



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0240
For: Violation of Sec. 3(e)
of R.A. No. 3019

SB-18-CRM-0241
For: Plunder

- versus -

AL C. ARGOSINO, MICHAEL B.
ROBLES, and WENCESLAO A.
SOMBERO, JR.,

SB-18-CRM-0242
For: Direct Bribery under
Art. 210 of the RPC

Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0243
For: Violation of P.D. No. 46

- versus -

AL C. ARGOSINO, MICHAEL B.
ROBLES, WENCESLAO A.
SOMBERO, JR., and JACK LAM
a.k.a. LAM YIN LOK a.k.a.
YIN LOK LAM,

Present
FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
TRESPESES,* J.

Accused.

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Promulgated:

June 25, 2021

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DECISION

FERNANDEZ, SJ, J.

Accused Al C. Argosino and Michael B. Robles, then Associate Commissioners¹ of the Bureau of Immigration (BI), are charged with

* In view of the inhibition of J. Vivero (Per Administrative Order No. 295-2018 dated May 25, 2018)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 2 of 122

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Violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019), Plunder under Republic Act No. 7080 (R.A. No. 7080), Direct Bribery under Art. 210 of the Revised Penal Code (RPC), and Violation of Presidential Decree No. 46 (P.D. No. 46) for allegedly receiving, in two (2) instances, the aggregate amount of Fifty Million Pesos (₱50,000,000.00) from Jack Lam, through Wenceslao A. Sombero, Jr., as consideration for the release of the 1,316 Chinese nationals arrested and detained at Fontana Leisure Parks (Fontana) in Clark Freeport (Clark), Pampanga.

The accusatory portions of the Informations read:

SB-18-CRM-0240
(Violation of Sec. 3[e] of R.A. No. 3019)

That on 27 November 2016, or sometime prior or subsequent thereto, in Paranaque City, Philippines, and within the jurisdiction of this Honorable Court, accused **AL CAPARROS ARGOSINO** and **MICHAEL BAUTISTA ROBLES**, both public officers, being then Deputy Commissioners of the Bureau of Immigration, committing the offense in relation to their office, and taking advantage of their positions as such, with manifest partiality, evident bad faith, or gross inexcusable negligence, conspiring and confederating with one another and with accused **WENCESLAO AZARCON SOMBERO, JR.**, President, Asian Gaming Service Provider Association, Inc., did then and there, willfully, unlawfully and criminally demand and receive **FIFTY MILLION PESOS (PHP50,000,000.00)** from businessman **JACK LAM** a.k.a. **LAM YIN LOK** a.k.a. **YIN LOK LAM**, through said accused **WENCESLAO AZARCON SOMBERO, JR.**, as a consideration to release 1,316 Chinese nationals who were then arrested and detained at Fontana Leisure Park, Clark Field, Pampanga for violating Philippine immigration laws, thereby causing undue injury in the amount of **PHP50,000,000.00**, to **JACK LAM** and/or the persons or entities from whom said amount was sourced.

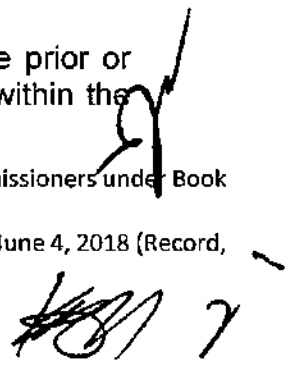
CONTRARY TO LAW.

SB-18-CRM-0241²
(Plunder)

That on or about 27 November 2016, or sometime prior or subsequent thereto, in Paranaque City, Philippines, and within the

¹ Deputy Commissioners under Sec. 2 of Commonwealth Act No. 613; Associate Commissioners under Book IV, Title III, Chapter 10, Sec. 31 (1) of Executive Order No. 292

² The *Amended Information* dated May 4, 2018 was admitted in the Resolution dated June 4, 2018 (Record, Vol. 3, p. 453)



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 3 of 122

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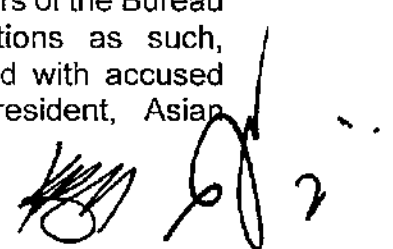
jurisdiction of this Honorable Court, accused **AL CAPARROS ARGOSINO** (Argosino), being then the Deputy Commissioner of the Bureau of Immigration, by himself and/or in conspiracy with his co-accused, MICHAEL BAUTISTA ROBLES (Rcbles), also a public officer being then the Deputy Commissioner of the Bureau of Immigration, both public officers committing the offense in relation to their office, and private individual WENCESLAO AZARCON SOMBERO, JR. (Sombero), did then and there wilfully, unlawfully and criminally amass, accumulate and acquire, directly or indirectly, ill-gotten wealth in the aggregate amount of **FIFTY MILLION PESOS (PhP50,000,000.00)**, through a series or combination of overt or criminal acts, or similar schemes or means, under Section 1, paragraph d, sub-paragraphs (2) and (6) of Republic Act No. 7080, as amended, described as follows:

- a) By repeatedly receiving or collecting a sum of money which aggregated to an amount of **FIFTY MILLION PESOS (PhP50,000,000.00)** delivered to and received by the accused Argosino, together with Robles, on two instances, at the City of Dreams Manila, an establishment in Paranaque City, that is, **TWENTY MILLION PESOS (PhP20,000,000.00)** at or about 2:00 a.m. of 27 November 2016 and **THIRTY MILLION PESOS (PhP30,000,000.00)** at or about 5:45 a.m. of the same day, both from accused Sombero, as consideration for the intervention and assistance of accused Argosino and Robles in the release of Chinese nationals arrested and detained in Fontana Leisure Parks and Casino in Pampanga; and
- b) By taking undue advantage of his official position, authority and influence, together with accused Robles who similarly took advantage of his official position, in demanding and receiving money from a private person by reason of his office to unjustly enrich himself/themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.

SB-18-CRM-0242
(Bribery under Art. 210, Revised Penal Code)

That between 1:00 a.m. to 6:00 a.m. of 27 November 2016, or sometime prior or subsequent thereto, in Paranaque City, Philippines, and within the jurisdiction of this Honorable Court, accused **AL CAPARROS ARGOSINO** and **MICHAEL BAUTISTA ROBLES**, both public officers, being then Deputy Commissioners of the Bureau of Immigration, taking advantage of their positions as such, conspiring and confederating with one another and with accused **WENCESLAO AZARCON SOMBERO, JR.**, President, Asian



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 4 of 122

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Gaming Service Provider Association, Inc., did then and there, willfully, unlawfully and feloniously demand and receive **FIFTY MILLION PESOS (PHP50,000,000.00)** from businessman **JACK LAM** a.k.a. **LAM YIN LOK** a.k.a. **YIN LOK LAM**, of Fontana Leisure Park, Clark Field, Pampanga, through said accused **WENCESLAO AZARCON SOMBERO, JR.**, as goodwill money or consideration in exchange for their refraining from doing their official duty to enforce immigration laws, such as working for the investigation, arrests and detention of foreigners in violation of immigration regulation and other Philippine laws and instead intervening or assisting in the release of 1,316 Chinese nationals who were arrested and detained at Fontana Leisure Park for violating Philippine immigration laws, and for which said accused Deputy Commissioners can, in fact, intervene or facilitate, it being related to the performance of their functions.

CONTRARY TO LAW.

SB-18-CRM-0243
(Violation of P.D. No. 46)

That at or about 1:00 a.m. to 6:00 a.m. of 27 November 2016, or sometime prior or subsequent thereto, in Parañaque City, Philippines, and within the jurisdiction of this Honorable Court, accused **AL CAPARROS ARGOSINO** and **MICHAEL BAUTISTA ROBLES**, both public officers, being then Deputy Commissioners of the Bureau of Immigration, taking advantage of and committing the offense in relation to their office, did then and there, willfully, unlawfully and feloniously receive money amounting to **FIFTY MILLION PESOS (PHP 50,000,000.00)**, a valuable thing given by a private person, accused **JACK LAM** a.k.a. **LAM YIN LOK**, of Fontana Leisure Park, Clark Field, Pampanga, through accused **WENCESLAO AZARCON SOMBERO, JR.**, President, Asian Gaming Service Provider Association, Inc., which amount was given and received by reason of the official functions of accused **AL CAPARROS ARGOSINO** and **MICHAEL BAUTISTA ROBLES**, in exchange for a favor, that is, their intervention and assistance in the release of 1,316 Chinese nationals who were arrested and detained at Fontana Leisure Park, Clark Field, Pampanga for violating Philippine immigration laws, all four accused conspiring and confederating with each other to commit the crime.

CONTRARY TO LAW.

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 5 of 122

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When arraigned, accused Argosino and Robles entered their pleas of Not Guilty.³

During the Pre-Trial,⁴ the parties stipulated as follows:⁵

I. ADMITTED FACTS

1. All the accused admit their identities;
2. At the time material and relevant to the cases, accused Al Caparros Argosino (Argosino) and Michael Bautista [R]obles (Robles) admit their position as Deputy or Associate Commissioners of the [B]ureau of Immigration as alleged in the Informations; and
3. At the time material and relevant to the case, accused Wenceslao Sombero (Sombero) is the President of the Asian Gaming Service Provider Association, Inc. (AGSPA).

The parties agreed that the issues to be resolved are as follows:⁶

For SB-18-CRM-0240

Whether or not accused Argosino, Robles and Sombero should be held liable for Violation of Section 3(e) of R.A. No. 3019 as alleged in the Information.

For SB-18-CRM-0241

Whether or not accused Argosino, Robles and Sombero should be held liable for Violation of R.A. No. 7080 as alleged in the Amended Information

For SB-18-CRM-0242

Whether or not accused Argosino, Robles and Sombero should be held liable for Bribery under Article 210 of the Revised Penal Code as alleged in the Information.

For SB-18-CRM-0243



³ Record, Vol. 3, pp. 407 to 408-B (SB-18-CRM-0240, 0242 and 0243), pp. 503-A, 503-B, 503-D and 503-E (SB-18-CRM-0241)

⁴ Pre-Trial Order dated July 20, 2018; Record, Vol. 14, pp. 169-179

⁵ Pre-Trial Order dated July 20, 2018, p. 1; Record, Vol. 14, p. 169

⁶ Pre-Trial Order dated July 20, 2018, p. 2; Record, Vol. 14, p. 170

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 6 of 122

X -----X

Whether or not accused Argosino, Robles and Sombero should be held liable for Violation of P.D. No. 46 as alleged in the Information.

Accused Argosino, Robles and Sombero filed their respective petitions/application for bail⁷ in SB-18-CRM-0241. During the bail hearings, the prosecution presented as witnesses, **Jaime H. Morente**,⁸ **Paolo Carlo P. Calderon**,⁹ **Charles T. Calima, Jr.**,¹⁰ **Noel B. Cuestas**,¹¹ and **Julie Anne M. Aurelio**.¹²

The testimony of **Michael John Villanueva** was dispensed with after the parties stipulated as follows:¹³

- a) He is a Police Chief Inspector of the PNP, CIDG; From 2016 to 2017, he was the Chief of the Investigation Intelligence Section of the CIDG;

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

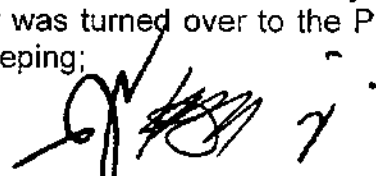
- b) He was the officer on duty at the said Office on December 20, 2016.

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

- c) On December 20, 2016, Gen. Calima went to their Office to file a Complaint for Plunder and Violation of Section 3(e) of R.A. No. 3019 against accused Argosino and Robles and to turn over peso bills in the amount of P18,000,000.00.

(Stipulated by the prosecution and accused Sombero; Accused Argosino and Robles stipulated that such will be the direct testimony of the witness)

- d) The peso bills in the amount of P18,000,000.00 was turned over by Gen. Calima to and was received by the CIDG, which same money was turned over to the PNP Finance Section for safekeeping;



⁷ *Petition for Bail* dated July 4, 2018, Record, Vol. 4, pp. 24-40 (Accused Argosino); *Petition for Bail* dated July 3, 2018, Record, Vol. 4, pp. 54-78 (Accused Robles); *Application for Bail* dated June 26, 2018, Record, Vol. 3, pp. 487-498 (Accused Sombero)

⁸ *Affidavit* dated May 2, 2017; TSN, August 1, 2018

⁹ *Affidavit* dated March 8, 2017; TSNs, August 3, 9, and 17, 2018

¹⁰ *Complaint-Affidavit* dated December 22, 2016; TSNs, August 10, 15, and 20, 2018

¹¹ *Judicial Affidavit of SPO2 Noel Cuestas* dated July 31, 2018; TSN, August 15, 2018

¹² TSN, August 17, 2018

¹³ Order dated July 20, 2018, pp. 1-2; Record, Vol. 4, pp. 117-A and 117-B

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 7 of 122

X -----X

- e) The witness received and can identify Exhibits L-1-o, L-1-p, L-1-r.

(Stipulated by the prosecution and accused Sombero; Accused Argosino and Robles stipulated that such will be the direct testimony of the witness)

- f) During the turn-over process, accused Robles was not present.

(Stipulated by the prosecution and accused Robles)

The testimony of **Clyte Telmo Tobias** was dispensed with after the parties stipulated as follows:¹⁴

- 1) On December 20, 2016, she received a directive from the Director of the Finance Services to receive the amount of P18-Million from the CIDG pertaining to the complaint of Gen. Calima filed with the CIDG;

(Stipulated by the prosecution and accused Sombero; Accused Argosino and Robles stipulated that such will be the direct testimony of the witness)

- 2) In connection with the verbal instruction of the Director, Officer Tobias was shown a Memorandum dated December 20, 2016 of Noel Obusan pertaining to the safekeeping of the P18-Million from the CIDG; and that if shown the said document, the witness can identify the same;

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

- 3) After she was shown the memorandum, she proceeded to count the P18-Million in the presence of two (2) CIDG officers, one of whom was Michael John Villanueva, and in the presence of Gen. Calima, the counsel of Gen. Calima, and Police Superintendent Banak, the Director of the Finance Services;

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

- 4) While counting the money, the witness also recorded the counting of the money via *tara*.

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

¹⁴ Order dated July 20, 2018, pp. 2-3; Record, Vol. 4, pp. 117-B and 117-C

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 8 of 122

X-----X

- 5) The exhibit marked as Exh. L-1-p is a faithful reproduction of the original brought by the witness.

(Stipulated by all the parties; Accused Argosino, however, manifested that there is no signature on the third page of the said document.)

- 6) After counting the money, Ms. Tobias prepared an acknowledgment receipt signed by her and by Michael John Villanueva, marked as Exh. L-1-r.

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

- 7) Exh. L-1-r is a faithful reproduction of the original document brought by the witness.

(Stipulated by all the parties. Accused Robles and the Prosecution also stipulated that the said document does not bear the signature of the other witnesses to the counting.)

- 8) The witness has in her custody the P18-Million marked as Exh. I and series, which she can show to the Court and which she can identify to be the same money she received from Michael John Villanueva of the CIDG.

(Stipulated by the prosecution and accused Robles and Sombero; Accused Argosino stipulated that such will be the direct testimony of the witness)

- 9) Ms. Tobias returned the money that she counted to the same paper bag that contained the money turned over to her.

(Stipulated by the prosecution and accused Sombero; Accused Argosino and Robles stipulated that such will be the direct testimony of the witness)

- 10) That the witness bundled the money that she counted.

(Stipulated by all the parties.)

The testimony of **Jesulito Limpahan**, Cashier I of the Office of the Ombudsman, was dispensed with after the parties stipulated:¹⁵

- 1) He issued acknowledgment receipt dated December 22, 2016 marked as Exh. N¹⁶ and he will be able to identify the document.

(Accused Argosino and Sombero stipulated thereto and as to the authenticity of the said document; Accused Robles only stipulated that the witness will be able to identify Exh. N)

¹⁵ Order dated July 20, 2018, pp. 3-4; Record, Vol. 4, pp. 117-C and 117-D

¹⁶ Exhibit I-56

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 9 of 122

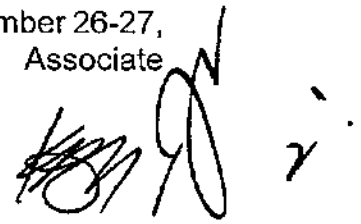
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- 2) The P2-Million was turned over to the Office of the Ombudsman Cashier under the circumstances stated in the acknowledgment receipt marked as Exh. N.
- 3) The Office of the Ombudsman Cashier is still in possession of the P2-Million and will be able to present the said money to the Court.
- 4) The money is the same bundle of cash turned over to the Office of the Ombudsman under Exh. N.

In his *Affidavit*¹⁷ dated May 2, 2017, **Jaime H. Morente**, Commissioner of the Bureau of Immigration, declared:

1. On November 25, 2016, Charles T. Calima, his executive assistant and officer-in-charge of the Intelligence Division of the Bureau of Immigration (BI), informed him that some BI personnel were trying to extort money from the Chinese nationals arrested in Fontana Resort. As a result, he instructed Calima to commence counter-intelligence operations.
2. Calima proceeded with the operations. From time to time, Calima updated him on the progress through reports by telephone conversations, text messages, and other written reports. During the course of the operations, Calima informed him that the personnel involved were Associate Commissioners Al Argosino and Michael Robles.
3. Calima informed him that according to Wally Sombero, Calima's asset, there was a Fifty Million Pesos (P50,000,000.00) pay-off involving said Associate Commissioners on November 26-27, 2016. When he received said information from Calima, said pay-off was already consummated.
4. Calima also informed him that there would be a second pay-off involving the same amount on November 30, 2016. Calima was supposed to conduct entrapment operations, but was not able to do so because the second pay-off did not push through.
5. On December 8, 2016, the two (2) Associate Commissioners went to his office and complained that Calima was harassing them. Later, on the same day, he called a meeting where Calima and the two (2) Associate Commissioners confronted each other about the events that happened on November 26-27, 2016, in the City of Dreams, wherein the Associate

¹⁷ Record, Vol. 4, pp. 121-122

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 10 of 122

X-----X

Commissioners received ₱50 million from Jack Lam through Wally Sombero.

