



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

ALI UNTAO ADIONG,
Accused.

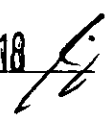
**CRIM. CASE NO. SB-16-
CRM-0527**

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

Present:

QUIROZ, J., *Chairperson*
CRUZ, J.
JACINTO, J.

Promulgated on:

NOV 16 2018 

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DECISION

CRUZ, J.

Accused Ali Untao Adiong (hereinafter, "Adiong") stands charged with violation of Section 3(e) of Republic Act (R.A.) No. 3019, known as the Anti-Graft and Corrupt Practices Act. The accusatory allegations of the Information read as follows:

On 13 May 2014, or sometime prior or subsequent thereto, in the Municipality of Ditsaan-Ramain, Lanao del Sur, Philippines, and within this Honorable Court's jurisdiction; **ALI UNTAO ADIONG** as Municipal Mayor (SG 27) of the municipality of Ditsaan-Ramain, Lanao del Sur; while in the performance of his administrative and/or official functions and committing the offense in relation to and in abuse of his official position; did then and there willfully, unlawfully,



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and criminally act with evident bad faith by ordering his men to burn the truck bearing License Plate No. RMH-650 owned by Ernesto L. Relucio of JERA General Construction (JERA) – the contractor for the Lanao del Sur Electric Cooperative's (LASURECO) and the Department of Energy's (DOE) Joint Funded Project (project) – when said truck was to be used for the installation of concrete electric poles to implement said project for which his consent as Municipal Mayor had not been obtained; resulting in undue injury to Ernesto L. Relucio and/or JERA as well as the government due to the complete destruction of the truck worth approximately ₱5,000,000.00, and the obstruction of the project.

CONTRARY TO LAW.¹

The Court issued on 15 August 2016 a hold-departure order against Adiong.²

Adiong filed an Urgent Motion for Judicial Determination of Probable Cause³ dated 1 September 2016. In its Resolution⁴ dated 26 September 2016, the Court found that probable cause existed for the issuance of warrant of arrest and ordered that one be issued⁵ against Adiong. He posted cash bond in the amount of ₱30,000.00 for his provisional liberty.⁶

On 16 November 2016, he was arraigned and pleaded “not guilty” to the offense charged in the Information.⁷

The prosecution and Adiong submitted a Joint Stipulation of Facts and Issues⁸ on the following:

1. That accused Ali Untao Adiong was the Municipal Mayor of Ditsa-an Ramin, Lanao del Sur on the date material to this case.
2. That there was a project for the installation of concrete electrical posts of Lanao del Sur Electric Cooperative (LASURECO) within the Municipality of Ditsa-an Ramin, Lanao del Sur.
3. That the General Manager of LASURECO at the time material to the incident was one Sultan Ashary P. Maongco.
4. That a truck with plate number RMH-650 was burned on May 13, 2014.



¹ Records, Vol. 1, pp. 1-3.

² *Id.*, p. 188.

³ *Id.*, pp. 192-214.



⁴ *Id.*, pp. 217-218

⁵ *Id.*, p. 219.

⁶ Order dated 25 October 2016. *Id.*, p. 228.

⁷ Order dated 16 November 2016. *Id.*, p. 237.

⁸ Records, Vol. 1, pp. 310-313.

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ISSUES

The factual and/or legal issues to be resolved, as stated in the Pre-Trial Order, quoting the Joint Stipulation of Facts and Issues of the parties, are as follows:

For the prosecution:

1. Whether [or not] accused Ali Untao Adiong willfully, unlawfully and criminally acted with evident bad faith by ordering his men to burn the truck bearing License Plate No. RMH-650 resulting in undue injury to herein Ernesto L. Relucio and/or JERA General Construction for the complete destruction of the truck worth approximately ₱5,000,000.00; and

2. Whether [or not] accused Ali Untao Adiong willfully, unlawfully and criminally acted with evident bad faith by ordering his men to burn the truck bearing License Plate No. RMH-650 resulting in undue injury to the government due to the obstruction of the project.

For the defense:

1. Whether or not herein accused had participation in the burning of the boom truck on May 13, 2014; and

2. Whether or not herein accused is guilty beyond reasonable doubt of the offense charged in the Information.

EVIDENCE FOR THE PROSECUTION

The prosecution presented the following witnesses whose respective testimonies are summarized as follows:

1. **Sultan Ashary P. Maongco**⁹ (Maongco), General Manager of Lanao del Sur Electric Cooperative (LASURECO) at the time material to the case, testified on **direct examination**¹⁰ that on 13 May 2014, while attending a meeting, he was informed by his staff that the line truck of LASURECO's contractor, JERA General Construction (JERA), was burned. He learned that LASURECO's workers were threatened to leave the site or else something bad would happen to them. As a result, the concrete electrical posts installation project (the Project) in the Municipality of Ditsa-an Ramin, Lanao del Sur was

⁹ TSN, 1 August 2017, pp. 8-48.

¹⁰ *Id.*, pp. 11-36.


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halted. Upon learning of the incident, he called his staff and instructed them to go to the police station to have the incident entered in the police blotter. While prevented from reporting the incident at first, his staff later reported the incident to the Ditsa-an Ramin Police Station and returned to their office with a copy of the police blotter.¹¹

He further testified that after the incident, he called the management team, the LASURECO personnel and the contractor, JERA, for an investigation. The following day, he called for an emergency meeting with the Board of Directors (BOD) of LASURECO and discussed the incident. The BOD resolved to file a case against Adiong, Paisal Sacar and several others. The BOD also authorized him, through Board Resolution No. 69,¹² to file a complaint on behalf of LASURECO.

Pursuant to said authority, he filed a complaint¹³ against the above-named individuals with the Office of the Deputy Ombudsman for Mindanao. The complaint was based on the result of the investigation and affidavits of Salahodin B. Macapodi (Macapodi), Rafael B. Dioneda (Dioneda), Sohaimen M. Kumunug (Kumunug) and Muamar M. Noor (Noor). He added that after the incident, the LASURECO compound was also bombed. He noted that when he retired in August 2014, the Project had not resumed, and presently, the Project is already completely stopped.

