



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

SB-17-CRM-2445 to 2447
For: Violation of Section 3(h),
R.A. No. 3019, as amended

ALBERTO AGUILAR NICOR, JR.,
Accused.

X ----- X

DECISION

Accused Alberto Aguilar Nicor, Jr. is charged with Violation of Section 3 (h) of Republic Act (R.A.) No. 3019 on three [3] counts. The Informations dated October 3, 2017 against him read:

SB-17-CRM-2445

That on or about 24 January 2013, or sometime prior or subsequent thereto, in the Municipality of La Castellana, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, accused **ALBERTO AGUILAR NICOR, JR.**, a high-ranking public officer, being then the Municipal Mayor of La Castellana, Negros Occidental, while in the performance of his administrative and/or official functions and committing the crime in relation to office, taking advantage of his official position, did then and there willfully, unlawfully and criminally cause the issuance a Mayor's Permit in favor of his wife Noeme G. Nicor to operate a hollow blocks business, thereby intervening in his official capacity as Mayor in approving the permit of a business of which he had direct financial and pecuniary interest, to the detriment of public interest.

CONTRARY TO LAW.

A handwritten signature, likely of the judge, is written below the text "CONTRARY TO LAW.".

A handwritten signature, likely of the clerk, is written to the right of the text "CONTRARY TO LAW.".

SB-17-CRM-2446




That on or about 25 January 2013, or sometime prior or subsequent thereto, in the Municipality of La Castellana, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, accused **ALBERTO AGUILAR NICOR, JR.**, a high-ranking public officer, being then the Municipal Mayor of La Castellana, Negros Occidental, while in the performance of his administrative and/or official functions and committing the crime in relation to office, taking advantage of his official position, did then and there willfully, unlawfully and criminally cause the issuance a Mayor's Permit in favor of himself to engage in a trucking business, thereby intervening in his official capacity as Mayor in approving the permit of a business of which he had direct financial and pecuniary interest, to the detriment of public interest.

CONTRARY TO LAW.

SB-17-CRM-2447

That on or about 25 February 2013, or sometime prior or subsequent thereto, in the Municipality of La Castellana, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, accused **ALBERTO AGUILAR NICOR, JR.**, a high-ranking public officer, being then the Municipal Mayor of La Castellana, Negros Occidental, while in the performance of his administrative and/or official functions and committing the crime in relation to office, taking advantage of his official position, did then and there willfully, unlawfully and criminally cause the issuance a Mayor's Permit in favor of himself and his business partner Paul Garcia to operate a trucking business, thereby intervening in his official capacity as Mayor in approving the permit of a business of which he had direct or indirect financial or pecuniary interest, to the detriment of public interest.

CONTRARY TO LAW.



The arraignment of the said accused was initially scheduled on February 23, 2018. On the said date, her counsel informed the Court that she had submitted an offer of plea bargaining to the prosecution which was confirmed by the handling prosecutor. Thus, upon the request of the counsel for the accused, and without objection on the part of the prosecution, the said arraignment was cancelled and reset to April 27, 2018, at 1:30 in the afternoon.¹ By way of *Constancia*, this scheduled arraignment was likewise cancelled due to lack of quorum and reset to July 27, 2018 at 8:30 in the morning.

At the scheduled arraignment on July 27, 2018, Prosecutor Lyn G. Dimayuga, representing the prosecution, informed the Court that the parties have a draft of a plea-bargaining agreement in these cases but due to the change in leadership in the Office of the Ombudsman, the same has to be submitted for approval by the new Ombudsman. For this reason, both the prosecution and the counsel for the accused requested for the cancellation of the scheduled arraignment which was granted by the Court. Accordingly, the arraignment of the accused was again reset to September 28, 2018, at 8:30 in the morning.

Before the said re-scheduled date of arraignment, the plaintiff and the accused filed a Joint Manifestation and Motion dated September 19, 2018, attaching therewith a Plea Bargaining Agreement dated August 29, 2018, praying that the said Joint Manifestation and Motion be duly considered and that the attached Plea Bargaining Agreement be approved by the Court.² In the same agreement, the accused manifested his willingness to plead guilty to the lesser offense of *Violation of Section 7 (a) of R.A. No. 6713* instead of the crime of *Violation of Section 3 (h) of R.A. No. 3019* with which he is charged, on three (3) counts, which was accepted by the prosecution.

On September 28, 2018, the date of the rescheduled arraignment, the said Joint Manifestation and Motion and Plea Bargaining Agreement were submitted for resolution.³

In its Resolution promulgated on November 29, 2018, the Court granted the said motion of the prosecution and the accused and, accordingly, approved the Plea Bargaining Agreement submitted by them. Thus, the arraignment of the accused for the lesser offense of *Violation of Section 7 (a) of R.A. No. 6713*, on three (3) counts, was set today, December 14, 2018 at 8:30 a.m..⁴

In today's scheduled arraignment, accused Nicor, Jr., appeared, together with his counsel, Atty. Joy B. Barbasa-Alba. Prosecutors Arieta P. Say and Ivy Ruiz-Regis appeared for the plaintiff.

¹ p. 113, Volume I, Record

² pp. 134-150, Volume I, Record.

³ p. 163, Volume I, Record.

⁴ pp. 178-183, Volume I, Record.



Before the accused was arraigned, the Court inquired from him if he fully comprehended the consequences of his intended plea of guilty. He answered in the affirmative and manifested that his counsel explained to him the said consequences. Accordingly, the Information in *Criminal Case No. SB-17-2445* was read to the accused in English, a language he speaks and understands, to which he pleaded **GUILTY** to the lesser offense of *Violation of Section 7 (a) of R.A. No. 6713*. The accused waived the reading of the Informations in *Criminal Cases Nos. SB-17-2446 and SB-17-2447*, which involve similar charges for *Violation of Section 3 (h) of R.A. No. 3019*. When asked as to his plea, he likewise pleaded **GUILTY** to the lesser offenses of *Violation of Section 7 (a) of R.A. No. 6713*.

WHEREFORE, judgment is hereby rendered finding the accused Alberto Aguilar Nicor, Jr. **GUILTY** beyond reasonable doubt of *Violation of Section 7 (a) of Republic Act No. 6713* on three (3) counts. Accordingly, he is meted the penalty of **a fine of Five Thousand (Php5,000.00) Pesos and imprisonment for a period of three (3) years for each count**. The said fine shall be paid within five (5) days from today.

As prayed for by the counsel for accused Nicor, Jr., the said accused is hereby allowed continuing provisional liberty provided that he double the amount of the bond he originally posted, the same to be paid in cash within five (5) days from today.

SO ORDERED.

Given in open Court this 14th day of December 2018, at Quezon City, Philippines.



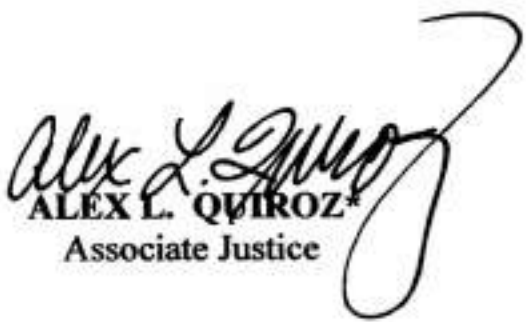
AMPARO M. CABOTAJE-TANG

Presiding Justice
Chairperson



BERNELITO R. FERNANDEZ

Associate Justice



ALEX L. QUIROZ*

Associate Justice

*J. Quiroz sits as a Special Member per A.O. No. 594-2018 dated December 14, 2018.

ATTESTATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson, Third 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