6. In the afternoon of December 9, 2016, Calima reported that the Associate Commissioners gave him paper bags allegedly containing ₱18 million. He instructed Calima to inform the Secretary of Justice about the matter.
7. On December 10, 2016, he met Calima at the latter's safe house. Calima informed him that the paper bags were in a safe place. He, again, instructed Calima to contact the Secretary of Justice for the turnover of the money and for the filing of the appropriate case in court. He further directed Calima to submit the after-CI operations report.
8. On December 13, 2016, the Secretary of Justice terminated Calima's employment.
9. Calima turned over the paper bags containing the money to the PNP-CIDG on December 20, 2016, and filed a case for Plunder against the Associate Commissioners with the Office of the Ombudsman on December 22, 2016.

He further testified:

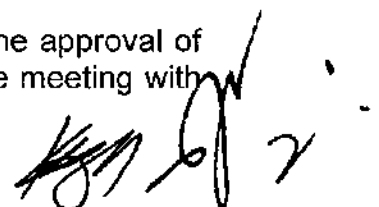
1. He organized the contingent of BI personnel who joined the DOJ-led law enforcement operation in Fontana Leisure Park on November 24 and 25, 2016. Said operation resulted in the arrest and detention at the Fontana Convention Center of 1,316 Chinese nationals.¹⁸
2. Charges were filed against 1,296 of the 1,316 detainees. The rest were minors or legitimate tourists.¹⁹
3. In the afternoon of November 28, 2016, upon the suggestion of the other members of the Board of Commissioners, they sought the guidance of the Secretary of Justice on the disposition of the detainees. According to the Secretary of Justice, those who were not for summary deportation can be released on bail.²⁰
4. The first Petition for Bail was filed with the Legal Division of the BI on November 29, 2016. Said petition covered 600 persons.²¹
5. The Chief of the Legal Division recommended the approval of said petition. Prior to that, particularly during the meeting with

¹⁸ TSN, August 1, 2018, pp. 18-19

¹⁹ TSN, August 1, 2018, pp. 19-20

²⁰ TSN, August 1, 2018, pp. 20-21

²¹ TSN, August 1, 2018, p. 21



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 11 of 122

X-----X

the Secretary of Justice, accused Argosino recommended that said approval be done by the Board of Commissioners. He was open to the idea because it would add due diligence in the review of the petitions.²²

6. The Board of Commissioners unanimously approved the petition for bail of the first batch of applicants on December 2, 2016.²³
7. The detainees were then released on bail in batches, the last batch having been released on December 15, 2016. All detainees charged were eventually deported by batch. The first batch of deportation was on December 23, 2016, while the last batch was deported on June 1, 2018.²⁴
8. The bail for the detainees was processed in the BI main office in Manila. The cashiers at the main office were required to perform overtime work after the Chinese Ambassador requested that the processing of bail be expedited. Several law firms represented the detainees.²⁵
9. Calima conducted counter-intelligence operations from November 25, 2016 to December 13, 2016, when Calima's employment was terminated.²⁶
10. He cannot show that Calima's reports were submitted to him on the dates indicated, but he is sure that they were submitted on said dates.²⁷
11. On December 8, 2016, Commissioner Argosino, together with Commissioner Robles went to his office, complaining that Calima was harassing them. Commissioner Robles said that Calima went to his office and told him that he (Calima) has evidence of their illegal activities. Commissioner Robles thought that it was related to Calima's application for promotion to the position of Intelligence Officer IV.²⁸
12. During the confrontation in his office in the late afternoon of December 8, 2016, Calima arrived first, followed by Associate Commissioner Robles. Calima said that he had evidence of their involvement in illegal activities, and mentioned that Ramon Tulfo, a columnist in the *Inquirer*, wrote an article about the alleged pay-off in the City of Dreams involving ₱50 million.

²² TSN, August 1, 2018, p. 22

²³ TSN, August 1, 2018, p. 22

²⁴ TSN, August 1, 2018, pp. 23-24

²⁵ TSN, August 1, 2018, pp. 23-24, 140-141

²⁶ TSN, August 1, 2018, p. 84

²⁷ TSN, August 1, 2018, pp. 94-95

²⁸ TSN, August 1, 2018, p. 50

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 12 of 122

X-----X

Calima also said that Wally Sombero was in the NBI, executing an affidavit on said pay-off which was caught on camera.²⁹

13. Calima informed Associate Commissioner Robles that the CCTV in the City of Dreams recorded their receipt of five (5) bags containing ₱50 million.³⁰
14. He cannot recall how accused Robles responded, but he recalled that Calima called Tulfo, and put him on speaker phone. Tulfo confirmed that he wrote said article. Calima did not tell Tulfo that he was on speaker phone so he probably did not know that others were listening.³¹
15. Calima then called accused Sombero, who confirmed that he was preparing his affidavit.³² Calima did not inform Sombero that he was on speaker phone.³³
16. During the conversation with Tulfo, only accused Robles was there with them. Accused Robles, who appeared to be having a breakdown, asked for his advice on what to do. Accused Robles then asked to be excused and went to the private restroom in his (Morente) office. Accused Robles used the restroom several times.³⁴
17. He saw fear in accused Robles' face. Accused Robles was restless, went to and from the restroom, sat down, and covered his face while saying something about his profession, his career and his family.³⁵
18. When accused Argosino arrived around twenty (20) to thirty (30) minutes later, he (Morente) told him (Argosino) that Calima already talked to accused Robles, and about the phone conversations with Tulfo and Sombero.³⁶
19. By then, accused Robles, who had already returned, was silent, while accused Argosino asked for advice on what to do. He told them that they have to take the consequence of their actions. Accused Argosino also mentioned the possibility of talking to Mon Tulfo but he told accused Argosino that he does not know Tulfo.³⁷

²⁹ TSN, August 1, 2018, pp. 50-52

³⁰ TSN, August 1, 2018, p. 142

³¹ TSN, August 1, 2018, pp. 52, 146

³² TSN, August 1, 2018, pp. 52-53

³³ TSN, August 1, 2018, p. 146

³⁴ TSN, August 1, 2018, pp. 53, 55, 57

³⁵ TSN, August 1, 2018, pp. 65-66

³⁶ TSN, August 1, 2018, pp. 57-58

³⁷ TSN, August 1, 2018, pp. 58, 60-61

DECISION

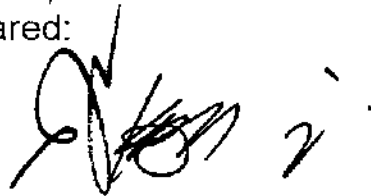
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 13 of 122

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20. After the confrontation, he and Calima assessed that they needed more evidence to support the counter-intelligence operations.³⁸
21. In the evening of December 9, Calima reported that he had the possession of the two (2) bags. In the afternoon of the next day, on December 10, he visited Calima in the latter's safe house—a motor shop located in front of Avida Condominiums along Santolan Road, Quezon City.³⁹
22. Calima submitted to him a handwritten report dated December 10, 2016 (Exhibit N-9) in connection with his receipt of the two (2) paper bags containing money allegedly extorted from Jack Lam and company.⁴⁰ When he asked Calima for a report, there was no computer in the safe house so Calima wrote it by hand in his presence, and submitted the same to him.⁴¹
23. In the Memorandum dated December 12, 2016 (Exhibit N-10), he directed Calima to turn over the ₱18 million to the Secretary of Justice.⁴²
24. He was not able to submit the final counter-intelligence report to the Secretary of Justice because Calima did not submit to him the After Counter-Intelligence Report, which was supposed to be the basis for the final report.⁴³
25. He does not have personal knowledge of what happened in the City of Dreams on November 26 to 27, 2016. The information came from Calima. He never saw the ₱18 million. He only knew about it from Calima's reports.⁴⁴
26. After Calima's employment was terminated on December 13, he reminded Calima to turn over the money, and to submit a report, to the Secretary of Justice. He did not take any action against Calima for the belated turnover of the money.⁴⁵

In his *Affidavit*⁴⁶ dated March 8, 2017, **Paolo Carlo P. Calderon**, Surveillance Operations Manager, declared:



³⁸ TSN, August 1, 2018, p. 102
³⁹ TSN, August 1, 2018, pp. 77, 103
⁴⁰ TSN, August 1, 2018, pp. 67, 76
⁴¹ TSN, August 1, 2018, p. 107
⁴² TSN, August 1, 2018, p. 79
⁴³ TSN, August 1, 2018, p. 92
⁴⁴ TSN, August 1, 2018, p. 88
⁴⁵ TSN, August 1, 2018, pp. 129-131
⁴⁶ Record, Vol. 4, pp. 221-223

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

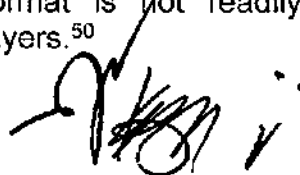
Page 14 of 122

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1. On December 9, 2016, the City of Dreams received from the National Bureau of Investigation (NBI) a letter requesting a copy of CCTV footages covering the areas of Erwin Gastro Bar and Red Ginger covering the period from 11:00 P.M. of November 26, 2016 until 6:40 A.M. of November 27, 2016.
2. Upon receiving said letter, his team proceeded to secure and reproduce the requested CCTV footages.
3. They copied the footages from the CCTV Recording System to the Archive Server, and then to the Dallmeier PC, which was a workstation that was a part of the system. They converted the file format from MPEG-4 to AVI for ease of viewing. Said footages were then copied to the WD Elements External Hard Drive with Serial No. WX51A76RJPA.
4. The footages contained in said hard drive are faithful copies of the footages initially stored in the CCTV Recording System, albeit in a different file format, for ease of viewing.
5. Said hard drive also contains a condensed short clip of the movements and action points relating to the NBI's request. The clip was created by cutting certain segments from the extracted footages and joining them on the Dallmeier PC so they could be viewed as one continuous clip.

He further testified:

1. Kenneth Guillon, the head of the department, emailed him photos of certain persons and asked his team to extract specific clips wherein said persons appeared.⁴⁷
2. The footages were extracted from thirteen (13) of the 3,987 cameras in the City of Dreams.⁴⁸ They took around 7½ hours of footage from each of the thirteen (13) cameras. During the review of the footages, they did not view the entire 7½ hour footage for each camera. Instead, they followed the persons of interest based on the directions they were heading.⁴⁹
3. The files were converted from MPEG-4 to AVI format because the MPEG-4 file format is not readily playable in some commercial video players.⁵⁰



⁴⁷ TSN, August 3, 2018, pp. 47-48; TSN, August 9, 2018, p. 83; TSN, August 17, 2018, p. 91

⁴⁸ TSN, August 3, 2018, p. 34; TSN, August 17, 2018, p. 34

⁴⁹ TSN, August 17, 2018, pp. 69, 103-104

⁵⁰ TSN, August 17, 2018, p. 99

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 15 of 122

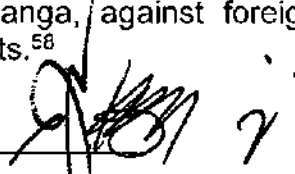
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The condensed version of the video file found in the WD Elements hard drive (Exhibit G) was viewed in open court. Witness Calderon identified⁵¹ the locations seen in the video.

During the hearing on August 3, 2018, the prosecution requested the Court to conduct an ocular inspection of the money kept in Safety Deposit Boxes No. 916 and 917 at the Landbank, Main Office in M.H. Del Pilar St. corner J. Quintos St., Malate, Manila, to determine the exact amount of the money turned over to the Department of Justice (DOJ).⁵² Said safety deposit boxes were rented by the DOJ to safekeep said money.⁵³ The ocular inspection was conducted on August 8 and 17, 2018.⁵⁴ The bills were counted using money counting machines. Although some bills were rejected by the money counting machines, the count yielded the total amount of Thirty Million Pesos (P30,000,000.00).

In his *Complaint-Affidavit* dated December 22, 2016,⁵⁵ **Charles T. Calima, Jr.**, retired Police Director for Intelligence, Philippine National Police (PNP), declared:

1. He was the Acting Chief, Intelligence Division of the Bureau of Immigration (BI) from July 1, 2016 to December 13, 2016. Prior to his appointment with the BI, he was the Director for Intelligence of the PNP from 2013 until his retirement in 2015.⁵⁶
2. He met Wally Sombero on October 5, 2016, when Sombero, as President of the Asian Gaming Service Provider Association (AGSPA), gave a briefing before the BI regarding the dynamics of online gaming and sought their help in regulating the employees in the industry.⁵⁷
3. On November 21, 2016, the Secretary of Justice issued a Memorandum directing the Fugitive Search Unit (FSU), which was under the Intelligence Division of the BI, to conduct investigations and raids on the Fontana Resort in Clark Field, Pampanga, against foreigners who were employed without permits.⁵⁸



⁵¹ TSNs, August 3, 2018 and August 9, 2018

⁵² TSN, August 3, 2018, pp. 14-15

⁵³ Exhibit I-55, I-55-A and I-55-B

⁵⁴ Record, Vol. 4, pp. 232-A to 232-F (August 8, 2018); Record, Vol. 4, pp. 347-358 (August 17, 2018)

⁵⁵ Record, Vol. 4, pp. 287-326

⁵⁶ *Complaint-Affidavit* dated December 22, 2016, p. 1; Record, Vol. 4, p. 287

⁵⁷ *Complaint-Affidavit* dated December 22, 2016, pp. 1-2; Record, Vol. 4, pp. 287-288

⁵⁸ *Complaint-Affidavit* dated December 22, 2016, p. 2; Record, Vol. 4, p. 288

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 16 of 122

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4. At 9:43 P.M. on November 24, 2016, Wally Sombero sent a text message informing him that he (Sombero) received a report that there was a raid in Clark resulting in the arrest of over a thousand Chinese nationals, and asking if it was a BI operation. He replied that the BI participated but it was directed by the Secretary of Justice.⁵⁹
5. The next day, November 25, 2016, around 10:00 P.M., Wally Sombero called to report that someone informed him (Sombero) that there were some BI officials who were "*humihingi ng areglo*" in connection with the arrest of the 1,316 Chinese nationals in Fontana Leisure Park. He sent a text message to Sombero, stating that he was interested in finding out the identities of said BI officials because he wanted to entrap them.⁶⁰
6. Thereafter, he informed Comm. Morente about the matter, and the latter gave him clearance to proceed with the counter-intelligence (CI) operation.⁶¹
7. On November 26, 2016, Wally Sombero sent a text message asking him to make a return call. When he called, Sombero informed him that the Secretary of Justice (SOJ) categorically told him (Sombero) to coordinate directly with Associate Commissioners Argosino and Robles, and not with him (Calima). He informed Comm. Morente about the matter.⁶²
8. On November 27, at around 4:00 P.M., Sombero called to inform him that something was happening, without elaborating further. He (Calima) suspected that it had something to do with the BI personnel "*na humihingi ng areglo.*" Later, at 11:48 P.M., Sombero sent a text message stating that he (Sombero) had just left Fontana. Sombero told him that he (Sombero) requested Associate Commissioner Argosino to return some detainees to the villas for humanitarian reasons.⁶³
9. On November 30, at 8:57 A.M., Sombero sent a text message asking him to call. When he called Sombero, the latter asked if they could meet. Sombero informed him that they needed to entrap people who were extorting money in relation to the arrest of the Chinese Nationals in Fontana.⁶⁴
10. At the time, he was in Bacolod. After the call, he immediately requested for a technical support group from the Directorate for

⁵⁹ Complaint-Affidavit dated December 22, 2016, p. 2; Record, Vol. 4, p. 288

⁶⁰ Complaint-Affidavit dated December 22, 2016, p. 3; Record, Vol. 4, p. 289

⁶¹ Complaint-Affidavit dated December 22, 2016, p. 3; Record, Vol. 4, p. 289

⁶² Complaint-Affidavit dated December 22, 2016, p. 4; Record, Vol. 4, p. 290

⁶³ Complaint-Affidavit dated December 22, 2016, p. 4; Record, Vol. 4, p. 290

⁶⁴ Complaint-Affidavit dated December 22, 2016, pp. 4-5; Record, Vol. 4, pp. 290-91

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 17 of 122

X -----X

Intelligence of the PNP. Later he called Sombero and instructed him to coordinate with Alberto Nogoy of the PNP Directorate for Intelligence.⁶⁵

11. He arrived in Manila at around 7:00 P.M. and proceeded to Hyatt Hotel at the City of Dreams (COD), the meeting place. There, Sombero told him that he (Sombero) will be meeting Associate Commissioners Argosino and Robles, and that they were demanding an additional ₱50 million in exchange for the release of the Chinese nationals. Sombero then told him that they (Argosino and Robles) had already received ₱50 million in the early morning of November 27, mentioning "*ang garapal ng mga ito.*"
12. They discussed their options on how to conduct the entrapment. When Wally left because the two commissioners had already arrived at their meeting place, he informed Comm. Morente about the entrapment operation. At 10:46 P.M., Wally sent a text message stating that the meeting with Argosino and Robles was finished and he was returning to the room at Hyatt.⁶⁶
13. Sombero narrated what happened during the meeting and said that Argosino was insistent on getting the additional ₱50 million, and around ₱35 million for the bail of around 600 Chinese Nationals. Sombero also showed him the text message from the SOJ, instructing Sombero not to coordinate with him (Calima), but with the two Associate Commissioners, Jake Licas, Vic Uy and Sherwin Uy. When it became apparent that the pay-off would not push through, he and Sombero parted ways.⁶⁷
14. On December 1, 2016, he personally briefed Comm. Morente about what happened. He informed the Commissioner that more evidence was needed to pin down the two Associate Commissioners. He then continued the CI operation by obtaining more evidence through tradecraft.⁶⁸
15. He met with Argosino and Robles to gather more evidence against them. In one of the meetings, Argosino admitted to receiving the initial ₱50 million. He worked on their fears by sharing information on Sombero's plan to expose their extortion activity.⁶⁹
16. On December 8, 2016, Comm. Morente called him to his office after the Associate Commissioners complained that he (Calima)

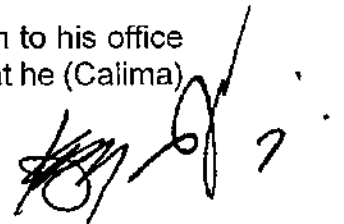
⁶⁵ Complaint-Affidavit dated December 22, 2016, p. 4; Record, Vol. 4, p. 290

⁶⁶ Complaint-Affidavit dated December 22, 2016, p. 6; Record, Vol. 4, p. 292

⁶⁷ Complaint-Affidavit dated December 22, 2016, p. 6; Record, Vol. 4, p. 292

⁶⁸ Complaint-Affidavit dated December 22, 2016, p. 7; Record, Vol. 4, p. 293

⁶⁹ Complaint-Affidavit dated December 22, 2016, pp. 8-9; Record, Vol. 4, pp. 294-295