He identified the Certificate of Registration (CR)¹⁴ and the Official Receipt (OR)¹⁵ for the burned truck with plate number RMH 650 and registered in the name of Ernesto L. Relucio (Relucio).

On **cross examination**,¹⁶ he stated that the staff he was referring to during the direct examination were Kumunug, Almanar Maongco (Almanar), Hussien Succor (Succor), Ampy Benito (Benito), Macapodi, Dioneda and his lawyer Atty. Ganie Abubacar (Atty. Abubacar). He clarified that while the burned truck is not owned by LASURECO but by its contractor JERA, LASURECO felt responsible because the contractor trusts the management of LASURECO. He added that the contract between LASURECO and JERA provides that the former shall provide security for the latter for the duration of the project. Moreover, Relucio, the owner of JERA, authorized him




11 Exh. "M".

12 Exh. "C".

13 Exh. "B".

14 Exh. "D".

15 Exh. "E".

16 TSN, 1 August 2017, pp. 37-40. 




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through a Special Power of Attorney¹⁷ to institute a case against the accused for the destruction of Relucio's property. He admitted no knowledge of any resistance from the landowners against the installation of electrical posts and distribution lines in the Municipality of Ditsa-an Ramin.

2. **Rafael B. Dioneda**¹⁸ (Dioneda), driver, foreman and chief supervisor at JERA, testified on **direct examination**¹⁹ that on 13 May 2014, around 8:45 a.m., as the driver of the boom truck that would be used to install concrete posts and distribution lines in Ditsa-an Ramin, he and the other workers of JERA waited for instructions from LASURECO. Meanwhile, a white Fortuner with a commemorative plate that read "MAYOR" arrived, followed by four (4) other vehicles. Two (2) persons alighted from the white Fortuner. Dioneda identified Adiong, who was present in the courtroom, as one of the two (2) individuals who alighted from the white Fortuner, the other one being its driver. Adiong asked Dioneda's companion why they were working there. Adiong also spoke to the LASURECO security personnel, Macapodi, in Maranao dialect which Dioneda could not understand. Then, the driver of the white Fortuner told them to leave or else they would die.

Adiong's driver got the *bareta* (crowbar) from JERA's boom truck and repeatedly hit its windshield. The same man used the *bareta* like a spear and threw it towards the windshield, then someone shouted "*Gasolina!*" Afterwards, gasoline was poured through the windshield of the boom truck. At that point, Dioneda and his co-workers moved away from the site. When he looked back, he saw that the boom truck was already on fire, while Adiong was still arguing with the security personnel. They left the place while the Fortuner, a multi-cab and several persons stayed in the site.

During the **cross-examination**,²⁰ Dioneda confirmed that he went to the police to report the incident. He also admitted that in his affidavit, the name of Adiong was not mentioned. Upon inquiry from the Court,²¹ he admitted that he did not know Adiong, and that it was only a day after the execution of his affidavit when he learned that the man on board the white Fortuner was Adiong, after he was shown his picture; hence, the omission of Adiong's name in his affidavit. He also stated that aside from the picture of Adiong, several other pictures





¹⁷ Exh. "B-1".

¹⁸ TSN, 4 September 2017, pp. 6-25.

¹⁹ *Id.*, pp. 7-17.

²⁰ *Id.*, pp. 17-24.

²¹ *Id.*, p. 21.

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were shown to him when he was made to identify the person he saw during the incident.²²

3. **Hussien E. Succor**²³ (Succor), Division Account Officer of LASURECO, testified on **direct**²⁴ that when he was informed by Rafael "Pap" Dioneda (Dioneda) of the burning of the boom truck, he immediately went to Barangay Masioon, Ditsa-an Ramin. He, along with Atty. Abubacar and Dioneda, went to the local police and had the incident entered in the police blotter. He identified his and Ampil P. Benito's Joint Affidavit that was adopted as part of his direct testimony.

On **cross-examination**,²⁵ Succor confirmed that he never saw who actually burned the boom truck. He further clarified that he was with the group who went to the police to file a blotter report but his name was not included in the police blotter.

Succor testified on **re-direct**²⁶ that he was with Benito, Almanar Mangco and Suhayme Kumineb on the day of the incident. When they arrived at Ditsa-an Ramin, they saw a white Fortuner with commemorative plate "MAYOR" coming from the direction of the burning vehicle.

On **re-cross**,²⁷ Succor said that they were invited by Adiong to discuss the stoppage of the Project of LASURECO. Upon inquiry from the Court,²⁸ he said that he was about fifty (50) to one hundred (100) meters away from the burning vehicle. He further stated that he did not see who were inside the Fortuner. When Dioneda informed him of the incident, the former told him that he did not know the name but recognized the person who ordered the burning. Succor admitted that Maongco requested him to execute an affidavit regarding the incident.

4. **Rey R. Ramirez**²⁹ (Ramirez), lineman of JERA, testified on **direct examination**³⁰ that at past 8:00 a.m. on 13 May 2014, he was at Ditsa-an Ramin waiting for instructions from LASURECO. Suddenly, a white Fortuner with a commemorative plate "MAYOR" arrived. While in front of the boom truck, he saw the driver of the

²² *Id.*, p. 24.

²³ TSN, 25 September 2017, pp. 4-25.

²⁴ *Id.*, pp. 6-15.

²⁵ *Id.*, pp. 15-17.

²⁶ *Id.*, pp. 18-20.

²⁷ *Id.*, pp. 20-21.

²⁸ *Id.*, p. 22.

²⁹ *Id.*, pp. 26-50.

³⁰ *Id.*, pp. 27-40.

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white Fortuner get out of the vehicle and got the crowbar from the boom truck. He smashed the windshield of the boom truck with the crowbar and then hurled the crowbar at the truck windshield. A police vehicle arrived, but instead of helping them, the police merely watched and then left the scene. When they heard someone shout "*Umalis na kayo!*", he, along with fellow linemen Raffy Balatinsanto (Balatinsanto), Crisanto Santac (Santac) and Raymund Balane (Balane) left, while Dioneda and Macapodi stayed. They waited for Dioneda at a school in Marawi. Dioneda told them that the truck was burning. The LASURECO team also arrived and brought them to the police station in Marawi. He did not accompany the others who went inside the police station. He identified a Joint Affidavit that he and the other affiants executed, which was adopted to form part of his direct testimony.

