiality, evident bad faith or at least, gross inexcusable negligence in approving his brother's application for rehabilitation leave with pay.

We agree with the prosecution.

We find that accused acted with gross inexcusable negligence in approving Misael's irregular application for rehabilitation leave.

Gross negligence is the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences as far as other persons are concerned.⁹⁷

In the case at bar, accused seeks to excuse himself from responsibility for his action by claiming that his approval of Misael's rehabilitation leave was a ministerial act and that he was ignorant of the Joint Circular.

Accused cannot so easily be let off the hook by the mere expedient of claiming that he thought his approval was a mere ministerial act. Section 5.1 of the Joint Circular reposes upon the accused the power to "determine whether the injuries were incurred while in the performance of duties." Corollary to this, Section 5.2 of the Joint Circular mandates that the agency head shall "be held responsible and personally liable for any false or fraudulent claims and irregular availing" of the rehabilitation privilege."

⁹⁷ *3-D Industries, Inc. v. Roxas*, 646 Phil. 422-432 (2010).

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Moreover, it is a basic legal tenet that ignorance of the law excuses no one, especially those who, by the nature of their official duties and responsibilities, are expected to be aware of its provisions.⁹⁸ Notably, the Joint Circular was not new when Misael's application was filed on 23 June 2008. The Joint Circular took effect on 27 April 2006, or two years prior to the application subject of this case.

Further, as earlier emphasized, accused, as municipal mayor, is responsible for taking *all personnel actions* in accordance with the Constitution, laws, rules and regulations, including those policies, guidelines and standards as the Civil Service Commission may establish.⁹⁹

Accused was obligated to learn the rules pertinent to personnel actions in the local government unit he heads for the reason that he is the approving authority thereon. As the local chief executive, he has the resources of the municipality at his disposal to accomplish this. Had accused inquired from the HRMO what the requirements were for approving the rehabilitation leave, the HRMO would have been duty-bound to inform him. If the HRMO, herself, does not know the requirements for the application's approval, she, nevertheless, would have been compelled to find out, if so instructed. As it is, the prosecution was able to show that accused simply approved Misael's application for rehabilitation leave without regard to its propriety under the rules.

Accused's perfunctory approval of Misael's application for rehabilitation leave shows gross inexcusable negligence because it reflects an indefensible lack of interest in learning and complying with the rules, which accused is obliged by law to follow by virtue of his position.

3. Accused caused undue injury to the Government and gave his brother, Misael, unwarranted benefits, advantage or preference in the discharge of accused's function as approving authority for the rehabilitation leave.

The Supreme Court defines "undue injury" as actual injury or damage which must be established by evidence. The word "undue" means "more than necessary, not proper, or illegal"; and "injury" means "any wrong or damage done to another, either in his person, rights, reputation or property; the

⁹⁸ *Opeña v. Luna*, A.M. No. P-02-1549 514 Phil. 345-351 (2005).

⁹⁹ LOCAL GOVERNMENT CODE, Section 77.

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invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.¹⁰⁰

We rule that the prosecution was able to establish that in approving Misael's irregular application, accused caused undue injury to the Municipality of Mahinog in the amount of Php 69,366.00. As stipulated by the parties during preliminary conference, accused approved the release of salaries and other allowances to Misael from 1 July to 31 December 2008 amounting to around Php 69,366.00, while the latter was on rehabilitation leave. The records also show the municipal payrolls¹⁰¹ supporting this fact.

Considering that Misael's application for rehabilitation leave is irregular, he was not actually entitled to the salaries and allowances paid to him by the municipality in the total amount of Php 69,366.00. Thus, accused's approval of Misael's application caused the municipality to part with the Php 69,366.00 that it should have kept or used for other lawful expenses. Clearly, accused caused undue injury to the government in the said amount.

We also rule that the prosecution was able to establish that accused gave his brother, Misael, unwarranted benefits, advantage or preference.

The Supreme Court defines "unwarranted" as lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. "Advantage" means a more favorable or improved position or condition; benefit or gain of any kind; benefit from course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another.¹⁰²

The records show that because of accused's approval of Misael's irregular application for rehabilitation leave, Misael received the amount of Php 69,366.00 in salaries and allowances, even while he was not rendering work.

In sum, all elements of the offense were satisfied herein. The prosecution was able to proffer sufficient evidence establishing accused's guilt beyond reasonable doubt in committing the offense under Section 3(e) of R.A. No. 3019.

¹⁰⁰ *Giangan v. People*, G.R. No. 169385, 26 August 2015.

¹⁰¹ Exhibits "B" to "G."

¹⁰² *Cabrera v. Sandiganbayan*, 484 Phil. 350-366 (2004).

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**4. Penalty for violating Section 3(e)
of R.A. No. 3019, as amended.**

As the prosecution has successfully proven the accused to be guilty of violating Section 3(e) of R.A. No. 3019, we now look into the penalty therefor. Sections 9 of R.A. No. 3019 (as amended)¹⁰³ provides:

Section 9. Penalties for violations.

(a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the fair value of such thing.

(b) Any public officer violating any of the provisions of Section 7 of this Act shall be punished by a fine of not less than one thousand pesos nor more than five thousand pesos, or by imprisonment not exceeding one year six months, or by both such fine and imprisonment, at the discretion of the Court.

The violation of said section proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him.

Meanwhile, under Section 1 of the Indeterminate Sentence Law or Act No. 4103, as amended by Act No. 4225, if the offense is punished by a special law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

Section 9(a) of R.A. No. 3019 punishes a public officer who violates Section 3 thereof with imprisonment for not less than six (6) years and one (1) month to not more than fifteen (15) years and perpetual disqualification from public office.

¹⁰³ As amended by *Batas Pambansa Blg. 195* dated 16 March 1982 - Amending Certain Sections of R.A. No. 3019 (Anti-Graft and Corrupt Practices Act).

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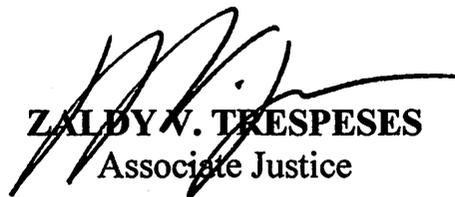
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Pursuant to the above, the Court sentences accused with imprisonment for a minimum period of six years and one month and a maximum period of eight years. As provided by law, the accessory penalties of perpetual disqualification from public office are likewise imposed.

WHEREFORE, in view of the foregoing, accused **ALEX RULLON JAJALLA** is found **GUILTY** beyond reasonable doubt of violating Section 3(e) of Republic Act No. 3019, is sentenced to imprisonment for a *minimum* of **six (6) years and one (1) month** and a *maximum* of **eight (8) years**, with **perpetual disqualification from public office**.

SO ORDERED.


ZALBY V. TRESPESES
Associate Justice

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson


BAYANI H. JACINTO
Associate Justice

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ATTESTATION

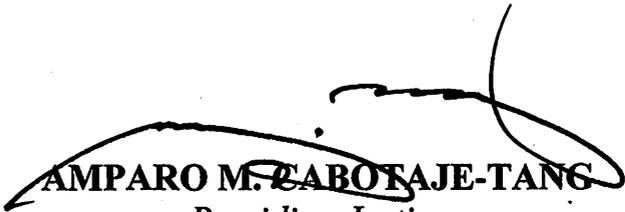
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


**MA. THERESA DOLORES C. GOMEZ-
ESTOESTA**

Chairperson, Seventh Division

CERTIFICATION

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


AMPARO M. CABOTAJE-TANG

Presiding Justice

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