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 18 of 122

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was using the incident as leverage to make them support his promotion to Intelligence Officer V. He asked Comm. Morente to call the Associate Commissioners to explain to them that he was not concocting stories.⁷⁰

17. When the two Associate Commissioners went to Comm. Morente's office, he explained that he did not need the promotion because he had already finished his career with the PNP and occupied the highest position in intelligence that an intelligence officer can aspire for. To show that he was telling the truth, he called Mon Tulfo, put him on speaker phone, and asked about Tulfo's plans to write about the extortion in his column. He also called Wally to ask him about the plans against the two Associate Commissioners.⁷¹
18. The Associate Commissioners admitted that they had the ₱50 million. Comm. Morente told them that he could not help them, and that they have to face the consequences of their actions.⁷²
19. Robles appeared to be having a nervous breakdown, and said "*isinama lang naman ako dito.*" He (Robles) had to use the Commissioner's comfort room around five (5) times during the thirty (30) minute meeting.⁷³
20. After said meeting, Comm. Morente gave him clearance to continue CI operations to obtain more information on the extortion.⁷⁴
21. He called Argosino and Robles, but Argosino was the only one who went to the meeting at the Promenade in Greenhills. There, Argosino asked for help in containing Wally and Tulfo, and he (Calima) told him that he will try to help. Argosino made computations on how to apportion the extortion money and arranged a meeting somewhere in Quezon City on the next day, December 9.⁷⁵
22. He met Argosino on December 9, at around 2:00 P.M. Robles arrived later. There, they reiterated their request for help in performing some "damage control," to prevent Wally and Tulfo from continuing with their exposé. Argosino asked one of his escorts to get paper bags from the car, and explained that said paper bags contained only ₱18 million because he (Argosino) already got ₱6 million and the ₱24 million was with Robles.⁷⁶

⁷⁰ *Complaint-Affidavit* dated December 22, 2016, p. 9; Record, Vol. 4, p. 295

⁷¹ *Complaint-Affidavit* dated December 22, 2016, p. 9; Record, Vol. 4, p. 295

⁷² *Complaint-Affidavit* dated December 22, 2016, p. 9; Record, Vol. 4, p. 295

⁷³ *Complaint-Affidavit* dated December 22, 2016, p. 9; Record, Vol. 4, p. 295

⁷⁴ *Complaint-Affidavit* dated December 22, 2016, pp. 9-10; Record, Vol. 4, pp. 295-296

⁷⁵ *Complaint-Affidavit* dated December 22, 2016, p. 10; Record, Vol. 4, p. 296

⁷⁶ *Complaint-Affidavit* dated December 22, 2016, p. 10; Record, Vol. 4, p. 296

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

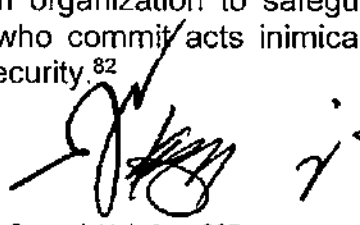
Page 19 of 122

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23. Argosino left the two paper bags on the floor, said "*bahala ka na dito,*" and left. He did not open the paper bags but he determined that they contained money because they fit the description given by Sombero, who said that the handle of one of the bags broke because the money was too heavy.⁷⁷
24. He did not check if the paper bags indeed contained money because he wanted to preserve the evidence. He kept the paper bags in a safe place, and after informing Comm. Morente that he has evidence against the Associate Commissioners in his possession, Comm. Morente instructed him to do as necessary.⁷⁸
25. On December 10, he met with Comm. Morente to brief him on his possession of the paper bags left by Argosino and Robles. Comm. Morente instructed him to report to the SOJ. As advised, he sought an audience with the SOJ. However, the SOJ refused to meet with him.⁷⁹
26. On December 13, 2016, he was informed that the SOJ had terminated his employment with the BI. In the afternoon of the same day, Associate Commissioners Al Argosino and Michael Robles held a press conference with regard to their receipt of the ₱50 million from Jack Lam and his associates. Argosino and Robles presented the ₱30 million, stating that they gave him ₱18 million, and Wally Sombero ₱2 million.⁸⁰
27. He turned over the paper bags to the Criminal Investigation and Detection Group (CIDG) and the Finance Service Unit 14 (FSU-14) on December 20, 2016 for accounting and safekeeping. When they opened the bags, they found that the same contained money. They counted the money and it amounted to ₱18 million.⁸¹

He further testified:

1. Counter-intelligence operations are conducted against members or employees of an organization to safeguard the organization from personnel who commit acts inimical to the organization and to national security.⁸²



⁷⁷ *Complaint-Affidavit* dated December 22, 2016, p. 11; Record, Vol. 4, p. 297

⁷⁸ *Complaint-Affidavit* dated December 22, 2016, p. 12; Record, Vol. 4, p. 298

⁷⁹ *Complaint-Affidavit* dated December 22, 2016, p. 12; Record, Vol. 4, p. 298

⁸⁰ *Complaint-Affidavit* dated December 22, 2016, p. 12; Record, Vol. 4, p. 298

⁸¹ *Complaint-Affidavit* dated December 22, 2016, p. 15; Record, Vol. 4, p. 301

⁸² TSN, August 10, 2018, p. 16

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 20 of 122

X -----X

2. He does not have personal knowledge of the incident that occurred in the City of Dreams on November 27, 2016. His only source of information was accused Sombero.⁸³
3. When he was planning to conduct an entrapment operation on November 30, 2016, he requested assistance from the PNP Directorate for Intelligence because most of the personnel of the BI Intelligence Division were assigned to guard the detainees in Clark.⁸⁴
4. According to accused Sombero, the accused demanded ₱150 million. The ₱50 million received on November 27, 2016 was akin to goodwill because no detainees were released. The second ₱50 million would be for the release of 600 detainees and the last ₱50 million would be for the release of the remaining 700 detainees.⁸⁵
5. He informed Comm. Morente, through a Viber message, that he intended to conduct an entrapment operation. Comm. Morente, also through a Viber message, authorized him to proceed.⁸⁶
6. He submitted written reports (Exhibits N-3 to N-9-A) in connection with the operations he conducted. Said reports were submitted pursuant to his recommendation to conduct counter-intelligence operations, as approved in the Memorandum dated November 26, 2016 (Exhibit N-4).⁸⁷
7. When he called Tulfo and Sombero using his cell phone, only he, Comm. Morente and accused Robles were in the room. At that point, accused Argosino had not yet arrived.⁸⁸
8. He knew that Tulfo was writing an article about the matter because on November 30, Tulfo called and congratulated him for the operation in Fontana, and mentioned that he will release an article in his column.⁸⁹
9. After said calls, accused Robles looked devastated, mentioned "*sira na yong career ko, kawawa naman ang family ko,*" and went to the restroom.⁹⁰
10. When accused Robles mentioned "*isinama lang naman ako dito,*" he assumed that accused Robles was referring to accused

⁸³ TSN, August 15, 2018, pp. 70, 79

⁸⁴ TSNs, August 10, 2018, pp. 63-65; August 15, 2018, pp. 96-98

⁸⁵ TSN, August 10, 2018, pp. 66-67

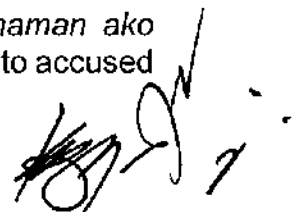
⁸⁶ TSN, August 10, 2018, pp. 23-24

⁸⁷ TSN, August 10, 2018, pp. 39-40

⁸⁸ TSN, August 10, 2018, pp. 29-30

⁸⁹ TSN, August 20, 2018, p. 25

⁹⁰ TSN, August 10, 2018, pp. 30-31



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 21 of 122

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Argosino because only the two of them were involved in the incident.⁹¹

11. Atty. Argosino arrived sometime later. He observed that Atty. Robles looked like his world was ending, while Atty. Argosino appeared to be unaffected.⁹²
12. He does not know why accused Argosino gave him ₱18 million, and not some other amount. When accused Argosino left the paper bags, he (Argosino) only asked him (Calima) to help them, without giving specific instructions on what to do with the ₱18 million.⁹³
13. He does not have personal knowledge of how accused Sombero came into the possession of the ₱2 million. He learned that accused Sombero was given ₱2 million for the first time when accused Argosino told him on December 9.⁹⁴
14. He did not ask accused Sombero about the ₱2 million. His only concern was to file a Plunder case against BI personnel, not against private individuals.⁹⁵
15. After he received the paper bags, he kept them in a safe place, under lock and key in the office of a friend, in a government building. The bags were kept there until he filed the case on December 20.⁹⁶
16. He kept the bags because he considered himself as the proper authority. He was the one who will file the case and it was his evidence.⁹⁷
17. He did not check if the bags actually contained money to preserve the integrity of the evidence, and also to prevent his fingerprints from appearing thereon, lest he be considered a suspect. He learned that the paper bags contained ₱18 million only when they were turned over to the CIDG.⁹⁸
18. His safe house was a car repair shop in Quezon City.⁹⁹
19. The turnover of the money was done only on December 20, 2016 because he filed the case on the same day. There was a

⁹¹ TSN, August 10, 2018, pp. 31-32

⁹² TSN, August 10, 2018, p. 33

⁹³ TSN, August 20, 2018, pp. 29, 31-33

⁹⁴ TSN, August 15, 2018, pp. 80, 161-162; TSN, August 20, 2018, p. 15

⁹⁵ TSN, August 15, 2018, p. 162

⁹⁶ TSN, August 15, 2018, pp. 112-113

⁹⁷ TSN, August 15, 2018, p. 116

⁹⁸ TSN, August 15, 2018, p. 160

⁹⁹ TSNs, August 10, 2018, p. 38

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DECISION

People vs. Argosino, et al.
SB-18-CRM-024C to 0243

Page 22 of 122

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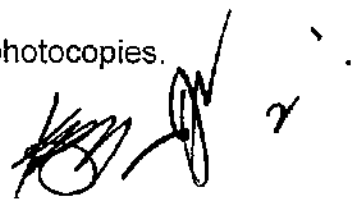
delay in the filing of the case because the CIDG was assisting them in the preparation of the complaint to be filed with the Office of the Ombudsman.¹⁰⁰

The parties stipulated that if called to the witness stand, **Ma. Elisa B. Germar**, Director for Financial Services of the Department of Justice (DOJ),¹⁰¹ will testify as follows:¹⁰²

- 1) That she has in her custody a Certificate of Turn-over of the P30-Million, more or less, dated December 15, 2016 signed by Secretary Vitaliano Aguirre;
- 2) That she has in her possession the keys to Safety Deposit Boxes No. 916 and 917 of the Land Bank Main Office at M.H. del Pilar, Malate, Manila where the alleged P30-Million, more or less, were kept by the DOJ;
- 3) That she never turned over the keys to any one and she had said keys in her possession from the time they rented the safety deposit boxes;
- 4) That the other set of keys to the two (2) safety deposit boxes are presently with the Secretary of Justice Maynardo [sic] Guevarra after the same were turned over to him by Undersecretary Erickson Balmes; and,
- 5) That insofar as the second set of keys in the possession of the Secretary of Justice, the above turn-over from Undersecretary Balmes to DOJ Secretary Guevarra is the only transfer that was effected.

Accused Argosino and Robles further stipulated that if asked, she will answer in the following manner:¹⁰³

- A) A representative of the Office of the Secretary Aguirre handed to Dir. Germar the keys to the safety deposit boxes together with the Letter dated December 16, 2016 of Secretary Aguirre marked as Exhibit I-55 and the following attachments thereto:
 - a) Official Receipt No. 00116272 marked as Exhibit I-55-A; and,
 - b) The Letter of LandBank of the Philippines signed by Arnold C. Barreto addressed to the Department of Justice marked as Exhibit I-55-B.
- B) The three (3) documents are mere photocopies.



¹⁰⁰ TSN, August 10, 2018, pp. 56-57

¹⁰¹ Order dated August 20, 2018; Record, Vol. 4, p. 392-A

¹⁰² Order dated August 10, 2018, p. 1; Record, Vol. 4, p. 333-A

¹⁰³ Order dated August 20, 2018; Record, Vol. 4, p. 392-A

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 23 of 122

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The testimony of **Antonia P. Barros** was dispensed with after the parties stipulated:¹⁰⁴

- (a) Ms. Antonia P. Barros is the Director III of the Legal Records and Archives Services of the Senate;
- (b) She has custody of the original of the Transcript of Stenographic Notes of the Blue Ribbon Committee Investigation; and,
- (c) The authenticity and due execution of the said Transcript of Stenographic Notes, and the signature of Ms. Barros in the said document.

In his Judicial Affidavit dated July 31, 2018, **Noel B. Cuestas**, Chief of the Digital Forensic Laboratory Section, Regional Anti-Cyber Crime Office 13 of the Anti-Cyber Crime Group of the Philippine National Police, identified Exhibits G-1 to G-67, and declared:

- 1. Sometime in March 2017, Atty. Ryan P. Medrano of the Office of the Ombudsman submitted to him a WD Elements External Hard Drive with Serial No. WX51A764RJPA containing Closed Circuit TV (CCTV) footages of the City of Dreams Manila from the evening of November 26, 2016 to the morning of November 27, 2016 for digital forensic examination, particularly, the enhancement—the optimal viewing of an image—of persons of interest, vehicles and cash bundles in the footages.¹⁰⁵
- 2. He used the Tableau Forensic USB Bridge, a write-blocking device, to access the hard drive and saw two folders. One contained thirteen (13) video footages and the other contained the condensed video footage.¹⁰⁶
- 3. After reviewing the CCTV footages to know the specific time to be examined or enhanced, he copied the files from the hard drive to his working hard drive, and verified that the hash value of the original files and that of the working drive copy are the same.¹⁰⁷
- 4. He then captured frame by frame images of the video footages relevant to the case, pre-processed the images, and tagged persons of interest and other subjects to be enhanced on the specific frame. Finally, he saved the frames with tagged subjects to create the final enhancement file.¹⁰⁸

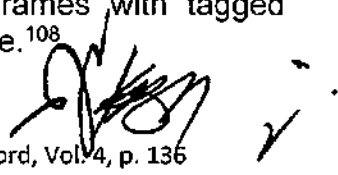
¹⁰⁴ Order dated August 10, 2018, p. 2; Record, Vol. 4, p. 333-B

¹⁰⁵ Judicial Affidavit of SPO2 Noel Cuestas dated July 31, 2018, p. 4; Record, Vol. 4, p. 136

¹⁰⁶ Judicial Affidavit of SPO2 Noel Cuestas dated July 31, 2018, p. 6; Record, Vol. 4, p. 138

¹⁰⁷ Judicial Affidavit of SPO2 Noel Cuestas dated July 31, 2018, p. 8; Record, Vol. 4, p. 140

¹⁰⁸ Judicial Affidavit of SPO2 Noel Cuestas dated July 31, 2018, p. 8; Record, Vol. 4, p. 140



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 24 of 122

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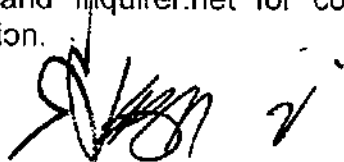
5. He copied the final enhancement files to a SanDisk Cruzer Glide 32GB USB Flash Drive, then verified that the hash value of the files in the flash drive and that of the files in the working drive are the same.¹⁰⁹
6. Thereafter, he submitted a report to the Digital Forensic Laboratory Chief and informed Atty. Medrano that the results of the examination are ready for pick up. The WD Elements hard Drive was kept in the Evidence room of the PNP Anti-Cybercrime Group in Camp Crame, Quezon City.¹¹⁰

He further testified:

1. He used a write-blocker to prevent the alteration of the file and its timestamp, which determines the accuracy of the date of the creation of the file. The write-blocker also prevented any accidental deletion or modification of the original file.¹¹¹
2. Converting a video file to a different format will change the hash value, and may result in changes in the frames per second, the resolution, and the quality, but the content will not change.¹¹²
3. The 67 images copied to the flash drive came from the raw footages. He saw the condensed version of the footages but none of the enhanced images came from said condensed version.¹¹³

The parties stipulated that **Julie Anne M. Aurelio**, a journalist affiliated with the Philippine Daily Inquirer, will testify on direct examination as stated in the Request for Stipulations as follows:¹¹⁴

1. She video recorded [sic] using her mobile phone the said press conference as it was happening;
2. After the press conference, she uploaded her video recording to a group within a messaging application known as "WhatsApp". This group was created for, and used by, reporters and editors of PDI and Inquirer.net for communication and sharing of information.



¹⁰⁹ Judicial Affidavit of SPO2 Noel Cuestas dated July 31, 2018, p. 9; Record, Vol. 4, p. 141

¹¹⁰ Judicial Affidavit of SPO2 Noel Cuestas dated July 31, 2018, pp. 9-10; Record, Vol. 4, pp. 141-142

¹¹¹ TSN, August 15, 2018, pp. 22-23, 27

¹¹² TSN, August 15, 2018, pp. 31-33

¹¹³ TSN, August 15, 2018, pp. 48-49

¹¹⁴ Order dated August 17, 2018; Record, Vol. 4, pp. 344-345

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 25 of 122

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3. The video was downloaded by PDI/Inquirer.net video editor Cathy Miranda who made a short version of the video.
4. The short version of the video, lasting a little over 3 minutes, was uploaded by Inquirer.net to the video hosting site YouTube.com and a link to that video was placed at the Inquirer.net site.
5. The link to the video is <https://www.youtube.com/watch?v=HlyS9-z90pQ> where it can be viewed by the parties.
6. Witness saw the video as posted in Youtube and affirms that the video was based on the video recording she made on the subject press conference; and,
7. Witness further affirms that what is depicted in the video are the events that actually transpired during the recording.