On **cross-examination**,³¹ he clarified that the school was far from the site of the incident. Upon inquiry from the Court,³² he said that he does know the person who smashed the windshield of the truck, but added that he could identify that person based on the markings on his body. He was not able to witness the burning of the boom truck. He replied that he probably met Adiong before, during and after the truck-burning incident, but was not sure that he was indeed Adiong.

5. **Ernesto L. Relucio**³³ (Relucio), whose testimony was dispensed with after the parties stipulated that: (1) Relucio can identify the Deed of Sale and the OR/CR to prove that he is the registered owner of the boom truck with Plate No. RMH-650 which was burned in the Municipality of Ditsa-an Ramin on May 13, 2014; and (2) the value of the truck which was burned is One Million One Hundred Fifty Thousand Pesos (₱1,150,000.00), based on the Deed of Sale and the bank deposit slips.

The prosecution formally offered in evidence³⁴ the following documentary exhibits:

Exhibit	Description
"B"	Amended Complaint-Affidavit dated June 11, 2014 by Sultan Ashary P. Maongco
"B-1"	Special Power of Attorney executed by Ernesto Lim Relucio
"C"	Board Resolution of Lanao Del Sur Electric Cooperative, Inc. (LASURECO) adopted on January 7, 2014

³¹ *Id.*, pp. 40-45.

³² *Id.*, pp. 48-49.

³³ TSN, 25 October 2017, pp. 3-16.

³⁴ Records, Vol. 1, pp. 330-334.

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"D"	Certificate of Registration No. 171154001 dated July 3, 2013, of the Fuso Truck with Plate No. RMH-650 owned by Ernesto Lim Relucio
"F"	Affidavit dated May 13, 2014 of Salahodin Baltaw Macapodi
"G"	Affidavit dated May 13, 2014 of Rafael B. Dioneda
"H"	Affidavit dated May 13, 2014 of Sohaimen M. Kumunug
"I", "I-1" to "I-8"	Affidavit dated May 19, 2014 of Muamar M. Noor, with attached pictures of the burning and/or burnt truck
"J"	Joint Affidavit dated May 13, 2014 of Ampí M. Benito and Hussien Eppi Succor
"K"	Joint Affidavit dated May 15, 2014 of Joel M. Madara, Rey R. Ramirez, Crisanto D. Santac, Raymund B. Balane and Raffy B. Balatinsanto
"L"	Affidavit-Complaint dated May 21, 2014 by Sultan Ashary P. Maongco
"M"	Police Blotter and its transcription
"N"	Deed of Sale dated June 5, 2013
"N-1"	BDO Cash Deposit Slip dated May 25, 2013 in the amount of ₱30,000.00
"N-2"	BDO Check Deposit Slip dated May 29, 2013 in the amount of ₱345,000.00
"N-3"	BDO Check Deposit Slip dated June 4, 2013 in the amount of ₱775,000.00

The Court admitted into evidence Exhibits "B" to "N" for the purposes for which they were offered but subject to the Court's proper appreciation of their respective probative value.³⁵

Adiong filed a Motion for Leave to File Demurrer to Evidence,³⁶ which the Court denied.³⁷

EVIDENCE FOR THE DEFENSE

The defense presented the following witnesses with summary of their respective testimonies:

1. **Nasser P. Bubong**³⁸ (Bubong), member of the *Sangguniang Bayan* of Ditsa-an Ramin, Lanao del Sur at the time material to the case, identified his Judicial Affidavit during the **direct examination**.³⁹ On **cross-examination**,⁴⁰ he clarified that on 12 May 2014, Adiong called him and told him that the residents of the said municipality were opposing the installation of concrete electrical posts being conducted by LASURECO employees. The following day, around

³⁵ Resolution dated 6 December 2017. *Id.*, p. 344.

³⁶ *Id.*, pp. 347-349.

³⁷ Order dated 11 January 2018. *Id.*, p. 352.

³⁸ TSN, 21 February 2018, pp. 6-39.

³⁹ *Id.*, pp. 9-14.

⁴⁰ *Id.*, pp. 14-24.

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9:20 a.m., after learning about the truck-burning incident, he went to Adiong, who was then presiding over an executive meeting, and told the latter what happened. He admitted that he did not see Adiong within the municipal premises before 9:20 A.M.

On **re-direct**,⁴¹ he replied that he arrived at the municipal hall around 8:30 a.m. on 13 March 2014. On that day, LASURECO employees were supposed to meet Adiong at 9:00 a.m. He assumed that Adiong arrived at the municipal hall early because the latter was in a meeting that same morning.

Upon inquiry from the Court,⁴² Bubong explained that the fact-finding committee formed to investigate the persons responsible for the burning of the boom truck found that a vehicle passed by the boom truck and somebody threw a burning bottle inside it. The committee also found that the truck had faulty electrical wiring that caused the fire. He confirmed that the meeting supposedly held in the morning of 13 March 2014 with Adiong, LASURECO representatives and the residents did not take place, such that no minutes of the meeting were made. He added that he and Asari Ampuan (Ampuan) were tasked by Adiong to mediate the dispute between the residents and LASURECO. As to why he and Ampuan were chosen, he supposed that Adiong trusted them because of their knowledge of the disputes happening in the locality. He also confirmed that the municipal hall was only about one (1) kilometer away from the site of the truck-burning incident.

2. **Mustapha D. Salic**⁴³ (Salic), Municipal Assessor and Municipal Planning and Development Coordinator-designate of the Municipality of Ditsa-an Ramin, Lanao Del Sur, testified on **direct examination**⁴⁴ that pictures were taken during the 13 March 2014 executive meeting which included himself, Adiong, and several other persons. He also identified his Judicial Affidavit.

On **cross-examination**,⁴⁵ he replied that when he arrived at 8:30 a.m., the other attendees were already at the venue of the executive meeting. He confirmed that taking photographs during meetings is the usual practice of the municipal government. He also said that there was an attendance sheet but it did not indicate the time of the meeting. He added that he was usually the one who prepares the minutes of the meeting with the assistance of his staff.