Witness Aurelio further testified:

1. The recording reasonably represents what actually happened.¹¹⁵
2. The unedited recording was less than thirty (30) minutes. She no longer has the unedited video because her phone was snatched last year.¹¹⁶
3. The length of the video was shortened to tell the story more concisely.¹¹⁷

The following exhibits offered by the prosecution were admitted in evidence:¹¹⁸

Exhibit	Document
E-3	Transcript of Stenographic Notes of the Senate Committee on Accountability of Public Officers and Investigations dated 16 February 2017
G	WD Elements External Hard Drive with Serial No. WX51A764RJPA containing the Closed-Circuit Television (CCTV) footages of the City of Dreams Manila from the evening of 26 November 2016 up to the morning of 27 November 2016

¹¹⁵ TSN, August 17, 2018, p. 26

¹¹⁶ TSN, August 17, 2018, p. 30

¹¹⁷ TSN, August 17, 2018, p. 29

¹¹⁸ Resolution dated August 24, 2018; Record, Vol. 5, pp. 57-58

DECISION

People vs. Argosino, et al.
 SB-18-CRM-0240 to 0243

Page 26 of 122

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G-1 to G-67	Processed/enhanced photos by SPO2 Noel Cuestas of the Anti-Cybercrime Group, Philippine National Police (ACG-PNP)
G-68	SanDisk Cruzer Glide 32 GB USB Flash Drive
I to I-19	Bundles of ₱1,000.00 bills amounting to ₱18 million under the custody of PCI Clyde Telmo Tobias, Finance Service Office, DILG-PNP, including the two bags that contained the bundles of ₱1,000.00 bills
I-25 to I-54	Bundles of ₱1,000.00 bills amounting to ₱30 million in the custody of the Department of Justice through Secretary Menardo Guevarra and Ma. Eliza B. Germar, Director, Financial Service, DOJ
I-55	Letter dated December 15, 2016 of Vitaliano N. Aguirre II, addressed to Renato R. Aquino, Manager, Land Bank Taft Avenue Branch; re: deposit of the ₱30 million in the safety deposit boxes of Land Bank
I-55-A	Official Receipt 0016272 dated December 28, 2016 issued by Land Bank of the Philippines
I-55-B	Letter dated December 20, 2016 of Arnold C. Barretto to the Department of Justice
I-56	Acknowledgment Receipt dated December 22, 2016 of the ₱2 million turned over by accused Sombero to the Office of the Ombudsman
I-57	Supplemental Complaint-Affidavit dated December 22, 2016 of Wenceslao A. Sombero, Jr.
K	Video clip of press conference held on December 13, 2016
L to L-1-w	Complaint-Affidavit of Charles T. Calima, Jr. with attachments
L-1-o	Turn-over of Evidence dated 20 December 2016 signed by Charles T. Calima, Jr. and received by Police Chief Inspector (PCI) Michael John Villanueva
L-1-p	Memorandum dated December 20, 2016 Re: Request for Temporary Custody of 18 Million Pesos Cash
L-1-r	Acknowledgment Receipt dated December 20, 2016 signed by PCI Clyde T. Tobias and PCI Villanueva
L-1-s	Tara sheet (handwritten count of money)
N to N-10	Affidavit dated May 2, 2017 of Jaime H. Morente, Commissioner, Bureau of Immigration
O	Form A-1a: Video Forensic Analysis Request Form dated March 1, 2017
P	Form A-8: Chain of Custody Form March 1, 2017
R	Affidavit dated March 8, 2017 of Paolo Carlo P. Calderon

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 27 of 122

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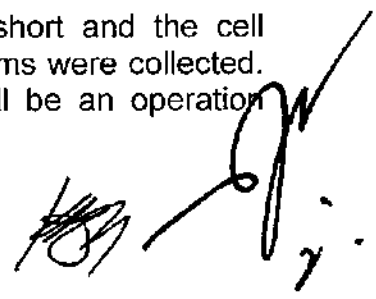
In the Resolution dated August 30, 2018,¹¹⁹ the Court denied the accused's respective petitions/application for bail. Their respective *Motions for Reconsideration* were denied in the Resolution dated November 12, 2018.¹²⁰

EVIDENCE FOR THE PROSECUTION

The prosecution presented as witnesses, **Isidro Jonathan C. Tayag**,¹²¹ **Adonis P. Porpetcho**,¹²² **Pltcol. Eduard T. Chan**,¹²³ **Atty. Arvin Cesar G. Santos**,¹²⁴ **Willison De Jesus**,¹²⁵ **Gen. Charles T. Calima, Jr.**,¹²⁶ **Commissioner Jaime H. Morente**,¹²⁷ **Atty. Czarina May C. Altez-Domingo**,¹²⁸ **Atty. Ryan P. Medrano**,¹²⁹ and **Atty. Eugene C. Javier IV**.¹³⁰

In his *Sworn Statement* dated January 3, **Isidro Jonathan C. Tayag**, Intelligence Officer II, declared:

1. On November 24, 2016, all Intel personnel of the BI, except for the members of the Fugitive Search Unit (FSU), attended a seminar conducted by Gen. Calima, then the acting Chief of the Intelligence Division. There, three (3) teams consisting of male operatives were formed.¹³¹
2. Around 3:00 P.M., the seminar was cut short and the cell phones of the members of the three (3) teams were collected. Gen. Calima then told them that there will be an operation



¹¹⁹ Record, Vol. 5, pp. 245-292

¹²⁰ Record, Vol. 6, pp. 215-247

¹²¹ TSNs, June 10, 2019, June 17, 2019 and June 24, 2019; *Sworn Statement* dated January 3 (Record, Vol. 5, pp. 476-479)

¹²² TSNs, June 13, 2019, June 20, 2019, July 4, 2019 and July 15, 2019; *Sworn Statement* dated January 3 (Record, Vol. 14, pp. 297-300)

¹²³ TSNs, July 25, 2019 and July 29, 2019; *Judicial Affidavit* dated July 11, 2019 (Record, Vol. 15, pp. 90-109)

¹²⁴ TSNs, August 15, 2019 and August 22, 2019; *Judicial Affidavit* dated August 2, 2019 (Record, Vol. 15, pp. 129-141)

¹²⁵ TSN, August 29, 2019; *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019 (Record, Vol. 15, pp. 167-191)

¹²⁶ TSNs, September 12, 2019, September 16, 2019 and September 19, 2019; *Judicial Affidavit* dated September 3, 2019 (Record, Vol. 15, pp. 217-225)

¹²⁷ TSN, September 26, 2019; *Judicial Affidavit* dated August 27, 2019 (Record, Vol. 15, pp. 196-202)

¹²⁸ *Judicial Affidavit* dated October 9, 2019 (Record, Vol. 15, pp. 281-334)

¹²⁹ TSN, October 24, 2019; *Judicial Affidavit of Atty. Ryan P. Medrano* dated October 17, 2019 (Record, Vol. 15, pp. 342-362)

¹³⁰ TSN, November 21, 2019; *Judicial Affidavit* dated October 24, 2019 (Record, Vol. 15, pp. 399-406)

¹³¹ *Sworn Statement* dated January 3, p. 1 (Record, Vol. 5, p. 476)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 28 of 122

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somewhere in the north and all male operatives are expected to be there.¹³²

3. At 3:30 P.M., Col. Eduard Chan, Head for Operations, Intelligence Division, instructed the team leaders to immediately proceed to Fontana Leisure Park at Clark Field, Pampanga.¹³³
4. They proceeded as instructed, and when they arrived, they were informed that Mission Order No. JHM-2016-65 dated November 23, 2016 was implemented by a composite team of the Fugitive Search Unit (FSU), Intelligence Division (ID), Department of Justice, Office of Cyber Crime (DOJ-OCC), designated Immigration Officers (IO), and Port Operations Division (POD), in coordination with the PNP, Special Action Force (SAF). As a result, around one thousand three hundred (1,300) foreign nationals, mostly Chinese, were apprehended.¹³⁴
5. They were then instructed to provide safekeeping duties to the detainees.¹³⁵
6. Around 4:40 P.M. on November 27, 2016, Col. Chan informed them that forty-one (41) detainees will be transferred to Villa 4712, upon the order of AC Argosino. Col. Chan showed him the text message purportedly from AC Argosino, containing the names of the Chinese nationals to be transferred. Said detainees boarded the Fontana bus, with two (2) Intel operatives escorting said bus to Villa 4712¹³⁶
7. Around 6:40 P.M., Col. Chan informed him that another batch of ten (10) detainees will be transferred to Villa 3510. Col. Chan instructed them to cover one of the exit doors so the other detainees will not see the ten (10) who will be transferred. Complying with the instruction, they made a makeshift barrier. He then watched as Col. Chan facilitated the transfer of said Chinese nationals.¹³⁷
8. Around 7:20 P.M., there was a commotion. Some of the detainees were fighting. Col. Chan intervened and a short time thereafter, some Chinese leaders arrived and pacified the commotion.¹³⁸



¹³² Sworn Statement dated January 3, p. 1 (Record, Vol. 5, p. 476)

¹³³ Sworn Statement dated January 3, p. 1 (Record, Vol. 5, p. 476)

¹³⁴ Sworn Statement dated January 3, p. 1 (Record, Vol. 5, p. 476)

¹³⁵ Sworn Statement dated January 3, pp. 1-2 (Record, Vol. 5, pp. 476-477)

¹³⁶ Sworn Statement dated January 3, p. 2 (Record, Vol. 5, p. 477)

¹³⁷ Sworn Statement dated January 3, pp. 2-3 (Record, Vol. 5, pp. 477-478)

¹³⁸ Sworn Statement dated January 3, p. 3 (Record, Vol. 5, p. 478)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

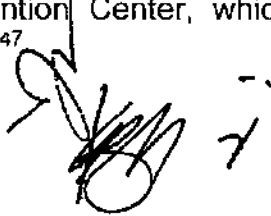
Page 29 of 122

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9. Around 10:00 P.M., the female Chinese nationals were transferred to some villas.¹³⁹
10. The Intel security augmentation teams received Travel Order No. JHM-2016-0434 dated November 29, 2016 only on December 1, 2016. Said Travel Order affirmed the verbal instructions of Gen. Calima.¹⁴⁰
11. Col. Chan told them that the releases to the villas were upon the instruction of AC Argosino. They never questioned the verbal instructions and assumed that a written order will be issued later, as in the aforementioned Travel Order.¹⁴¹

He further testified:

1. The team leaders were himself, Adonis Porpetcho and Ian Relucio. They reported to Col. Chan, who in turn, reported to Gen. Calima. Gen. Calima reported to the Commissioner.¹⁴²
2. To show that the transfers of the Chinese nationals were upon the instruction of AC Argosino, Col. Chan showed them his cell phone.¹⁴³
3. The operation in Fontana was the first time they had to apprehend a large number of individuals.¹⁴⁴
4. The individuals they were supposed to secure were initially located in the IT Center. Later, they were transferred to the food court.¹⁴⁵ Said individuals did not look comfortable in the food court because they were crammed in said area.¹⁴⁶
5. He does not know how long the individuals stayed in the food court. He went home on the first night. When he returned on the following day, the Chinese nationals who were previously in the food court were already transferred to the Fontana Convention Center, which was much bigger than the food court.¹⁴⁷



¹³⁹ Sworn Statement dated January 3, p. 3 (Record, Vol. 5, p. 478)

¹⁴⁰ Sworn Statement dated January 3, p. 3 (Record, Vol. 5, p. 478)

¹⁴¹ Sworn Statement dated January 3, p. 3 (Record, Vol. 5, p. 478)

¹⁴² TSN, June 24, 2019, p. 23

¹⁴³ TSN, June 10, 2019, pp. 17-18

¹⁴⁴ TSN, June 10, 2019, pp. 19-20

¹⁴⁵ TSN, June 10, 2019, pp. 23, 25-26

¹⁴⁶ TSN, June 10, 2019, pp. 27-28

¹⁴⁷ TSN, June 10, 2019, pp. 29-30

DECISION

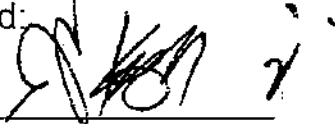
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 30 of 122

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6. The detainees were properly fed, and were provided sleeping mats. The problem was that the toilets were always clogged.¹⁴⁸ They were not told the reason for the transfer of some detainees to the villas, but the discomfort and the situation in the Convention Center were probably among the reasons.¹⁴⁹
7. He was told that some of the Chinese nationals were transferred to the villas because they wanted to separate the female detainees from the male detainees. He was not informed about why certain persons were assigned to a specific villa.¹⁵⁰
8. He had no participation in the transfer of the detainees. It was Col. Chan who facilitated said transfer.¹⁵¹
9. After the transfers, only male adult detainees remained in the Convention Center. The commotion on November 27, 2016 started because of the transfer of some Chinese nationals.¹⁵²
10. He saw Gen. Calima in the Fontana Convention Center on the 27th. After that, Gen. Calima returned twice.¹⁵³
11. Some of the words in his *Sworn Statement* were copied from Mr. Porpetcho's *Sworn Statement*.¹⁵⁴

Adonis P. Porpetcho's declarations in his *Sworn Statement* dated January 3 are similar to those in witness Tayag's *Sworn Statement*, except that (1) there was no mention of being instructed to make a makeshift barrier and the commotion on November 27, 2016; and (2) witness Porpetcho also declared that on December 16, 2016, MGen Leo Cresente M. Ferrer, the OIC of the Intelligence Division instructed the team to conduct actual accounting, to coordinate with the Angeles City Police Office, PNP PRO 3 to reinforce the BI personnel in securing the detainees, and to devise ways and means to identify and account for the detainees. In response to said instruction, the team consolidated the data from the Legal Division, Gen. Calima's report to the Secretary of Justice and the handwritten accounting of Col. Chan, to create a database of Chinese subjects.¹⁵⁵ He further testified:



¹⁴⁸ TSN, June 10, 2019, pp. 34-35

¹⁴⁹ TSN, June 10, 2019, pp. 37-38

¹⁵⁰ TSN, June 17, 2019, pp. 20-21

¹⁵¹ TSN, June 10, 2019, p. 42

¹⁵² TSN, June 24, 2019, pp. 8-9

¹⁵³ TSN, June 24, 2019, p. 25

¹⁵⁴ TSN, June 17, 2019, pp. 8-9

¹⁵⁵ *Sworn Statement* dated January 3, p. 3 (Record, Vol. 14, p. 299)

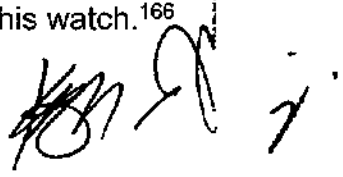
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 31 of 122

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1. He was one of the on-duty team leaders that he referred to in his *Sworn Statement*.¹⁵⁶
2. When Col. Chan showed him the text message containing the names of the Chinese nationals to be transferred, he saw that the name of the sender was indicated as AC Argosino.¹⁵⁷
3. He does not know if the text message actually came from Deputy Commissioner Argosino because he did not see the phone number from which said message came.¹⁵⁸
4. He does not know why some of the Chinese nationals were transferred to the villas.¹⁵⁹
5. Col. Chan's order was to transfer the Chinese nationals from the Fontana Convention Center to the villas, not to release them from custody.¹⁶⁰
6. At no point did Deputy Commissioners Argosino or Robles instruct him to release any of the Chinese nationals detained in Fontana.¹⁶¹
7. He never heard the name of Commissioner Robles during the operation in Fontana.¹⁶² As far as he knows, accused Robles had nothing to do with the release or transfer of the detainees.¹⁶³
8. The Convention Center was not suitable as a holding center because there were no beds, and the number of toilets was insufficient.¹⁶⁴
9. Some of the detainees suffered from health issues such as fever, hypertension, coughs and chickenpox.¹⁶⁵
10. Some detainees became restless and unruly because they did not have a proper place to sleep on. Several detainees got into fist fights and threw water bottles at each other. Three (3) such incidents occurred during his watch.¹⁶⁶



¹⁵⁶ TSN, June 13, 2019, pp. 14-15

¹⁵⁷ TSN, June 13, 2019, p. 15

¹⁵⁸ TSN, June 20, 2019, p. 54

¹⁵⁹ TSN, June 13, 2019, pp. 15-18

¹⁶⁰ TSN, June 20, 2019, pp. 10-11

¹⁶¹ TSN, June 20, 2019, p. 11

¹⁶² TSN, July 4, 2019, p. 63

¹⁶³ TSN, July 15, 2019, p. 10

¹⁶⁴ TSN, June 20, 2019, pp. 14-15

¹⁶⁵ TSN, June 20, 2019, pp. 27-28

¹⁶⁶ TSN, June 20, 2019, pp. 17-18, 25-26

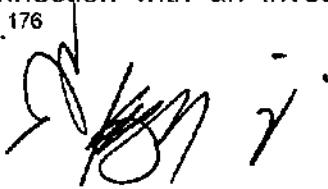
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 32 of 122

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11. The detainees did not understand or speak Filipino. They communicated with the detainees through interpreters provided by Fontana. He thought that the interpreters were employed by Fontana because he saw Fontana IDs.¹⁶⁷
12. There was no order to release the Chinese nationals after the transfer to the villas. The detainees were released only after they received orders from the Legal Division.¹⁶⁸
13. The detainees were transferred from the Fontana Food Center to the Fontana Convention Center because the conditions in the Food Center were inhumane.¹⁶⁹
14. He prepared a Special Report because sometime in mid-December, the NBI conducted an investigation on the alleged missing wires at the Fontana Convention Center.¹⁷⁰
15. In his *Sworn Statement*, he mentioned “unaccounted 108 Chinese. In his Special Report, there was a reference to 108 Chinese nationals. Said 108 Chinese nationals were those he referred to as “unaccounted” in his *Sworn Statement*.¹⁷¹
16. That there were 108 unaccounted Chinese nationals was discovered after the NBI did a head count in the Convention Center. Commissioner Morente then directed them to explain why the 108 Chinese nationals were missing.¹⁷² He assumed that the unaccounted Chinese nationals were escapees because they were not in the area.¹⁷³
17. The matter of the alleged unaccounted detainees was resolved after he prepared his report.¹⁷⁴
18. He prepared his *Sworn Statement* in Fontana sometime in late December, and had it notarized in Manila on January 3, 2017.¹⁷⁵
19. He executed said *Sworn Statement* because the NBI issued a subpoena in connection with an investigation regarding the Fontana incident.¹⁷⁶



¹⁶⁷ TSN, July 15, 2019, pp. 49-50

¹⁶⁸ TSN, July 15, 2019, p. 30

¹⁶⁹ TSN, July 15, 2019, p. 30

¹⁷⁰ TSN, June 20, 2019, p. 7

¹⁷¹ TSN, June 20, 2019, p. 36

¹⁷² TSN, June 20, 2019, p. 37

¹⁷³ TSN, June 20, 2019, pp. 49-50

¹⁷⁴ TSN, July 4, 2019, pp. 37-38

¹⁷⁵ TSN, June 20, 2019, p. 8

¹⁷⁶ TSN, June 20, 2019, p. 8

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 33 of 122

X -----X

20. Some of the statements in his and Isidro Tayag's *Sworn Statement* are identical because he and his colleagues collaborated in preparing their *Sworn Statements*.¹⁷⁷
21. Gen. Ferrer was Gen. Calima's replacement.¹⁷⁸

In his Judicial Affidavit dated July 11, 2019, **Pltcol. Eduard T. Chan**, Acting Chief of the Sheltering Division, Engineering Service of the Philippine National Police (PNP), declared:

1. In 2016, he was already with the PNP, but in July, he was detailed at the Bureau of Immigration (BI) as Technical Assistant of the BI Intelligence Operations Unit. He was detailed until December 13, 2016, but the termination of his detail was issued only on January 4, 2017.¹⁷⁹
2. He participated in the operation in Clark, Pampanga on November 24, 2016. The operation resulted in the arrest of more than one thousand (1,000) Chinese nationals who worked illegally in an online gaming operation at Fontana Leisure Park. The BI Operations Unit provided security to the arrested Chinese nationals.¹⁸⁰
3. For the operation, Gen. Calima conducted a seminar and told the BI Intelligence Officers/Agents who attended that they will proceed somewhere in the north for an activity, as part of the seminar. After Gen. Calima formed three (3) groups, with agents Tayag, Porpetcho and Relucio as team leaders, he collected the cell phones of the participants.¹⁸¹
4. Sometime before leaving, Gen. Calima disclosed that the activity was actually an operation in Fontana Leisure Park in Clark, Pampanga, for the apprehension of Chinese nationals illegally working in an online gaming operation. Gen. Calima told him not to disclose the information to the BI Intelligence Officers/Agents to prevent compromising the operation.¹⁸²
5. When they arrived sometime between 6:00 and 7:00 P.M., the Chinese nationals had already been arrested by the team from the Fugitive Search Unit (FSU), the Cyber Crime Unit of the Department of Justice, and designated Immigration Officers, in coordination with the Special Action Force of the PNP.¹⁸³

¹⁷⁷ TSN, June 20, 2019, pp. 55-57

¹⁷⁸ TSN, July 4, 2019, p. 29

¹⁷⁹ *Judicial Affidavit* dated July 11, 2019, p. 1; Record, Vol. 15, p. 90

¹⁸⁰ *Judicial Affidavit* dated July 11, 2019, p. 2; Record, Vol. 15, p. 91

¹⁸¹ *Judicial Affidavit* dated July 11, 2019, pp. 2-3; Record, Vol. 15, pp. 91-92

¹⁸² *Judicial Affidavit* dated July 11, 2019, p. 3; Record, Vol. 15, p. 92

¹⁸³ *Judicial Affidavit* dated July 11, 2019, pp. 3-4; Record, Vol. 15, pp. 92-93

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 34 of 122

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6. Thereafter, he disclosed the details of the operation to the team leaders, and told them that their role was to provide security, and to secure the place to prevent the escape of the arrested Chinese nationals.¹⁸⁴
7. They provided security in Fontana from November 24, 2016 to December 14, 2016. During that period, he received several instructions from Associate Commissioner Argosino.¹⁸⁵
8. On November 27, 2016, Associate Commissioner Argosino, through phone calls and text messages, instructed him to transfer forty-nine (49) Chinese nationals from the Fontana Convention Center to Villa 761, and forty-three (43) Chinese nationals to Villa 4712.¹⁸⁶
9. He complied with the instructions by facilitating the boarding of the Chinese nationals on the Fontana bus that will transport them to the designated villas. He also instructed the team leader to assign their members to escort the bus to the villas.¹⁸⁷
10. Associate Commissioner Argosino sent text messages containing the list of Chinese nationals to be transferred to the particular villas. After the transfers, he informed Associate Commissioner Argosino that he had complied with the instructions.¹⁸⁸
11. Associate Commissioner Argosino also gave him clearance (Exhibits S-2 to S-2-e) to transfer other Chinese nationals to other villas. Said transfers were requested by Wally Sombero (Exhibits S-3 to S-3-a), who told him that his request was already cleared by Associate Commissioner Argosino. He verified from Commissioner Argosino if he knows about Sombero's request.¹⁸⁹
12. He knew Wally Sombero, a retired police officer, because Sombero gave a presentation about online gaming to the BI. During said presentation, he and Sombero exchanged phone numbers to be able to communicate in the event the BI had questions relating to online gaming.¹⁹⁰
13. When he asked confirmation from Associate Commissioner Argosino with regard to Sombero's request, he (Argosino) gave

¹⁸⁴ *Judicial Affidavit* dated July 11, 2019, p. 4; Record, Vol. 15, p. 93

¹⁸⁵ *Judicial Affidavit* dated July 11, 2019, p. 4; Record, Vol. 15, p. 93

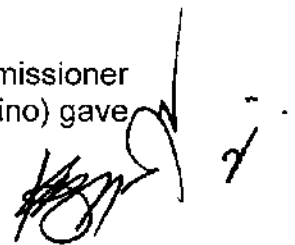
¹⁸⁶ *Judicial Affidavit* dated July 11, 2019, pp. 4-5; Record, Vol. 15, pp. 93-94

¹⁸⁷ *Judicial Affidavit* dated July 11, 2019, p. 7; Record, Vol. 15, p. 96

¹⁸⁸ *Judicial Affidavit* dated July 11, 2019, pp. 4-5; Record, Vol. 15, pp. 93-94

¹⁸⁹ *Judicial Affidavit* dated July 11, 2019, p. 6; Record, Vol. 15, p. 95

¹⁹⁰ *Judicial Affidavit* dated July 11, 2019, p. 6; Record, Vol. 15, p. 95

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'Wally Sombero' and the initials are 'WS'.

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 35 of 122

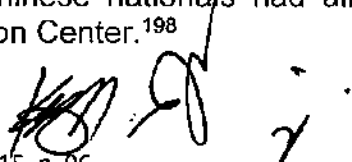
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the go signal by saying "yes" if the confirmation was made by phone call. If he (Chan) forwarded the names given to him by Wally Sombero, he (Argosino) would confirm by texting "yes" or "please accommodate."¹⁹¹

14. After said transfers, Associate Commissioner Argosino called and instructed him to count the remaining female Chinese nationals at the Fontana Convention Center. After replying that there were 302, and asking for specific instructions, Associate Commissioner Argosino called and instructed him to transfer said female Chinese nationals to the different villas, and he complied.¹⁹²
15. He followed the instructions of Associate Commissioner Argosino because he assumed that he (Argosino) is on top of the operation. He cannot question his (Argosino) authority because he was the Associate Commissioner.¹⁹³
16. He and Associate Commissioner Argosino exchanged cell phone numbers even before the operation on November 24, 2016 because of prior operations.¹⁹⁴

He further testified:

1. They were initially told that the operation was for the arrest of the Chinese nationals, but when they arrived, they were tasked with providing security.¹⁹⁵
2. He was the highest ranked official at the time they were tasked with securing the detainees. He received instructions from Manila, specifically from Commissioner Argosino, and sometimes from Gen. Calima and Commissioner Morente.¹⁹⁶
3. As far as he knows, Commissioner Morente issued the travel order in relation to the security detail at Fontana. He does not know if accused Robles or Argosino had any participation in said travel order.¹⁹⁷
4. On November 25, 2016, the Chinese nationals had already been transferred to the Convention Center.¹⁹⁸



¹⁹¹ Judicial Affidavit dated July 11, 2019, p. 7; Record, Vol. 15, p. 96

¹⁹² Judicial Affidavit dated July 11, 2019, pp. 7-8; Record, Vol. 15, pp. 96-97

¹⁹³ Judicial Affidavit dated July 11, 2019, p. 8; Record, Vol. 15, p. 97

¹⁹⁴ Judicial Affidavit dated July 11, 2019, p. 8; Record, Vol. 15, p. 97

¹⁹⁵ TSN, July 25, 2019, p. 44

¹⁹⁶ TSN, July 29, 2019, pp. 75-76

¹⁹⁷ TSN, July 29, 2019, pp. 10-11

¹⁹⁸ TSN, July 25, 2019, p. 45

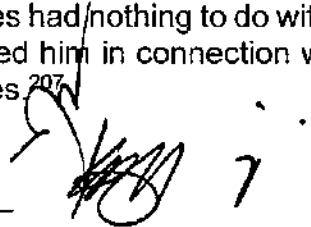
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 36 of 122

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5. He was instructed to transfer the Chinese nationals from the Convention Center to the villas, not to release them from detention.¹⁹⁹
6. The villas were within the Fontana premises. The transfers of the Chinese nationals were not inconsistent with his duty to secure them.²⁰⁰
7. He knows that the instructions came from Associate Commissioner Argosino because the messages came from his (Argosino) cell phone number, and because Associate Commissioner Argosino called him.²⁰¹
8. The transfer of the female Chinese nationals gave them more privacy. Prior to the transfer, they were lumped with the male Chinese nationals for four (4) straight days.²⁰²
9. After the transfers to the villas, a commotion started. Those who remained at the Convention Center were angry because others were transferred to the villas.²⁰³
10. The detainees held at the Fontana Convention Center knew the condition in the villas because they were residing at the villas.²⁰⁴
11. He does not understand Chinese, but he observed that the detainees were pointing to those who were leaving the Convention Center, and concluded that the commotion occurred because of the transfers to the villas.²⁰⁵
12. Gen. Calima, his immediate superior, was aware of the transfers to the villas because he informed Gen. Calima about the instructions given to him (Chan). After informing him, Gen. Calima did not object. Neither Commissioner Morente nor Gen. Calima instructed him to return the Chinese nationals transferred to the villas to the Convention Center.²⁰⁶
13. Accused Robles had nothing to do with the release of the minors, and never called him in connection with the transfer or release of the detainees.²⁰⁷



¹⁹⁹ TSN, July 25, 2019, p. 19

²⁰⁰ TSN, July 25, 2019, pp. 25-26

²⁰¹ TSN, July 29, 2019, p. 32

²⁰² TSN, July 25, 2019, p. 23

²⁰³ TSN, July 29, 2019, pp. 15-16

²⁰⁴ TSN, July 29, 2019, pp. 28-29

²⁰⁵ TSN, July 29, 2019, p. 29

²⁰⁶ TSN, July 25, 2019, pp. 29-31; TSN, July 29, 2019, p. 13

²⁰⁷ TSN, July 29, 2019, pp. 5, 7

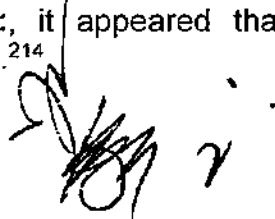
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 37 of 122

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14. The interpreters made requests in connection with the transfers to the villas. He asked clearance with respect to such requests from Commissioner Argosino. Wally Sombero also sent a request through text message. He sent a text message to Commissioner Argosino in connection with Wally Sombero's request.²⁰⁸
15. The "kuya" being referred to in the text messages is Wally Sombero.²⁰⁹
16. Commissioner Argosino did not ask him why Mr. Sombero made requests on matters regarding the detainees.²¹⁰
17. He does not remember exactly when he exchanged numbers with Associate Commissioner Argosino because it was a long time ago. The cell phone number given to him is the only one that he knows to be the number of Associate Commissioner Argosino.²¹¹
18. Associate Commissioner Argosino's first message was "Copy Col." Prior to receiving said message, he (Argosino) called. He does not remember what they specifically talked about, but it was related to the operation. Commissioner Argosino was the one who called because he (Chan) was merely receiving instructions.²¹²
19. He received instructions regarding matters relating to the supervision of the Chinese nationals from Associate Commissioner Argosino. Commissioner Morente only followed up on Operation Ligo, which allowed the detainees to take baths.²¹³
20. Some Chinese nationals were able to leave the villas because there were not enough guards. It was impossible for only one agent to guard forty-one (41) detainees transferred to the villa at all times. He does not know how many were able to leave, but at the time of accounting, when the detainees were being deported, it appeared that those who previously left had returned.²¹⁴



²⁰⁸ TSN, July 29, 2019, pp. 35-37

²⁰⁹ TSN, July 29, 2019, p. 33

²¹⁰ TSN, July 29, 2019, p. 42

²¹¹ TSN, July 29, 2019, p. 39

²¹² TSN, July 29, 2019, pp. 57-58

²¹³ TSN, July 29, 2019, p. 40

²¹⁴ TSN, July 29, 2019, p. 47

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 38 of 122

X -----X

21. When he asked the interpreter about the whereabouts of those who left the villas, he was told that they just went out to buy something and would return later.²¹⁵
22. After informing Gen. Calima and Commissioner Morente about the detainees who left, he was instructed to account for said persons.²¹⁶

In his Judicial Affidavit dated August 2, 2019, **Atty. Arvin Cesar G. Santos**, Chief of the Legal Division of the Bureau of Immigration (BI), declared:

1. Sometime in November 2016, the DOJ directed the BI to conduct law enforcement operations against foreigners suspected of engaging in illegal online gaming at Fontana Leisure Park. In compliance, the Commissioner issued a Mission Order, which was implemented on November 24, 2016.²¹⁷
2. As a result of the operations, more than 1,300 foreign nationals were arrested by the BI Intelligence Agents with the assistance of the NEI and the PNP.²¹⁸
3. On November 25, 2016, upon the Commissioner's order, he and the Lega. Division (LD) prosecutors went to Fontana to conduct inquest proceedings.²¹⁹
4. 12 of the 18 lawyers, and 47 of the 62 administrative/support staff of the LD went to Fontana because of the large number of foreigners who must be investigated. Said foreigners were mostly Chinese.²²⁰
5. Upon arrival, the LD immediately conducted the inquest, which involved the determination of the respondents' names, birthdays, genders, passport details and nationality.²²¹
6. They started the inquest in the afternoon of November 25, 2016 and finished at around 11:45 P.M. of November 26, 2016.²²²
7. Almost all of the 1,300 Chinese nationals were charged with violation of the terms and conditions of their visas and for

²¹⁵ TSN, July 29, 2019, p. 74

²¹⁶ TSN, July 29, 2019, p. 77

²¹⁷ Judicial Affidavit dated August 2, 2019, p. 3 (Record, Vol. 15, p. 131)

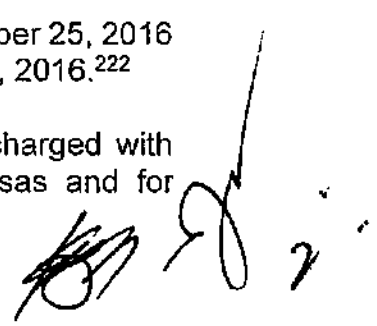
²¹⁸ Judicial Affidavit dated August 2, 2019, p. 4 (Record, Vol. 15, p. 132)

²¹⁹ Judicial Affidavit dated August 2, 2019, pp. 3-4 (Record, Vol. 15, pp. 131-132)

²²⁰ Judicial Affidavit dated August 2, 2019, p. 4 (Record, Vol. 15, p. 132)

²²¹ Judicial Affidavit dated August 2, 2019, p. 4 (Record, Vol. 15, p. 132)

²²² Judicial Affidavit dated August 2, 2019, p. 5 (Record, Vol. 15, p. 133)

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'AS' followed by a large flourish, and the initials '2' are written below it.

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 39 of 122

X -----X

undesirability. The BI released 35 minors and 4 legitimate tourists who had been guaranteed by the Consul General of China.²²³

8. With respect to said arrest of Chinese nationals, the LD issued eleven (11) Charge Sheets with the corresponding Watchlist Orders. Associate Commissioner Al Argosino signed nine (9) of the Charge Sheets. The remaining two (2) were signed by Estanislao Canta, then the OIC-Associate Commissioner, because said Charge Sheets were issued after Associate Commissioners Argosino and Robles went on a leave of absence.²²⁴
9. After the Watchlist Orders were issued, the respondents filed several Petitions for Bail sometime in November 2016 and December 2016.²²⁵
10. On November 28 or 29, 2016, an inter-agency meeting among the BI, NBI and DOJ was held at the DOJ building. He, accused Argosino, Secretary Aguirre, and representatives from the BI, NBI and DOJ were present in said meeting.²²⁶
11. During the inter-agency meeting, Associate Commissioner Argosino informed Secretary Aguirre that the Board of Commissioners (BOC), composed of Commissioner Jaime H. Morente and Associate Commissioners Argosino and Robles, will act on the Petition for Bail, and Secretary Aguirre consented.²²⁷
12. The BOC members agreed that the BOC, instead of the Commissioner only, will act on the Petitions for Bail, considering the sensitivity and scale of the Fontana case.²²⁸
13. Around eight (8) or nine (9) Petitions for Bail were filed. Most of them were granted, except those where cases for illegal gambling and cybercrime were simultaneously filed by the NBI.²²⁹
14. The Petitions for Bail covered more than 800 Chinese nationals, and around 728 of them were granted bail, which was set at ₱50,000.00 per respondent, and paid to the BI cashiers.²³⁰

²²³ *Judicial Affidavit* dated August 2, 2019, p. 5 (Record, Vol. 15, p. 133)

²²⁴ *Judicial Affidavit* dated August 2, 2019, p. 6 (Record, Vol. 15, p. 134)

²²⁵ *Judicial Affidavit* dated August 2, 2019, p. 6 (Record, Vol. 15, p. 134)

²²⁶ *Judicial Affidavit* dated August 2, 2019, pp. 6-7 (Record, Vol. 15, pp. 134-135)

²²⁷ *Judicial Affidavit* dated August 2, 2019, p. 7 (Record, Vol. 15, p. 135)

²²⁸ *Judicial Affidavit* dated August 2, 2019, p. 7 (Record, Vol. 15, p. 135)

²²⁹ *Judicial Affidavit* dated August 2, 2019, p. 8 (Record, Vol. 15, p. 136)

²³⁰ *Judicial Affidavit* dated August 2, 2019, pp. 8-9 (Record, Vol. 15, pp. 136-137)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 40 of 122

X -----X

15. More than 1,300 foreigners were charged in the Fontana case, including those charged with criminal cases. They were ordered deported on December 28, 2016.²³¹
16. Argosino and Robles signed only one of the several Deportation Orders. After they took a leave of absence, and were eventually removed from office, their successors signed the rest of the Deportation Orders.²³²

He further testified:

1. When the inquest was conducted on November 25, Associate Commissioners Al Argosino and Michael Robles went to Fontana to observe. He does not recall any other instance wherein the Commissioners were present during the inquest proceedings.²³³
2. The inquest was conducted by the other lawyers of the Legal Division. He went to Fontana only to observe.²³⁴
3. Neither Robles nor Argosino intervened in the inquest proceedings to favor any of the Chinese nationals.²³⁵
4. He does not have personal knowledge of the conditions in Fontana, where the detainees were held. He was not involved in the physical custody of the detainees.²³⁶
5. The Petitions for Bail were not yet filed at the time of the inter-agency meeting. The matter was raised because there were concerns such as the difficulty in guarding more than 1,300 detainees, as well as their physical condition and health. As he understood, the Secretary of Justice allowed it because bail was a probability that will address said concerns.²³⁷
6. He does not know who called the meeting. Commissioner Jaime Morente only instructed him to attend.²³⁸
7. After the Legal Division received the bail applications or petitions, said office reviewed the same and recommended that the Board of Commissioners approve the same, except for