⁴¹ *Id.*, pp. 24-26.

⁴² *Id.*, pp. 27-41.

⁴³ *Id.*, pp. 45-93.

⁴⁴ *Id.*, pp. 46-61.

⁴⁵ *Id.*, pp. 62-93.

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His staff were also at the meeting but they were not listed in the attendance sheet nor included in the photographs because they are not heads of offices.


He confirmed that based on the minutes of the 13 March 2014 executive meeting, the annual budget and Annual Procurement Plan for 2013 were discussed. He explained that the minutes of the executive meeting were not approved or signed by those who attended because it was merely an informal meeting called only for assessment purposes.

The Court inquired⁴⁶ on why the meeting was adjourned at 9:20 a.m. Salic replied that it was because around 8:50 a.m., Adiong was informed via phone call about the truck-burning incident. Adiong instructed someone to verify the report and proceeded with the meeting for around thirty (30) minutes more.

On **re-direct**,⁴⁷ he clarified that the reason why his name appeared first in the attendance sheet even if he was not the first one to arrive was that he was seated to the left of Adiong, and the paper was merely passed around for everyone to sign.

3. **Punod A. Alonto, Jr.**⁴⁸ (Alonto), Information Officer II, Municipality of Ditsa-an Ramin, Lanao Del Sur, testified on **direct examination**⁴⁹ that he took the photographs during the 13 March 2014 executive meeting. Alonto identified the persons in the photos, one of them being accused Adiong. He stated that on that day, he was not able to sign the attendance sheet because they became upset with the news brought by the municipal councilors about the truck-burning incident. He identified his Judicial Affidavit.

During the **cross-examination**,⁵⁰ the Court noted that while Alonto's signature appears on Memorandum No. 20, he did not indicate the date of his receipt thereof, unlike the others who signed their names and the dates of receipt on their respective copies. He confirmed that the camera that he used to take the photographs was his personal point-and-shoot camera, and that while the Information Office has its own camera, he does not use the same because it is assigned to the cameraman of the municipality. He agreed with the prosecution that through the camera's settings, the date in the




⁴⁶ *Id.*, pp. 87-90.

⁴⁷ *Id.*, pp. 91-93.

⁴⁸ *Id.*, pp. 96-130.

⁴⁹ *Id.*, pp. 96-110.

⁵⁰ *Id.*, pp. 110-130. 



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camera can be easily changed. When the Court inquired⁵¹ as to when Adiong was informed of the truck-burning incident, Alonto answered that it was only when the councilors came that Adiong learned about the burning of the truck at the National Highway.

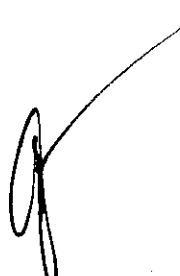
4. **Pinky Arabon A. Macapundag**⁵² (Macapundag), Municipal Local Government Operations Officer, Municipality of Ditsa-an Ramin, Lanao Del Sur, identified her Judicial Affidavit during the **direct examination**.⁵³ On **cross-examination**,⁵⁴ she testified that on 13 May 2014, she arrived at the Municipal Hall around 8:20 a.m. She said that when she went to the meeting venue, Adiong was the first person there while the last person to arrive that morning was Salic. She confirmed that while she was one of the first persons to arrive at the room, it was still Salic who first signed the attendance sheet.

During the meeting, they discussed, for thirty (30) minutes, the full disclosure policy covering the Annual Budget for 2013 and the APP List for 2013 in view of the incoming visit of the Regional Assessment Team for the inspection and verification of the documents of the municipality. She agreed that the APP List for 2013 should have been finished by end of 2012, and that the APP List for 2014 should have been available at that time. She confirmed that the meeting began at 8:30 a.m. and ended around 9:00 a.m. She added that the meeting was interrupted when someone called Adiong on his cellphone.

Upon inquiry from the Court,⁵⁵ she answered that the site of the burning incident was around one (1) kilometer away from the Municipal Hall, a distance which could be covered in more or less five (5) to six (6) minutes of travel time by car.

The Court further inquired if, during her commute to the Municipal Hall, she saw any unusual incident on the road, to which she answered in the negative.⁵⁶

5. **Ashary T. Ampuan**⁵⁷ (Ampuan), a member of the *Sangguniang Bayan* of Ditsa-an Ramin, Lanao del Sur at the time material to the case, identified his Judicial Affidavit during the **direct**



⁵¹ *Id.*, pp. 129-130.

⁵² TSN, 22 February 2018, pp. 11-30.


⁵³ *Id.*, pp. 11-13.

⁵⁴ *Id.*, pp. 14-25.

⁵⁵ *Id.*, pp. 26-27.

⁵⁶ *Id.*, p. 29.

⁵⁷ *Id.*, pp. 31-70.



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examination.⁵⁸ He testified on **cross-examination**⁵⁹ that around 3:00 p.m. on 12 May 2014, Adiong requested Bubong to verify information regarding the installation of electrical posts being conducted by LASURECO. He said that the residents were opposing the installation of the electrical posts because of the poor service of LASURECO. After receiving the call, he and Bubong went to *Barangay Pagalongan, Ditsa-an Ramin* and spoke with the representative of LASURECO and the members of the community.

He stated that Adiong set a meeting on 13 May 2014 at 9:00 a.m. On that day, he arrived at 8:30 a.m. in the Municipal Hall and met Bubong on his way. Both of them waited on the ground floor for the LASURECO representatives until 9:20 a.m. However, no representative of LASURECO arrived. Then, former municipal councilor Saider Nor (Nor) arrived and informed them that the LASURECO employees continued the installation of the concrete posts and distribution lines in *Barangay Paralongan, Ditsa-an Ramin*. They immediately went to Adiong and Bubong informed the latter of LASURECO's actuations.

He maintained that while he was not in the meeting, he knew that Adiong was at the Municipal Hall because the latter was presiding at an executive meeting.

On **re-direct**,⁶⁰ he insisted that he knew that Adiong was in the building because the meeting was already ongoing at that time.