²³¹ Judicial Affidavit dated August 2, 2019, p. 9 (Record, Vol. 15, p. 137)

²³² Judicial Affidavit dated August 2, 2019, pp. 9-10 (Record, Vol. 15, pp. 137-138)

²³³ TSN, August 15, 2019, pp. 9-12

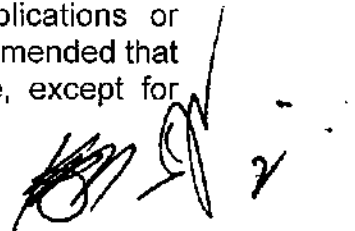
²³⁴ TSN, August 22, 2019, p. 16

²³⁵ TSN, August 15, 2019, p. 46

²³⁶ TSN, August 15, 2019, p. 39

²³⁷ TSN, August 15, 2019, pp. 20-21

²³⁸ TSN, August 15, 2019, p. 38

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 41 of 122

X -----X

those who were charged with committing cybercrime.²³⁹ The BOC unanimously acted in accordance with said favorable recommendation.²⁴⁰

8. He had no objection to the Board of Commissioners acting on the applications for bail.²⁴¹
9. The apprehension and detention of that large number of foreigners was unprecedented.²⁴²
10. The release order is the certification that all the conditions required for release on bail had been complied with. He signs the release orders after determining that there was compliance with the requirements, *i.e.*, the respondents or their representatives posted the cash bail, paid the other fees, and submitted the passport to the Legal Division.²⁴³
11. The payments of bail and other fees were made at the BI cashier at the main office. The cashiers did not go to Fontana to receive said payments.²⁴⁴
12. To clarify, he did not actually sign the release order in connection with the present cases because he was on official travel abroad at the time the cash bail was paid. Someone else from the Legal Division signed under his name.²⁴⁵
13. Although under the Rules, the Commissioner has the final approval of the Watchlist Order, at the time of the arrest, it was delegated to Associate Commissioner Argosino.²⁴⁶

In his Judicial Affidavit dated August 16, 2019, **Willison De Jesus**, a poker blogger, identified his *Sworn Statement* dated January 3, 2017 (Exhibit M-2). He further identified the persons and places, and explained the events, in the video entitled "NBI Request" (Exhibit G), and declared:

1. The "Wally Sombero" or "Wally" mentioned in his *Sworn Statement* refers to Mr. Wenceslao Sombero, Jr.²⁴⁷

²³⁹ TSN, August 15, 2019, pp. 22-23

²⁴⁰ TSN, August 15, 2019, pp. 24-25

²⁴¹ TSN, August 15, 2019, p. 32

²⁴² TSN, August 15, 2019, p. 43

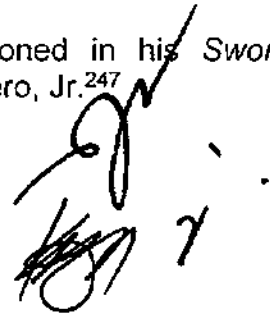
²⁴³ TSN, August 15, 2019, pp. 29-30

²⁴⁴ TSN, August 22, 2019, p. 23

²⁴⁵ TSN, August 15, 2019, pp. 30-31

²⁴⁶ TSN, August 22, 2019, p. 6

²⁴⁷ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 4 (Record, Vol. 15, p. 170)



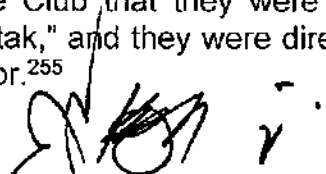
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 42 of 122

X -----X

2. He has known Wally Sombero for more than ten (10) years. He (Sombero) is a respected personality in the poker world, and is known as the "Godfather of Poker" because he was one of the persons who started poker in the Philippines. In fact, the "Metrocard Club" VIP Room—the biggest poker room in Metro Manila—is called "Wally's Room."²⁴⁸
3. The "Martin" mentioned in his *Sworn Statement* refers to Mr. Martin Corpuz, a poker player who has won many poker tournaments in the Philippines.²⁴⁹
4. The party in par. 2 of his *Sworn Statement* was held in Solaire Resort & Casino in Parañaque City. After he left at around 9:00 or 10:00 P.M., Alex Manalang, his friend, dropped him off at the City of Dreams (COD) because it was easier for him to take a ride home from there.²⁵⁰
5. Before taking a ride home, he went inside the COD to use the comfort room. There, he saw Wally Sombero, who was about to take the escalator going up. He waited at the top of the escalator to say "hi" to Sombero. When the latter reached the top of the escalator, Sombero asked if he (De Jesus) has seen Martin Corpuz.²⁵¹
6. After he told Sombero that he had not, Sombero asked him (De Jesus) to accompany him (Sombero) in looking for Martin Corpuz, and he agreed.²⁵²
7. While they were looking for Martin Corpuz, Sombero told him that he (Sombero) has a "special operation" concerning a player who was supposed to have won in Clark but wants to use the money in COD. They eventually found Martin Corpuz when they were going down an escalator while Martin Corpuz was on his way up.²⁵³
8. After they called Corpuz, Sombero asked him to join them (Sombero and Corpuz). They then proceeded to the Signature Club at the ground floor of the COD.²⁵⁴ They told the security guards in the Signature Club that they were looking for the special junket room "Botak," and they were directed to the VIP 2 area at the second floor.²⁵⁵



²⁴⁸ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 4 (Record, Vol. 15, p. 170)

²⁴⁹ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, pp. 3-4 (Record, Vol. 15, pp. 170-171)

²⁵⁰ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 5 (Record, Vol. 15, p. 171)

²⁵¹ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, pp. 5-6 (Record, Vol. 15, pp. 171-172)

²⁵² Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 6 (Record, Vol. 15, p. 172)

²⁵³ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 7 (Record, Vol. 15, p. 173)

²⁵⁴ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 7 (Record, Vol. 15, p. 173)

²⁵⁵ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 7 (Record, Vol. 15, p. 173)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 43 of 122

X-----X

9. Sombero made phone calls when they reached the entrance of the VIP 2 area. Thereafter, a woman instructed the security guards to allow them in.²⁵⁶
10. He and Sombero exchanged phone numbers, and Sombero told them (De Jesus and Corpuz) to wait because they were supposed to pick something up.²⁵⁷
11. In par. 14 of his *Sworn Statement*, he declared that Wally instructed him to make sure that the money was laid out on the table. Sombero did not tell him the reason for the instruction.²⁵⁸
12. When the cashier in the junket area asked if they wanted the money to be recounted by machines, they said that there was no need. The source of the money was a respectable company and recounting would be impractical, considering the large number of bills.²⁵⁹
13. They then put money in one thousand peso bills into two (2) paper bags. He knows that each bag contained ₱10 million, or a total of ₱20 million for the two (2) bags because he and Martin each signed an acknowledgment receipt for ₱10 million.²⁶⁰
14. Later, the three (3) of them stepped outside the casino area and headed to the coffee shop. Sombero then took the bags, instructed him and Corpuz to wait in the poker room, and headed to Erwin's Gastrobar.²⁶¹
15. After around two (2) to three (3) hours, Sombero called, asking where he was. He (De Jesus) said that he was still in the poker room.²⁶²
16. They withdrew another ₱30 million, also in one thousand peso bills. As with the previous ₱20 million, Sombero instructed the cashier to lay down the money on the table, without giving the reason therefor. The money was placed in three (3) paper bags, with each bag containing ₱10 million.²⁶³
17. He knows that the three (3) bags contained ₱30 million because he signed an acknowledgment receipt for said amount.²⁶⁴

²⁵⁶ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, pp. 7-8 (Record, Vol. 15, pp. 173-174)

²⁵⁷ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 8 (Record, Vol. 15, p. 174)

²⁵⁸ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 8 (Record, Vol. 15, p. 174)

²⁵⁹ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 9 (Record, Vol. 15, p. 175)

²⁶⁰ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 9 (Record, Vol. 15, p. 175)

²⁶¹ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 10 (Record, Vol. 15, p. 176)

²⁶² *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 11 (Record, Vol. 15, p. 177)

²⁶³ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 11 (Record, Vol. 15, p. 177)

²⁶⁴ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, p. 12 (Record, Vol. 15, p. 178)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 44 of 122

X -----X

18. He and Sombero carried the three (3) bags outside. When they neared Pangea, which was located in the casino area, Wally Sombero instructed someone to carry one bag, while he (De Jesus) carried the two (2) bags.²⁶⁵
19. After Sombero instructed him to leave the two (2) bags with them, he bid Sombero goodbye and took a taxi cab home. He does not remember the time, but it was early dawn.²⁶⁶

He further testified:

1. Poker bloggers cover poker events. They post photos of the champions and the results of tournaments only because it is not allowed for cash games.²⁶⁷
2. They report the events through social media and through their websites.²⁶⁸
3. The events in his narration in his *Sworn Statement* and Judicial Affidavit all happened on November 27, 2016.²⁶⁹
4. It was the first time Sombero asked him to help in a special operation.²⁷⁰
5. He did not ask Sombero for the details of the special operation. In the casino business, "special operation" may mean a lot of things, such as a special operation to look for women. He did not assume anything.²⁷¹
6. Sombero only told him that there was a player from Clark who won, and the money will be withdrawn from the City of Dreams.²⁷²
7. He knew that they would be picking up ₱50 million. Sombero did not tell them that they would be picking up ₱20 million, and later, ₱30 million.²⁷³
8. Sombero was looking for Mr. Corpuz because he needed help in carrying the money.²⁷⁴

²⁶⁵ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, pp. 11-12 (Record, Vol. 15, pp. 177-178)

²⁶⁶ Judicial Affidavit of Mr. Willison De Jesus dated August 16, 2019, p. 12 (Record, Vol. 15, p. 178)

²⁶⁷ TSN, August 29, 2019, pp. 54-55

²⁶⁸ TSN, August 29, 2019, p. 55

²⁶⁹ TSN, August 29, 2019, p. 43

²⁷⁰ TSN, August 29, 2019, pp. 49-50

²⁷¹ TSN, August 29, 2019, p. 50

²⁷² TSN, August 29, 2019, p. 50

²⁷³ TSN, August 29, 2019, pp. 20-21

²⁷⁴ TSN, August 29, 2019, p. 21

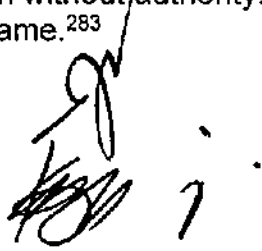
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 45 of 122

X-----X

9. After the staff of the junket room told him that the money was ready, he called Sombero to inform him that the money was only ₱20 million. Sombero instructed him to take the money.²⁷⁵
10. He was later told that there will be another transaction. Said transaction refers to the balance of the ₱50 million that they were supposed to get.²⁷⁶
11. Mr. Corpuz was not with them during the second transaction.²⁷⁷
12. At the time, the poker world was very small so they knew each other. Sombero was called "Col." Because he was a Colonel in the Philippine National Police. He does not know if Sombero had already retired.²⁷⁸
13. The acknowledgment receipts he mentioned in his *Sworn Statement* were not given to them. Said receipts were left with the junket.²⁷⁹
14. He is not an expert on counterfeit money. He could not have determined if counterfeit bills were included in the one thousand peso bills.²⁸⁰
15. It was the first time Sombero asked him for a big favor. Usually, it was something insignificant, such as buying coffee when the other poker bloggers are playing.²⁸¹
16. It was the first time he withdrew such a large amount of money on behalf of Sombero.²⁸²
17. He has previously withdrawn money for other persons because he is known as a poker blogger and transactions are monitored by cameras. In one instance, during a poker tour, he was asked to get the buy in of a person from the cashier and to bring the same to the poker room, even without authority. They only call and he only had to give his name.²⁸³



²⁷⁵ TSN, August 29, 2019, pp. 21-22
²⁷⁶ TSN, August 29, 2019, p. 28
²⁷⁷ TSN, August 29, 2019, p. 31
²⁷⁸ TSN, August 29, 2019, pp. 33-34
²⁷⁹ TSN, August 29, 2019, pp. 34-35
²⁸⁰ TSN, August 29, 2019, pp. 41-42
²⁸¹ TSN, August 29, 2019, pp. 50-51
²⁸² TSN, August 29, 2019, pp. 51-52
²⁸³ TSN, August 29, 2019, p. 52

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 46 of 122

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18. He is not known in Botak. In the acknowledgment receipt, the name of the person who borrowed was indicated. He signed merely to receive the money, but someone else authorized it.²⁸⁴
19. He had to present his ID for the purpose of identifying him as the one who withdrew and received the money.²⁸⁵

The parties adopted the testimony of **Charles T. Calima, Jr.** and the cross-examination by the defense during the bail hearing in SB-18-CRM-0241. In his Judicial Affidavit dated September 3, 2019, he further declared:

1. On November 24, 2016, he attended a seminar at the Bureau of Immigration (BI) Office in Intramuros. Said seminar, purportedly for strategic planning, was actually a cover story, and was organized for the purpose of gathering all available personnel to create tactical teams for an impending operation directed or initiated by the Department of Justice (DOJ), and led by the Fugitive Search Unit (FSU).²⁸⁶
2. The operation was for the arrest of Chinese nationals allegedly engaged in illegal online gambling in Fontana Resort in Clark, Pampanga.²⁸⁷
3. He organized a seminar to maintain operational secrecy. He also asked the attendees to surrender their cell phones for such purpose.²⁸⁸
4. Around 3:00 P.M., a certain Bobby Raquepo, Deputy of the FSU, told him that the support elements from the Intel could leave the BI main office. It was then when he asked the attendees to surrender their cell phones to the team leaders, challenging them to work without said cell phones.²⁸⁹
5. After securing the cell phones, he informed Col. Chan, Technical Assistant for Intelligence of the BI, about the operation in Fontana.²⁹⁰
6. After giving Col. Chan instructions, Col. Chan and the teams left for Clark. He left for Fontana less than an hour after them, and arrived at around 7:00 to 7:30 P.M.²⁹¹

²⁸⁴ TSN, August 29, 2019, p. 53

²⁸⁵ TSN, August 29, 2019, p. 54

²⁸⁶ Judicial Affidavit dated September 3, 2019, p. 2 (Record, Vol. 15, p. 218)

²⁸⁷ Judicial Affidavit dated September 3, 2019, p. 3 (Record, Vol. 15, p. 219)

²⁸⁸ Judicial Affidavit dated September 3, 2019, p. 3 (Record, Vol. 15, p. 219)

²⁸⁹ Judicial Affidavit dated September 3, 2019, p. 3 (Record, Vol. 15, p. 219)

²⁹⁰ Judicial Affidavit dated September 3, 2019, p. 3 (Record, Vol. 15, p. 219)

²⁹¹ Judicial Affidavit dated September 3, 2019, p. 3 (Record, Vol. 15, p. 219)



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

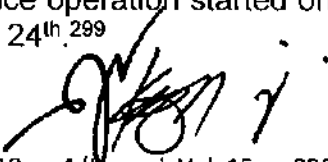
Page 47 of 122

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7. When he reached the gate, he was refused entry because elements of the Special Action Force were instructed not to allow anyone without clearance to enter.²⁹²
8. While he was outside the gate, he saw some foreign-looking persons who were hurriedly leaving the area. He then called Col. Chan, who sent somebody to fetch him.²⁹³
9. Inside, he met Bobby Raquepo and Jake Licas, the head of the FSU. Since the arrest was already done when the support group from his Division arrived, their task was changed from being part of the arresting team to being a custodial force, *i.e.*, ensuring that no one escapes while the Chinese nationals were transferred from the arresting site to the holding area, or from the food court to the convention center.²⁹⁴
10. He stayed in Fontana until the early morning of November 25, 2016. When he returned after said date, the Chinese nationals had already been transferred to the Convention Center, which was a bigger holding area.²⁹⁵
11. After that visit, he received text messages from Col. Chan about the instructions the latter received from Associate Commissioner Argosino.²⁹⁶
12. Col. Chan informed him of said instructions because part of their police training was to keep their commander informed. He was Col. Chan's immediate superior so Col. Chan kept him informed.²⁹⁷
13. When he received such text messages from Col. Chan, he merely replied "copy" or "ok" because they were informative in nature. Col. Chan was not asking for guidance, approval or disapproval.²⁹⁸

He further testified:

1. The counter-intelligence operation started on the 25th, after the DOJ operation on the 24th.²⁹⁹



²⁹² Judicial Affidavit dated September 3, 2019, p. 4 (Record, Vol. 15, p. 220)

²⁹³ Judicial Affidavit dated September 3, 2019, pp. 4-5 (Record, Vol. 15, pp. 220-221)

²⁹⁴ Judicial Affidavit dated September 3, 2019, p. 4 (Record, Vol. 15, p. 221)

²⁹⁵ Judicial Affidavit dated September 3, 2019, p. 6 (Record, Vol. 15, p. 222)

²⁹⁶ Judicial Affidavit dated September 3, 2019, p. 6 (Record, Vol. 15, p. 222)

²⁹⁷ Judicial Affidavit dated September 3, 2019, p. 6 (Record, Vol. 15, p. 222)

²⁹⁸ Judicial Affidavit dated September 3, 2019, p. 6 (Record, Vol. 15, p. 222)

²⁹⁹ TSN, September 12, 2019, pp. 21-22

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 48 of 122

X -----X

2. On the Monday before the raid, there was an initial meeting in Aura, where Jake Licas informed them that the Secretary of Justice (SOJ) instructed Licas to conduct an operation jointly with the Cybercrime Unit of the DOJ.³⁰⁰
3. Commissioner Morente, Associate Commissioners Argosino and Robles, Bobby Raquenco and a certain Medina from personnel attended said meeting. Gen. Morente instructed the other units of the BI to provide support, or whatever the FSU needed.³⁰¹
4. He did not immediately inform the personnel about the operation on the 24th. Instead, he conducted a seminar to prevent information leakage from the Intelligence Office. In Intelligence, they operated on a need-to-know policy. They gave information only to those who needed said information.³⁰²
5. When Sombero reported that someone was "*humihingi ng areglo*," he advised Sombero to find out who the person is. Sombero did not give him the names or the specific details.³⁰³
6. He met Sombero on the 25th because he wanted to obtain more information, but he was not able to get the necessary information.³⁰⁴
7. On November 25, at around 10:00 P.M. or almost 11:00 P.M., when he was on his way home, Wally Sombero informed him about persons from the BI who were asking for "*areglo*." He told Sombero that he wanted names and contact numbers. When he was near his house, Sombero asked if he could pass by their place, where they were holding a meeting.³⁰⁵ Sombero became his informant from that time.³⁰⁶
8. He went to the place—a restaurant somewhere in the City of Dreams—around midnight, and there was a meeting. Sombero was there, along with a lawyer, two (2) interpreters, and Jack Lam.³⁰⁷
9. He went there because he wanted to get the names and contact numbers from Sombero. He thought that the interpreters

³⁰⁰ TSN, September 12, 2019, pp. 28-30

³⁰¹ TSN, September 12, 2019, p. 30

³⁰² TSN, September 12, 2019, pp. 35-36

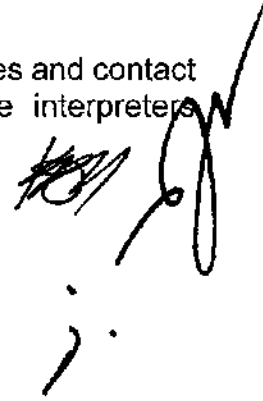
³⁰³ TSN, September 19, 2019, p. 28

³⁰⁴ TSN, September 12, 2019, pp. 45-46

³⁰⁵ TSN, September 16, 2019, pp. 8, 10-11

³⁰⁶ TSN, September 12, 2019, p. 46

³⁰⁷ TSN, September 16, 2019, pp. 8, 10

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'Wally Sombero' and there are some initials below it.