The Court inquired⁶¹ as to the nature of the 13 May 2014 meeting called by Adiong, to which Ampuan replied was a special meeting. He affirmed that at 9:20 a.m., he had no knowledge of the truck-burning incident yet, and only knew about it around 9:25 a.m. He also confirmed that for activities or projects such as the installation of concrete posts, a permit or approval must be secured from the municipality.

Upon further inquiry from the Court,⁶² Ampuan clarified that a meeting was supposed to be held on 13 May 2014 at 9:00 a.m. at the Municipal Hall to be attended by Adiong, LASURECO representatives and the local residents. He added that Adiong also called for an executive meeting at the Municipal Hall around the same time as the meeting for LASURECO and the residents. When asked regarding

⁵⁸ *Id.*, pp. 31-32

⁵⁹ *Id.*, pp. 33-46.

⁶⁰ *Id.*, pp. 47-49.

⁶¹ *Id.*, p. 50.

⁶² *Id.*, pp. 61-70.

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his participation, Ampuan stated that he was not part of the executive meeting on 13 May 2014; instead, he was at the ground floor of the Municipal Hall waiting until 9:20 a.m. for LASURECO representatives and the local residents to show up for the other meeting scheduled that morning. He further stated that around 9:30 a.m., he and Bubong went to the venue of the executive meeting and informed Adiong that none of the expected attendees showed up and that LASURECO workers were installing concrete posts. Then, Adiong instructed them to go to the place where such installation was taking place. They followed Adiong's order but did not reach the place where the boom truck was because a group of civilians told them not to proceed since the truck was already burning. He confirmed that they did not investigate further on the matter and opted to go back to the Municipal Hall to inform Adiong of what happened. Upon hearing their report around 10:00 a.m. of the same day, Adiong adjourned the executive meeting and instructed him and Bubong to find out who burned the truck.

Ampuan further stated that a fact-finding committee of which he was a member was formed in response to the incident. The said fact-finding committee reported orally to Adiong that the boom truck passed by and somebody threw explosive materials at the truck. They also found that there was faulty electrical wiring because several civilians said that the truck burned without any external intervention. He admitted that there was no written committee report on such findings with regard to the truck-burning incident.

6. **Ali Untao Adiong**⁶³ (Adiong), former Municipal Mayor of Ditsa-an Ramain, Lanao Del Sur, and accused herein, testified on **direct examination**⁶⁴ that through a memorandum dated 11 May 2014, he informed the different department heads and line agencies that they would be having an executive meeting on 13 May 2014. On 13 May 2014, he arrived at the Municipal Hall about past 8:00 a.m. The said executive meeting commenced as scheduled and in that meeting they discussed the arrival of the Regional Assessment Team from the Department of the Interior and Local Government (DILG) for the assessment and evaluation for the Seal of Good Governance of the Municipality. He confirmed that minutes of the executive meeting were prepared. He said that the meeting adjourned at 9:30 a.m. because he received a report informing him that the boom truck of LASURECO was burning.

⁶³ TSN, 16 April 2018, pp. 5-49. *d*

⁶⁴ *Id.*, pp. 9-38.

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In response to the report, he issued Executive Order No. 005-2014 for the creation of a fact-finding committee on the burning of the boom truck along the highway between Barangay Pendolonan, Municipality of Bulong and Pagalongan Masioon, Municipality of Ditsa-an Ramin. The committee reported to him that a person poured gasoline on the boom truck and that the vehicle had faulty electrical wirings that caused it to be burned.

Upon inquiry from the Court,⁶⁵ Adiong confirmed that there was no written report submitted to him, and that the committee merely conveyed their findings orally.

As to the destructive arson case filed against him, he clarified that it was already dismissed because of the affidavits executed by Salahodin Baltaw Macapodi and three (3) other witnesses stating that he was not the one who burned the truck.

Still on direct examination,⁶⁶ he said that the scheduled special meeting did not push through because no representative of LASURECO arrived. He maintained that contrary to Dioneda's testimony, he does not own a Fortuner and he never went to the place where the truck was burned in the morning of 13 May 2014. He said that he only went to the place and checked the boom truck after the incident, or about past 10:00 a.m.



On **cross examination**,⁶⁷ Adiong confirmed that he issued the memorandum dated 11 May 2014 even if it was a Sunday. He also confirmed that it would take more than five (5) minutes of vehicular travel from the Municipal Hall to the place of the incident. He said that he does not pass through *Barangay Pagalongan* to go to his office at the Municipal Hall.

He affirmed that the persons who gave him the oral report were Bubong and Ampuan, and not the chairman of the fact-finding committee. He also agreed that while the burning site was at the border of Bubong and Ditsa-an Ramin and that the incident happened near his territorial jurisdiction as mayor of Ditsa-an Ramin, he did not know who burned the boom truck. He argued that he also investigated the incident; however, the only findings that he came up with were the same with the earlier findings of the fact-finding committee. He said that the committee report was relayed to

⁶⁵ *Id.*, p. 25.

⁶⁶ *Id.*, pp. 35-38.

⁶⁷ *Id.*, pp. 39-49.



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the police by Bubong and Ampuan, but there was really no information as to who burned the truck.

Upon inquiry from the Court,⁶⁸ he said that he did not talk to LASURECO about the solution to the incident in relation to his duty as mayor of the municipality because no representative of LASURECO approached him.