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 49 of 122

X-----X

present during the meeting were the ones who reported to Sombero that they were being asked for *areglo*.³⁰⁸

10. They were talking about the online gaming industry, and he merely observed. He does not know if Mr. Lam and the interpreters talked about the Chinese nationals arrested in Fontana because they were talking in Chinese.³⁰⁹
11. He did not mention the meeting in his Judicial Affidavit because in the end, he failed to get any relevant information from Sombero during the meeting.³¹⁰
12. He received Col. Chan's text messages about the transfers on the 27th. It was after he received reports that someone was asking for *areglo*.³¹¹
13. He did not find the information about the transfer of the detainees to the villas important insofar as the exercise of his functions was concerned. Because he was not the one who gave the instructions, he was not in a position to make a decision.³¹²
14. He does not remember if he informed Commissioner Morente about the transfers because Col. Chan's report was merely informative in nature, in view of the fact that he was Col. Chan's immediate superior.³¹³
15. When Sombero sent him a text message saying "Just left the area sir. *Nakaka-awa mga tao*," he understood it as referring to the situation in the holding facility.³¹⁴
16. He also received the message "Ed and I explained to Asa Com for humanitarian reason *makabalik lang sa villa*." According to Sombero, it was him (Sombero) and Col. Chan who explained to Associate Commissioner Argosino the necessity of transferring some detainees to the villas for humanitarian reasons.³¹⁵
17. At the time of the operation that was conducted starting on the 24th, the most senior officer on the ground was Associate Commissioner Argosino. The order for Col. Chan to transfer the Chinese nationals from the food court to the convention center,

³⁰⁸ TSN, September 16, 2019, p. 12

³⁰⁹ TSN, September 16, 2019, p. 13

³¹⁰ TSN, September 16, 2019, pp. 11-12

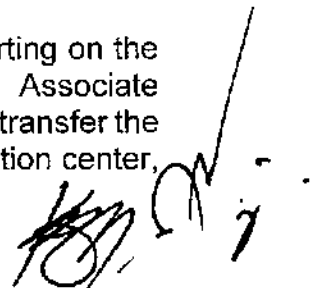
³¹¹ TSN, September 16, 2019, p. 35

³¹² TSN, September 16, 2019, pp. 32-33

³¹³ TSN, September 19, 2019, p. 6

³¹⁴ TSN, September 19, 2019, p. 14

³¹⁵ TSN, September 19, 2019, pp. 14-16



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

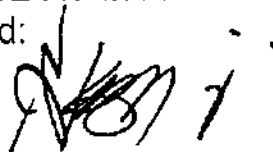
Page 50 of 122

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and the orders to transfer some Chinese nationals from the convention center to the villas all came from Associate Commissioner Argosino.³¹⁶

18. "On the ground" does not mean "on-site," but refers to the most senior officer who has a say in the operation. He presumed that it was Associate Commissioner Argosino.³¹⁷
19. During the meeting with the Secretary on November 28, which was attended by the Commissioner and the Assistant Commissioner, he did not raise the matter of the transfers to the villas. He does not recall if the matter was brought up.³¹⁸
20. Sombero revealed the identities of the persons who were attempting to make "areglo" only on November 30. He informed Commissioner Morente, who gave him clearance to continue with the CI operation.³¹⁹
21. He did not inform the DOJ about the report because it involved Associate Commissioners. He did not want to make a premature report without evidence, considering that Associate Commissioner Argosino was a protégé of the Secretary of Justice. He did not want to be accused of mistakenly destroying the reputation of others.³²⁰
22. The SOJ was the highest authority in the operation but, at that time, he found it more prudent to gather more evidence to support his report, also considering that one of the Associate Commissioners was very close to the Secretary of Justice.³²¹
23. He reported the matter to the Commissioner because the Commissioner was his immediate superior. He also considered the relationship between the Associate Commissioner and the Secretary of Justice. He did not want to be mistaken of just wanting to destroy the reputation.³²²

The parties adopted the testimony of **Jaime H. Morente**, and the cross-examination and re-cross examination by the defense during the bail hearing in SB-18-CRM-0241. In his Judicial Affidavit dated August 27, 2019, he further declared:



³¹⁶ TSN, September 19, 2019, p. 23

³¹⁷ TSN, September 19, 2019, pp. 27-28

³¹⁸ TSN, September 19, 2019, pp. 18-19

³¹⁹ TSN, September 19, 2019, p. 31

³²⁰ TSN, September 19, 2019, pp. 31-32

³²¹ TSN, September 19, 2019, p. 32

³²² TSN, September 19, 2019, pp. 32-33

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 51 of 122

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1. On November 24, 2016, a DOJ-led enforcement operation in Fontana in Clark, Pampanga resulted in the arrest of 1,316 Chinese nationals involved in illegal online gambling.³²³
2. Because of the large number of individuals arrested, they were detained at the Convention Center in Fontana. 1,296 of the 1,316 Chinese nationals arrested were eventually charged with violations of various immigration laws.³²⁴
3. On November 28, 2016, in a meeting at the BI SM Aura Office, Associate Commissioner (AC) Argosino suggested that they seek the guidance of the SOJ regarding the disposition of the Chinese nationals who were arrested.³²⁵
4. AC Argosino requested that if the arrested Chinese nationals will be released on bail, the same be done by board action, meaning that instead of the Commissioner alone approving the bail, it would be the joint act of the three of them (Commissioner Morente, AC Argosino and AC Robles).³²⁶
5. According to AC Argosino, he and AC Robles will be able to assist in the evaluation and assessment of the bail application.³²⁷ He told AC Argosino that they should seek the guidance of then Secretary Aguirre since the law enforcement operation was initiated by the DOJ.³²⁸
6. After he gave said advice, AC Argosino immediately called the DOJ office to set a meeting with Secretary Aguirre that afternoon.³²⁹
7. At the time AC Argosino made the request, no petition for bail has been filed yet. The first application for bail was filed on November 29, 2016.³³⁰
8. After he was informed about the appointment, he informed Atty. Santos, Gen. Calima and Atty. Licas to join them in the meeting with the DOJ Secretary. He proceeded to the DOJ Office at around 2:00 P.M.³³¹
9. During the meeting, after he gave a short update of the situation, AC Argosino supplied the other details and brought up the

³²³ Judicial Affidavit dated August 27, 2019, p. 1 (Record, Vol. 15, p. 196)

³²⁴ Judicial Affidavit dated August 27, 2019, p. 2 (Record, Vol. 15, p. 197)

³²⁵ Judicial Affidavit dated August 27, 2019, p. 2 (Record, Vol. 15, p. 197)

³²⁶ Judicial Affidavit dated August 27, 2019, pp. 2-3 (Record, Vol. 15, pp. 197-198)

³²⁷ Judicial Affidavit dated August 27, 2019, p. 3 (Record, Vol. 15, p. 198)

³²⁸ Judicial Affidavit dated August 27, 2019, p. 3 (Record, Vol. 15, p. 198)

³²⁹ Judicial Affidavit dated August 27, 2019, p. 3 (Record, Vol. 15, p. 198)

³³⁰ Judicial Affidavit dated August 27, 2019, p. 3 (Record, Vol. 15, p. 198)

³³¹ Judicial Affidavit dated August 27, 2019, p. 3 (Record, Vol. 15, p. 198)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 52 of 122

X -----X

suggestion that the bail order be issued by board action, instead of the Commissioner alone acting on the bail petition.³³²

10. The Secretary verbally approved the recommendation that the board act on any bail petition relative to the Fontana case.³³³
11. The Fontana case was the only one where the members of the Board of Commissioners acted on bail petitions.³³⁴
12. The Board of Commissioners acted on all petitions for bail of those arrested in Fontana, but AC Argosino and Robles signed only two (2) bail orders because they took a leave of absence and eventually resigned as a result of the Fontana controversy.³³⁵

He further testified:

1. In his experience, the arrest of 1,316 Chinese nationals in Fontana was the largest arrest in a raid conducted by the BI.³³⁶ The second largest in number was the arrest of Indonesian nationals who posed as Filipinos, with around 300 persons arrested. No board action was done in connection with the bail or release orders in said case involving the Indonesians.³³⁷
2. One of the issues raised during the meeting held on the 28th was the fact that the facility was congested, and that there were complaints from the Chinese Embassy.³³⁸
3. The members of the Board were himself and Associate Commissioners Argosino and Robles.³³⁹
4. If the Board does not arrive at a unanimous action, the action that received two (2) votes would overrule the one with only one (1) vote.³⁴⁰
5. He did not object to AC Argosino's suggestion to seek guidance from the Secretary of Justice (SOJ) because it was a DOJ-initiated operation. He had the authority to deny AC Argosino's request but he believed that the SOJ had the right to decide

³³² Judicial Affidavit dated August 27, 2019, p. 4 (Record, Vol. 15, p. 199)

³³³ Judicial Affidavit dated August 27, 2019, p. 4 (Record, Vol. 15, p. 199)

³³⁴ Judicial Affidavit dated August 27, 2019, p. 4 (Record, Vol. 15, p. 199)

³³⁵ Judicial Affidavit dated August 27, 2019, p. 4 (Record, Vol. 15, p. 199)

³³⁶ TSN, September 26, 2019, p. 25

³³⁷ TSN, September 26, 2019, p. 36

³³⁸ TSN, September 26, 2019, p. 30

³³⁹ TSN, September 26, 2019, p. 20

³⁴⁰ TSN, September 26, 2019, pp. 12-13

DECISION

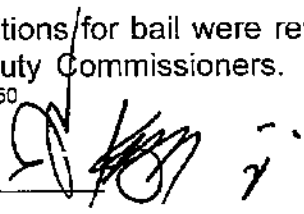
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 53 of 122

X -----X

whether the bail order should be made by board action or by the Commissioner's action alone.³⁴¹

6. According to AC Argosino, he made the suggestion so they could help him (Morente), considering the number of detainees.³⁴²
7. The words AC Argosino used were "*para matulungan yong pag-assess at pag-evaluate ng mga Petitions for Bail gawa na marami masyado yong nahuli ngayon.*"³⁴³
8. The intent was to speed up the processing. He agreed because it would be extra due diligence on his (Morente) part.³⁴⁴
9. He had no intention to refer the matter to the Board before AC Argosino made the suggestion. The usual procedure was that the Commissioner alone approves the bail. Only the Legal Division reviews the petitions or applications, and recommends either approval or disapproval.³⁴⁵
10. When Sec. Aguirre asked for his stand on the matter, he told Sec. Aguirre that he defers to the decision and guidance of the Secretary of Justice, who has administrative control and supervision over the BI, as an attached agency of the DOJ.³⁴⁶
11. All the members of the Board agreed to approve the bail applications. The Chinese nationals were released on the basis of the bail orders, after compliance with the requirements.³⁴⁷
12. The Board signed the two (2) bail orders (signed by Morente, Argosino and Robles) because they found and concluded that the petitions were meritorious and due diligence was exercised by the BI lawyers.³⁴⁸
13. No unwarranted benefits were given to the applicants.³⁴⁹
14. The petitions for bail were reviewed by the different offices of the Deputy Commissioners. He was the last to sign the bail orders.³⁵⁰



³⁴¹ TSN, September 26, 2019, pp. 19-20

³⁴² TSN, September 26, 2019, pp. 42-43

³⁴³ TSN, September 26, 2019, p. 45

³⁴⁴ TSN, September 26, 2019, pp. 45-46

³⁴⁵ TSN, September 26, 2019, pp. 46-47

³⁴⁶ TSN, September 26, 2019, pp. 21-22

³⁴⁷ TSN, September 26, 2019, p. 24

³⁴⁸ TSN, September 26, 2019, p. 27

³⁴⁹ TSN, September 26, 2019, pp. 27-28

³⁵⁰ TSN, September 26, 2019, p. 43

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 54 of 122

X -----X

15. He relied on the recommendation of the Legal Division and the two (2) lawyers in the Office of the Commissioner. Even after AC Argosino and Robles reviewed the documents, his lawyers still had to review the same.³⁵¹
16. After AC Argosino and Robles resigned, the subsequent petitions for bail were still acted upon by Board action and went through the same process.³⁵²
17. He has no point of comparison to determine if board action expedited the processing of the applications for bail. The review may have taken more time because the applications passed through more offices, but the due diligence requirement was satisfied.³⁵³

In her Judicial Affidavit dated October 9, 2019, **Atty. Czarina May C. Altez-Domingo**, Graft Investigation Officer I at the Public Assistance Bureau (PAB) of the Office of the Ombudsman, declared that she administered the oath of Wenceslao A. Sombero, Jr. with respect to his *Complaint-Affidavit* dated December 16, 2016 (Exhibit H) and his *Supplemental Complaint-Affidavit* dated December 22, 2016 (Exhibit I-57). She also witnessed Mr. Sombero's turn over of a sealed paper bag purportedly containing two million pesos (₱2,000,000.00) for safekeeping.

The counsels for the accused stipulated that the tenor of her testimony will be as indicated in the prosecution's offer of testimony, as follows:³⁵⁴

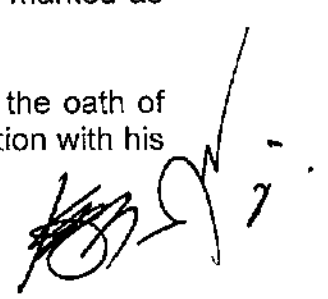
- 1) She is a Graft Investigation Officer I assigned at the Public Assistance Bureau (PAB) of the Office of the Ombudsman since July 31, 2014;
- 2) She will testify on her duties and responsibilities as Graft Investigation Officer I of the Office of the Ombudsman;
- 3) In the course of the performance of her duties, on 16 December 2016, she administered the oath of accused Wenceslao "Wally" A. Sombero with respect to his Complaint-Affidavit marked as Exhibit H filed with the Office of the Ombudsman;
- 4) On 22 December 2016, she likewise administered the oath of accused Wenceslao "Wally" A. Sombero in connection with his

³⁵¹ TSN, September 26, 2019, p. 47

³⁵² TSN, September 26, 2019, p. 47

³⁵³ TSN, September 26, 2019, pp. 47-48

³⁵⁴ Order dated October 14, 2019, pp. 336-A and 336-B



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 55 of 122

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Supplemental-Affidavit marked as Exhibit I-57 filed before the Office of the Ombudsman;

- 5) After administering his oath on 22 December 2016, accused Wenceslao "Wally" A. Sombero turned over a sealed paper bag containing Two Million Pesos to the Public Assistance Bureau (PAB), Office of the Ombudsman for safekeeping which was handed to Administrative Officer Hernel S. Gervacio of the Records Section, Office of the Ombudsman; and
- 6) To identify, and prove the existence, due execution and authenticity of Exhibit H and Exhibit I-57.