The defense formally offered in evidence the following documentary exhibits.⁶⁹

Exhibit	Description
"1"	Memorandum No. 020 Series of 2014 dated May 11, 2014 issued by herein accused, as Municipal Mayor addressed to his Department Heads and Heads of Line Agencies calling for an Executive Meeting on May 13, 2014 at 8:30 o'clock in the morning
"2"	Attendance Sheet of the Executive Meeting held on May 13, 2014 at the Office of the Mayor
"3"	Minutes of the May 13, 2014 Executive Meeting
"4"	Executive Order No. 005-2014 series of 2014 issued by the accused as Municipal Mayor, creating a fact-finding committee to conduct investigation into the burning of the Boom Truck of LASURECO
"5"	Joint Affidavit of Nasser P. Bubong and Ashary Ampuan dated June 17, 2014
"6"	Joint Affidavit of Hadji Fahad Mama A. Gani, Hadja Saripe B. Arumpac, Pinky A. Macapundag, Hadja Nasiba A. Nuska, Engr. Qahar A. Mamacol, Maingco M. Bangadan and Engr. Mustapha D. Salic dated June 17, 2014
"7," "7-A" to "7-F"	Series of photos depicting the attendees of the Executive Meeting with accused as the Presiding Officer
"8"	Certification dated May 14, 2014 issued by Chief of Police Achmad Solaiman of the PNP Ditsa-an Ramin
"10"	Affidavit of Salahodin Baltaw Macapodi executed on January 20, 2016 before Marilou B. Unabia, Graft Investigation and Prosecution Officer I, Office of the Ombudsman-Mindanao
"11"	Affidavit of Refutation of Muamar M. Noor executed on January 19, 2014 before Marilou B. Unabia, Graft Investigation and Prosecution Officer I, Office of the Ombudsman-Mindanao
"12"	Affidavit of Ampy Benito executed on January 19, 2014 before Marilou B. Unabia, Graft Investigation and Prosecution Officer I, Office of the Ombudsman-Mindanao
"13"	Order dated March 15, 2016 of Hon. Wenida B.M. Papandayan, Presiding Judge, RTC, Branch 10, Marawi City dismissing Criminal Case No. 7390-14 (Destructive Arson) filed against accused

⁶⁸ *Id.*, p. 48.

⁶⁹ Records, Vol. 2, pp. 21-28.

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"14"	Affidavit of Sohaimen M. Kumunug executed on January 19, 2014 before Marilou B. Unabia, Graft Investigation and Prosecution Officer I, Office of the Ombudsman-Mindanao
"15"	Counter-Affidavit of Ali Untao Adiong
"17"	Affidavit of Rafael B. Dioneda dated May 13, 2014 (Exh. "G" of the prosecution)
"18"	Joint Affidavit of Ampy P. Benito and Eppie Succor dated May 13, 2014 (Exh. "J" of the prosecution)
"18-A"	Paragraph 5 of said Joint Affidavit
"19," "19-A"	Joint Affidavit of Joel M. Madara, Rey R. Ramirez, Crisanto D. Santac, Raymund B. Balane and Raffy Balatisanto dated May 15, 2014 (Exh. "K" of the prosecution)
"20"	Judicial Affidavit of Nasser P. Bubong dated February 8, 2018
"20-A"	Signature of Nasser P. Bubong found on page 7 of said Judicial Affidavit
"21"	Judicial Affidavit of Engr. Mustapha D. Salic dated February 8, 2018
"21-A"	Signature of Engr. Mustapha D. Salic found on page 7 of said Judicial Affidavit
"22"	Judicial Affidavit of Ponod Alonto, Jr. dated February 8, 2018
"22-A"	Signature of Ponod Alonto, Jr. found on page 4 of said Judicial Affidavit
"23"	Judicial Affidavit of Pinky A. Macapundag dated February 8, 2018
"23-A"	Signature of Pinky A. Macapundag found on page 7 of said Judicial Affidavit
"24"	Judicial Affidavit of Ashary Ampuan dated February 9, 2018
"24-A"	Affidavit of Ashary Ampuan found on page 7 of said Judicial Affidavit

The Court admitted into evidence Exhibits "1" to "8" and "9"⁷⁰ to "24-A" for the purposes for which they were offered but subject to the Court's proper appreciation of their respective probative value.⁷¹

THE FACTS

The facts established by testimonial and documentary evidence on record are as follows:

At the time material to the case, Adiong was the Municipal Mayor of the Municipality of Ditsa-an Ramin, Province of Lanao del Sur.

On 13 May 2014, around 8:45 a.m., workers of JERA General Construction (JERA), contractor of Lanao del Sur Electric Cooperative

⁷⁰ Should be "10" instead of "9." Exhibit "9" was not formally offered.

⁷¹ Resolution dated 22 May 2018. Records, Vol. 2, p. 132.

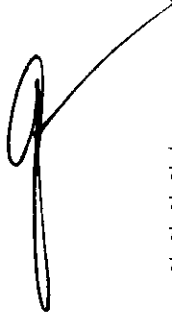
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(LASURECO) for the installation of concrete electrical posts and distribution lines in the Municipality of Ditsa-an Ramin, Province of Lanao del Sur, stopped along the National Highway, *Barangay Pagalongan* in the same municipality to wait for instructions from the LASURECO personnel. At that time, Dioneda, supervisor of JERA, was the driver of a boom truck described as a Fuso Fighter Truck with Mounted Crane with plate number RMH 650⁷² registered in the name of Ernesto L. Relucio of JERA and purchased at ₱1,500,000.00.⁷³

Suddenly, a white Fortuner vehicle with commemorative plate "MAYOR" arrived, followed by other vehicles. Prosecution witnesses Dioneda and Ramirez, JERA workers, saw Adiong and the driver get off the white Fortuner. Adiong talked to Salahodin Macapodi, a security guard from LASURECO, in Maranao language. The driver of the white Fortuner told the JERA workers to leave at once or else they would die. The driver got a crowbar from the boom truck and used it to destroy the truck windshield, then hurled it through the windshield. A police mobile car arrived. The policemen merely watched what happened and left. Then someone shouted "*Gasolina!*" while a man poured gasoline on the truck. When the JERA workers went away, they saw that the boom truck was already in flames.⁷⁴

The JERA workers met with several LASURECO personnel and they went to the police station in Marawi City where the truck-burning incident was entered in the police blotter.

Adiong and the defense witnesses present a different version of the subject incident, as follows:

On 13 May 2014, Adiong presided at an executive meeting with eight (8) municipal department heads and heads of line agencies that started at 8:30 a.m. Based on his Memorandum No. 020, Series of 2014⁷⁵ dated 11 May 2014 (a Sunday), the executive meeting was for the preparations for the upcoming visit of the Regional Assessment Team of the Department of the Interior and Local Government for the assessment and evaluation of the municipality for Seal of Good Governance. He adjourned the meeting at 9:20 a.m. after he received a report on the truck-burning incident that occurred a few kilometers away from the municipal hall where the executive meeting was held.




72 Exhibits "D" and "E".

73 Exhs. "N" to "N-3."

74 TSN, 4 September 2017, pp. 8-15; TSN, 25 September 2017, pp. 28-33.

75 Exh. "1."

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He issued on the afternoon of the same day Executive Order No. 005-2014 Series of 2014⁷⁶ creating a fact-finding committee to conduct investigation on the truck-burning incident and to submit to him a report of its findings.

The day before, Adiong called Bubong and requested the latter to verify reports that local residents of *Barangay Pagalongan* were opposing LASURECO's construction of concrete electrical posts in their area due to the poor service of LASURECO. Bubong and Ampuan, who were then members of the *Sangguniang Bayan* of Ditsa-an Raman, went to the said *barangay* and spoke with the residents and several LASURECO personnel. They also informed the residents and the LASURECO representatives that Adiong called a meeting the next day, 13 May 2014, at 9:00 a.m. for the settlement of the dispute. However, such meeting did not take place due to the absence of any LASURECO representative.

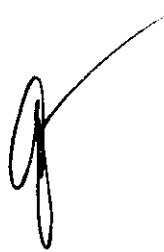
The fact-finding committee, through Bubong and Ampuan, both committee members, orally reported to Adiong that the burning of the boom truck was caused by someone who poured gasoline at the truck and was due to faulty electrical wiring.

On 13 June 2014, Sultan Ashary P. Maongco, General Manager of LASURECO, filed an Amended Complaint-Affidavit with the Office of the Deputy Ombudsman for Mindanao against Adiong and the other respondents.


The Office of the Ombudsman issued a Joint Resolution⁷⁷ dated 1 October 2015 finding probable cause to indict Adiong for violation of Section 3(e) of R.A. No. 3019 while dismissing the other charges against him and the other respondents.


Adiong filed a Verified Motion for Partial Reconsideration but the Office of the Ombudsman denied the same in its Order⁷⁸ dated 3 May 2016.

On 10 August 2016, the Office of the Ombudsman filed with the Court an Information for violation of Section 3(e) of R.A. No. 3019 against Adiong.


76 Exh. "4."

77 Records, Vol. 1, pp. 5-16.

78 Id., pp. 18-23. 



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DISCUSSION

Adiong is charged with violation of Section 3(e) of R.A. No. 3019 that reads as follows:

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.

The prosecution must prove beyond reasonable doubt all the following elements of violation of Section 3(e) of R.A. No. 3019:

- (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 gross inexcusable negligence; and
- (3) his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.⁷⁹

The first element exists in this case. Both parties admitted in their Joint Stipulation of Facts and Issues,⁸⁰ adopted in the Pre-Trial Order,⁸¹ that during the period material to this case, Adiong was the Municipal Mayor of Ditsa-an Ramin, Lanao del Sur, hence a public officer. Being a judicial admission, such fact does not require proof.⁸²

As to the second element, the Information accuses Adiong of acting with evident bad faith by ordering his men to burn the boom truck that was to be used for the installation of concrete electric poles but for which his consent as municipal mayor had not been obtained.

⁷⁹ *Ambil, Jr. v. Sandiganbayan*, 653 SCRA 576, 592 (2011).

⁸⁰ Records, Vol. 1, pp. 213-214.

⁸¹ *Id.*, pp. 220-228.

⁸² Rule 129, Section 4, Rules of Court.

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Jurisprudence describes “evident bad faith” as not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes.⁸³

Evidently, the act of maliciously burning the property of another manifests moral depravity and “conscious wrongdoing for some perverse motive or ill will.” On this matter, the question confronting the Court is: Has the prosecution established beyond reasonable doubt that Adiong ordered his men to burn the boom truck owned by Ernesto L. Relucio as alleged in the Information?

The Court rules in the affirmative.

Prosecution witness Dioneda positively identified Adiong as one of the two (2) persons who alighted from the white Fortuner with commemorative plate “MAYOR” and confronted LASURECO security guard Salahodin B. Macapodi in Maranao language moments before the boom truck was burned. He also identified Adiong as the person who confronted his (Dioneda’s) co-worker on why they were working there. After that, he saw the driver of the white Fortuner destroy the windshield of the boom truck with a crowbar. Dioneda also heard someone shout “Gasolina!” while gasoline was poured on the boom truck and the truck was burned thereafter.⁸⁴ This direct and positive identification made by Dioneda on Adiong’s presence and participation in the truck-burning incident deserves credence and is sufficient to prove beyond reasonable doubt the charge that Adiong ordered his men to burn the boom truck.

On the other hand, Adiong’s defense that he was, on the precise date and time of the truck-burning incident, presiding over an executive meeting at the Mayor’s Office in the Municipal Hall, deserves scant consideration. On this point, he failed to prove that it was physically impossible for him to be at the scene of the truck-burning incident on that date and time. Proven during the trial was the fact that it only takes around five (5) minutes to travel by motor vehicle the distance between the Municipal Hall of Dista-an Ramin
where the executive meeting allegedly took place and the site of the truck-burning incident along National Highway, *Barangay Pagalongan*

⁸³ *Uriarte v. People*, 511 SCRA 471, 487-488 (2006).

⁸⁴ TSN, 4 September 2017, pp 7-17.

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of the same municipality. In this regard, the following pronouncement of the Supreme Court in *Lumanog v. People*⁸⁵ finds relevance:

Alibi is the weakest of all defenses, for it is easy to fabricate and difficult to disprove, and it is for this reason that it cannot prevail over the positive identification of the accused by the witnesses. To be valid for purposes of exoneration from a criminal charge, the defense of alibi must be such that it would have been **physically impossible for the person charged with the crime to be at the *locus criminis* at the time of its commission**, the reason being that no person can be in two places at the same time. The excuse must be so airtight that it would admit of no exception. **Where there is the least possibility of accused's presence at the crime scene, the alibi will not hold water.**

Deeply embedded in our jurisprudence is the rule that **positive identification of the accused, where categorical and consistent, without any showing of ill motive on the part of the eyewitness testifying, should prevail over the alibi and denial** of appellants, whose testimonies are not substantiated by clear and convincing evidence. x x x (Emphasis added)

Even Adiong and the defense witnesses' insistence that there was indeed an executive meeting in which Adiong presided that took place in the Municipal Hall between 8:30 a.m. and 9:20 a.m. on 13 May 2014, fails to convince the Court. The Court notices inconsistencies in the documents offered by the defense to prove such alibi, two (2) among which are the following:

1. Memorandum No. 020, Series of 2014 was issued by Adiong on a Sunday, 11 May 2014. Sunday is recognized as a non-working day for government offices. The Court cannot take judicial notice of Adiong and Salic's assertion that Sunday is a working day in the Autonomous Region in Muslim Mindanao (ARMM). For, even the civil service law in the ARMM clearly provides that Sunday is a non-working day for government employees. The Muslim Mindanao Autonomy Act No. 304,⁸⁶ known as the Regional Civil Service Law in the ARMM, states:

SECTION 11. Office Hours. a.) As provided under Rule XVII Section 1 of Executive Order 292, it shall be the duty of each department or agency to require all officers and employees under it to strictly observe the prescribed office hours. Further, Section 5 of the said law provides that except those covered by special laws,

⁸⁵ G.R. No. 182555, 7 September 2010.

⁸⁶ Passed by the Regional Assembly on 18 June 2013. https://armm.gov.ph/armm-content/uploads/2015/03/MMAA_304_ARMM_CSC_Law-Final_Approved_Version_no_footnote_2015_03_04_04_54_48_904.pdf. Last visited 3 October 2018.

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offices, and employees shall render 8 hours of work per day for 5 days a week for a total of 40 hours a week.

b.) For purposes of this Act the working hours of employees and officers shall be the same as those provided under Section 5 of Rule XVII of the Civil Service Commission, except on a Friday, which shall be from seven thirty to eleven (7:30 – 11:00) in the morning and from one to five thirty (1:00 – 5:30) in the afternoon, to give time for the observance of the Friday Holy hour's practices of the Muslim officials and employees.

c.) **Saturdays and Sundays are non-working days to all employees.** National and Muslim Holidays shall be observed in the Autonomous Region in Muslim Mindanao.

x x x (Emphasis supplied)

2. Only a few municipal department heads and heads of line agencies were notified of the executive meeting. While the memorandum was addressed "For: Department Heads and Heads of Line Agencies," several municipal department heads and heads of line agencies were left out of the executive meeting. If the agenda for the meeting was in preparation for the upcoming DILG assessment of the municipality for Seal of Good Local Governance, an important event for local government units, then Adiong should have involved all municipal departments and line agencies. As it turned out, only around ten (10) department heads and heads of line agencies were invited, as shown by their or their representatives' signatures on the memorandum indicating their receipt of copies of the same. Some of the municipal department heads that were not notified were the Municipal Administrator, Municipal Engineer, Municipal Budget Officer, Municipal Treasurer and the Secretary to the *Sangguniang Bayan*. The heads of the line agencies who were not notified of the executive meeting included the Chief of Police, the Municipal Health Officer, the Postmaster, the Municipal Circuit Trial Judge and the school heads/principals of public schools under the Department of Education.

In all, the prosecution has established beyond reasonable doubt the presence of the second element in this case.

Regarding the third element, the term "undue injury" is explained as follows:

Undue injury in the context of Section 3(e) of R.A. No. 3019 should be equated with that civil law concept of 'actual damage.' Unlike in actions for torts, undue injury in Sec. 3(e) cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of

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the crime. In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.⁸⁷

The prosecution has likewise proven the existence of the third element. It presented proofs of ownership of the burned boom truck, i.e., the Deed of Sale, the Certificate of Registration and the Official Receipt for the vehicle, which all point to Ernesto L. Relucio as the real owner. It also offered in evidence the bank deposit slips and the Deed of Sale to prove that the boom truck was valued at ₱1,500,000.00, its actual purchase price. As a result of Adiong's unlawful act of ordering the burning of the boom truck, Ernesto L. Relucio is entitled to recover from him the value of the destroyed boom truck, pursuant to Section 9 of R.A. No. 3019 that provides:

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 value of such thing.

In conclusion, the prosecution has successfully proven beyond reasonable doubt the guilt of accused Ali Untao Adiong of the crime of Violation of Section 3(e) of R.A. No. 3019.

WHEREFORE, premises considered, the Court finds accused Ali Untao Adiong **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019 and hereby imposes on him an indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum with perpetual disqualification from holding public office, and to pay Ernesto L. Relucio the amount of One Million One Hundred Fifty Thousand Pesos (₱1,150,000.00) as damages for the burned and destroyed boom truck.

SO ORDERED.

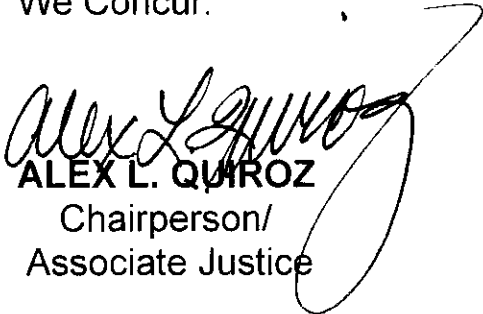



REYNALDO P. CRUZ
Associate Justice

⁸⁷ *Rivera v. People*, 743 SCRA 476, 503 (2014).

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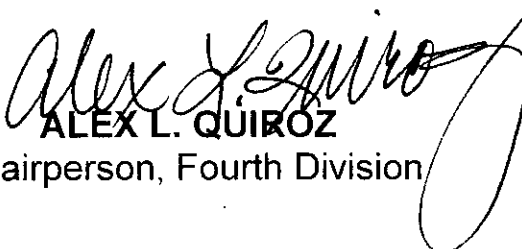
We Concur:


ALEX L. QUIROZ
Chairperson/
Associate Justice


BAYANI H. JACINTO
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.


ALEX L. QUIROZ
Chairperson, Fourth 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