In his Judicial Affidavit dated October 17, 2019, **Atty. Ryan P. Medrano**, Director IV, General Investigation Bureau (GIB)-F, Field Investigation Office (FIO) II of the Office of the Ombudsman, declared:

1. In December 2016, he held the position of Graft Investigation and Prosecution Officer (GIPO) III of GIB-B, FIO I of the Office of the Ombudsman.³⁵⁵
2. He was a member of the special panel of investigators who conducted a fact-finding investigation relative to the alleged extortion scheme committed by then Bureau of Immigration (BI) Associate Commissioners Al C. Argosino and Michael B. Robles against gaming operator Jack Lam in the amount of fifty million pesos (P50,000,000.00).³⁵⁶
3. Sometime between the second week of January 2017 and the third week of February 2017, he went to the City of Dreams (COD) to request for copies of its Closed-Circuit Television (CCTV) footages covering the evening of November 26, 2016 to the morning of November 27, 2016.³⁵⁷
4. Mr. Manolito Manalang, an officer of the COD, informed him that the COD already gave an initial copy of the requested footages to the NBI, and that the COD was willing to cooperate with the investigation. Considering the technical issues involved in the retrieval and extraction of said footages, they agreed that they will return later and bring along technical people.³⁵⁸
5. Sometime in February 2017, they coordinated with PSSupt. Marni Marcos, head of the Anti-Cybercrime Group of the

³⁵⁵ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 4 (Record, Vol. 15, p. 345)

³⁵⁶ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, pp. 4-5 (Record, Vol. 15, pp. 345-346)

³⁵⁷ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 5 (Record, Vol. 15, p. 346)

³⁵⁸ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 6 (Record, Vol. 15, p. 347)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

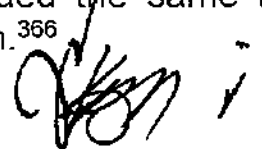
Page 56 of 122

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Philippine National Police (ACG-PNP) relative to the extraction and forensic examination of the footages requested from the COD. PSSupt. Marcos then assigned SPO2 Noel Cuestas to assist them.³⁵⁹

6. He returned to the COD on March 1, 2017. He was accompanied by Mr. Mamenta III, a member of the special panel of investigators, and SPO2 Cuestas and PO3 Jeremiah James E. Cajayon, both of the ACG-PNP.³⁶⁰
7. Mr. Manalang gave them the WD Elements External Hard Drive with Serial No. WX51A764RJPA (Exhibit G) containing the requested CCTV footages. He gave said hard drive to PO3 Cajayon, who handed the same to SPO2 Cuestas.³⁶¹
8. SPO2 Cuestas then requested him to fill out *Form A-8: Chain of Custody Form* (Exhibit P) and *Form A-1a: Video Forensic Analysis Request Form* (Exhibit O), and told him that they will inform him of the results once they finish the examination.³⁶²
9. Several months later, SPO2 Cuestas sent a text message informing him that the result of the examination was ready and available.³⁶³
10. SPO2 Cuestas gave them a SanDisk Cruzer Glide 32GB USB Flash Drive (Exhibit G-68) containing the result of the digital forensic examination.³⁶⁴
11. Several weeks later, then Ombudsman Morales approved the Resolution indicting Associate Commissioners Argosino and Robles, Mr. Sombero and Mr. Lam for graft charges, bribery, etc., and directed them to terminate the fact-finding investigation and to forward the evidence they gathered to the handling prosecutors.³⁶⁵

During cross-examination, he testified that they did not check the files in the hard drive before they handed the same to the police technical officers for forensic examination.³⁶⁶



³⁵⁹ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 6 (Record, Vol. 15, p. 347)

³⁶⁰ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 7 (Record, Vol. 15, p. 348)

³⁶¹ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, pp. 7-8 (Record, Vol. 15, pp. 348-349)

³⁶² Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, pp. 8-11 (Record, Vol. 15, pp. 349-352)

³⁶³ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 11 (Record, Vol. 15, p. 352)

³⁶⁴ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 12 (Record, Vol. 15, p. 353)

³⁶⁵ Judicial Affidavit of Atty. Ryan P. Medrano dated October 17, 2019, p. 12 (Record, Vol. 15, p. 353)

³⁶⁶ TSN, October 24, 2019, p. 9

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 57 of 122

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In his Judicial Affidavit dated October 24, 2019, **Atty. Eugene C. Javier IV**, Supervising Agent of the Special Action Unit (SAU) of the National Bureau of Investigation (NBI), declared:

1. In December 2016, he was a Senior Agent of the SAU of the NBI.³⁶⁷
2. He was assigned to conduct an investigation on the alleged extortion scheme committed by then Bureau of Immigration (BI) Associate Commissioners Al C. Argosino and Michael B. Robles against gaming operator Jack Lam in the amount of fifty million pesos (P50,000,000.00).³⁶⁸
3. On December 8, 2016, after he was assigned to conduct said investigation, Wally Sombero submitted himself to the NBI for Protective Custody, for the purpose of giving information on said alleged extortion scheme.³⁶⁹
4. Atty. Gregorio Luis C. Contacto III, Mr. Sombero's lawyer, took his (Sombero) Judicial Affidavit from December 9, 2016 to December 12, 2016 at the NBI. After they reviewed the Judicial Affidavit and asked clarificatory questions, Mr. Sombero signed the same in their presence.³⁷⁰
5. Meanwhile, they requested the City of Dreams to provide them with copies of the Closed-Circuit Television (CCTV) footages of the City of Dreams from the evening of November 26, 2016 to the morning of November 27, 2016 to verify Mr. Sombero's claim.³⁷¹
6. After reviewing the requested CCTV footages, they issued subpoenas to Atty. Al C. Argosino, Atty. Michael B. Robles, Adonis P. Porpetcho, Jonathan Theodore Relucio, Isidro Jonathan Tayag, Alex Yu, Norman Ng, Dennis Pak, Commissioner Jaime H. Morente, Atty. Jose Carlitos Z. Licas, Col. Eduard T. Chan and Gen. Charles Calima, Jr.³⁷²
7. After they received the sworn statements of Adonis P. Porpetcho, Isidro Jonathan C. Tayag, Jonathan Theodore M. Relucio, the affidavits of Alex Yu, Norman Ng and Jose Carlitos Z. Licas, and Certifications issued by the Bureau of Immigration, they gathered relevant documents and evaluated the same.³⁷³

³⁶⁷ Judicial Affidavit dated October 24, 2019, p. 3 (Record, Vol. 15, p. 401)

³⁶⁸ Judicial Affidavit dated October 24, 2019, p. 3 (Record, Vol. 15, p. 401)

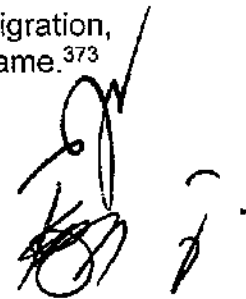
³⁶⁹ Judicial Affidavit dated October 24, 2019, pp. 3-4 (Record, Vol. 15, pp. 401-402)

³⁷⁰ Judicial Affidavit dated October 24, 2019, p. 4 (Record, Vol. 15, p. 402)

³⁷¹ Judicial Affidavit dated October 24, 2019, p. 4 (Record, Vol. 15, p. 402)

³⁷² Judicial Affidavit dated October 24, 2019, pp. 4-5 (Record, Vol. 15, pp. 402-403)

³⁷³ Judicial Affidavit dated October 24, 2019, p. 5 (Record, Vol. 15, p. 403)



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 58 of 122

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- 8. He then prepared the *Transmittal Letter* dated January 26, 2017 (Exhibit M). After it was approved by Atty. Dante A. Gierran, their Director, he filed said *Transmittal Letter* and the attached supporting documents with the Office of the Ombudsman for preliminary investigation and the filing of criminal charges.³⁷⁴

He further testified:

- 1. He recommended the filing of criminal charges against Gen. Charles Calima.³⁷⁵
- 2. He recommended the filing of cases against Argosino, Robles, Sombero, Calima and Jack Lam, but he did not recommend the filing of a case for Plunder.³⁷⁶

The following exhibits offered by the prosecution were admitted in evidence.³⁷⁷

Exhibit	Document
E-3	Transcript of Stenographic Notes of the Senate Committee on Accountability of Public Officers and Investigations dated 16 February 2017
G	WD Elements External Hard Drive with Serial No. WX51A764RJPA containing the Closed-Circuit Television (CCTV) footages of the City of Dreams Manila from the evening of 26 November 2016 up to the morning of 27 November 2016
G-1 to G-67	Processed/enhanced photos by SPO2 Noel Cuestas of the Anti-Cybercrime Group, Philippine national Police (ACG-PNP)
G-68	SanDisk Cruzer Glide 32 GB USB Flash Drive
H	<i>Complaint-Affidavit</i> dated December 16, 2016 of Wenceslao A. Sombero Jr.
I to I-19	Bundles of ₱1,000.00 bills amounting to ₱18 million under the custody of PCI Clyde Telmo Tobias, Finance Service Office, DILG-PNP, including the two bags that contained the bundles of ₱1,000.00 bills
I-25 to I-54	Bundles of ₱1,000.00 bills amounting to ₱30 million in the custody of the Department of Justice through Secretary Menardo Guevarra and Ma. Eliza B. Gemar, Director, Financial Service, DOJ

³⁷⁴ *Judicial Affidavit* dated October 24, 2019, pp. 5-6 (Record, Vol. 15, pp. 403-404)

³⁷⁵ TSN, November 21, 2019, p. 25

³⁷⁶ TSN, November 21, 2019, p. 25

³⁷⁷ Resolution dated February 21, 2020; Record, Vol. 18, pp. 497-498

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 59 of 122

X -----X

I-55	Letter dated December 15, 2016 of Vitaliano N. Aguirre II, addressed to Renato R. Aquino, Manager, Land Bank Taft Avenue Branch
I-55-A	Official Receipt No. 0016272 dated December 28, 2016 issued by Land Bank of the Philippines
I-55-B	Letter dated December 20, 2016 of Arnold C. Barretto to the Department of Justice
I-56	Acknowledgment Receipt dated December 22, 2016 issued by Jesulito D. Limpahan
I-57	Supplemental Complaint-Affidavit dated December 22, 2016 of Wenceslao A. Sombero, Jr.
K	Video clip of press conference held on December 13, 2016
L to L-1-w	Complaint-Affidavit of Charles T. Calima, Jr. with attachments
L-1-o	Turn-over of Evidence dated 20 December 2016 signed by Charles T. Calima, Jr. and received by Police Chief Inspector (PCI) Michael John Villanueva
L-1-p	Memorandum dated December 20, 2016 Re: Request for Temporary Custody of 18 Million Pesos Cash
L-1-r	Acknowledgment Receipt dated December 20, 2016 signed by PCI Clyde T. Tobias and PCI Villanueva
L-1-s	Tara sheet (handwritten count of money)
M and series	National Bureau of Investigation (NBI) Complaint and attachments
M-2	Sworn Statement dated January 3, 2017 of Willison De Jesus
M-2-b to M-2-t	Still photos of the CCTV footages of the City of Dreams Manila on November 27, 2016
M-5	Sworn Statement dated January 3 of Adonis P Porpetcho
M-6	Sworn Statement dated January 3 of Isidro Jonathan C. Tayag
N to N-10	Affidavit dated May 2, 2017 of Jaime H. Morente, Commissioner, Bureau of Immigration
O	Form A-1a: Video Forensic Analysis Request Form dated March 1, 2017
P	Form A-8: Chain of Custody Form March 1, 2017
R to R-4	Affidavit dated March 8, 2017 of Paolo Carlo P. Calderon
S to S-4	Photos of the text messages received by P/Lt.Col. Chan

This Court denied the accused's respective *Motions for Leave to File Demurrer to Evidence* in the Resolution dated August 28, 2020,³⁷⁸ and their respective *Motions for Reconsideration* in the Resolution

³⁷⁸ Record, Vol. 19, pp. 356-386

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 60 of 122

X-----X

dated September 15, 2020.³⁷⁹ Thereafter, accused Argosino and Robles manifested that they intend to file their respective *Demurrers to Evidence* without leave of court.³⁸⁰

In his *Demurrers to Evidence*, accused Argosino prays that he be acquitted of the charges on the ground of insufficiency of evidence. He avers:

SB-18-CRM-0240³⁸¹

1. The prosecution failed to establish sufficient evidence to prove his guilt beyond reasonable doubt. It failed to present any witness with personal and/or competent knowledge to support the allegations in the Information.
 - a. Ret. Gen. Charles Calima, the prosecution's witness, had no personal knowledge of the incident that happened in the City of Dreams on November 26 and 27, 2016.
 - i. His only source of information was accused Sombero, but the prosecution did not present accused Sombero as a witness, considering that he is one of the accused.
 - ii. He repeatedly used the word "*parang*," indicating his uncertainty and lack of personal knowledge.
 - iii. He omitted from his Complaint Affidavit the fact that on November 25, 2016, the day after the arrest of the Chinese nationals, he went to a meeting in the City of Dreams together with Jack Lam, Wally Sombero, and the two (2) interpreters, Alex Yu and Norman Ng.
 - b. Commissioner Morente had no personal knowledge of the alleged extortion activity of accused Argosino and Robles.
 - i. The information was only relayed to him by Ret. Gen. Calima.
 - ii. His (accused Argosino) asking for help during the confrontation on December 8, 2016, cannot be interpreted as an admission of guilt.

³⁷⁹ Record, Vol. 19, pp. 488-495

³⁸⁰ Accused Argosino's *Manifestation (re Filing of Demurrers to Evidence)* dated September 22, 2020 (Record, Vol. 20, pp. 22-24); Accused Robles' *Manifestation (of filing Demurrer to Evidence without Leave of Court)* dated September 22, 2020 (Record, Vol. 20, pp. 82-84)

³⁸¹ *Demurrer to Evidence* dated October 22, 2020; Record, Vol. 20, pp. 99-291

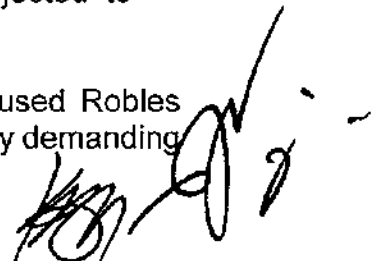
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 61 of 122

X-----X

- c. The prosecution intended to present one of Jack Lam's interpreters as a witness. Said interpreter supposedly had personal knowledge about the case, but was never presented.
- d. The pieces of evidence presented by the prosecution are incompetent, irrelevant, immaterial, and have no probative value to prove the allegations in the Information.
 - i. The Senate TSN dated February 16, 2017 (Exhibit E-3) of a certain Alex Yu is hearsay because said person was never presented in the proceedings before the Court.
 - ii. The CCTV footages at the City of Dreams (Exhibits G to G-67) do not prove the events that happened from the late evening of November 26, 2016 to the morning of November 27, 2016 because they do not have sound or an audio feature. Furthermore, the short version was not properly authenticated.
 - iii. The mere act of carrying a bag with money does not necessarily lead to the conclusion that a crime was committed, considering that the place was a casino, where people use money, take some winnings or withdraw money to play.
 - iv. The video clip of the Press Conference (Exhibit K) cannot be relied upon because it was incomplete, being cut from the original video which was less than thirty (30) minutes. Moreover, nowhere did he mention in said video that the money received was bribe money. Neither did he mention that a demand was made to Jack Lam in relation to said money. Finally, the prosecution should have presented Ms. Cathy Miranda, the person who edited and uploaded the video to YouTube.
 - v. The NBI Complaint and its attachments (Exhibit M and series) are hearsay because they were not based on the witness' personal knowledge.
 - vi. The three (3) Affidavits of accused Sombero (Exhibits M-1, H and I-57) are hearsay because he did not take the witness stand and has not been subjected to cross-examination.
- 2. The prosecution failed to prove that he and accused Robles committed Violation of Sec. 3(e) of R.A. No. 3019 by demanding



DECISION


People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 62 of 122

X -----X

and receiving P50 million from Jack Lam through accused Sombero on November 27, 2016, or sometime prior or subsequent thereto in Parañaque City as consideration for the release of 1,316 Chinese nationals arrested and detained in Fontana Leisure Park and Casino for violating Philippine Immigration laws.

- a. Accused Sombero's Judicial Affidavit dated December 12, 2016 states that the money was for bail, and not for any illegal consideration.
- b. The prosecution failed to establish the existence of conspiracy.
- c. The prosecution's evidence is not sufficient to establish that a demand was made to Jack Lam, and by reason thereof, the amount of P50 million was given through accused Sombero.
- d. There is no proof that the P50 million received in the City of Dreams on November 27, 2016 was in consideration of an agreement with the source of the money to intervene and assist in the illegal release of the 1,316 Chinese nationals arrested and detained at Fontana Leisure Parks and Casino in Pampanga.
- e. None of the 1,316 Chinese nationals detained in Fontana Leisure Park and Casino was released illegally.
- f. The actions taken by the DOJ and the BID were justified because the raid on November 24, 2016 was unprecedented.
 - i. The transfer of the detainees from the Food Court to the Convention Center, and the transfers of some detainees to the villas, were done in response to the poor and inhumane living condition in the holding facility.
 - ii. Then DOJ Secretary Aguirre approved the recommendation that the petitions for bail be approved through Board action, instead of the Commissioner's action alone, because of the large number of detainees.
- g. The Legal Department of the BID, which processed the bail petitions, recommended that the same be granted. Accordingly, the Board of Commissioners unanimously approved the bail applications.



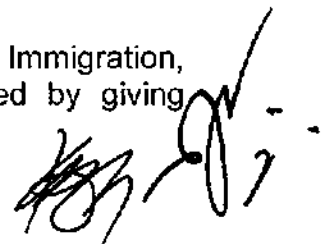
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 63 of 122

X-----X

- h. The evidence is insufficient to prove that he was solely responsible for all the movements of the detainees at Fontana.
 - i. Exhibits S to S-4 lack probative value because they are incomplete, and they are not screen shots of text messages, but pictures of the front face of an unknown cellular phone taken by another person for printing, not properly authenticated in accordance with the Rules on Electronic Evidence.
 - ii. The prosecution failed to prove that calls were made in between the alleged text messages.
 - i. Col. Chan was motivated by malice when on December 14, 2016, he told everyone in the Augmentation Team that the villa transfers were upon his (accused Argosino) instruction, because on the same date, he received a letter from the Department of Justice terminating him from the Bureau of Immigration.
 - i. The Augmentation Team, through Mr. Porpetcho, prepared the Report dated December 16, 2016 because the NBI asked for an explanation for the unaccounted 108 Chinese nationals who were staying in Villa 761.
 - ii. According to said Report, the Augmentation Team informed then Sec. Aguirre about the 108 detainees in the Memorandum submitted on December 8, 2016.
 - iii. The fact that some detainees were allowed to go outside the premises of Fontana may have served as basis for Col. Chan and Ret. Gen. Calima's termination on December 13, 2016.
 - j. That the ₱50 million was received as consideration for the transfer to the villas was not alleged in the Information. The prosecution cannot prove the same without violating his right to be informed of the nature and cause of the accusation against him.
3. The prosecution failed to prove that he committed the offense charged in the discharge of his official functions as Deputy Commissioner of the Bureau of Immigration, and that he took advantage of his official position.
- a. As Deputy Commissioner of the Bureau of Immigration, he could not have intervened or assisted by giving



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 64 of 122

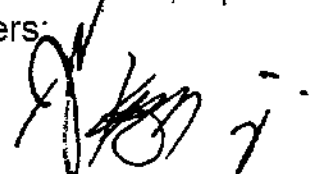
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instructions to Col. Chan to make any mass movements in Fontana and to transfer some detainees to the villas.

- i. Under Commonwealth Act No. 613 and Executive Order No. 292, it is the Commissioner, being the Chief Executive, who has the power and control, as head of the Bureau of Immigration, in enforcing all laws and regulations on immigration matters. Any of the Deputy Commissioners may be designated to serve as a Commissioner only when the Commissioner is on leave of absence or under disability, and only during such absence or disability.
 - ii. The authority of a Deputy Commissioner under the BI Omnibus Rules is limited only to taking part as one of the members of the Board of Commissioners in certain instances.
- b. The prosecution admitted that he did not, in his capacity as Deputy Commissioner, intervene in any stage of the deportation proceedings in a way that would be taking advantage of his public office. All of his actions were pursuant to the recommendation of the Legal Department.
4. The prosecution failed to prove that he committed the offense charged through manifest partiality, evident bad faith or gross inexcusable negligence.
 5. The prosecution failed to prove that he caused undue injury in the amount of ₱50 million to Jack Lam and/or the persons or entities from whom said amount was sourced.
 - a. The prosecution did not present Jack Lam or any persons from whom the ₱50 million was sourced. No one testified to be the owner of said amount.
 - b. The owner of said amount being unknown, the prosecution failed to prove the actual damage because the same is personal to the person injured.

SB-18-CRM-0241³⁸²

Aside from some of the arguments above, specifically with respect to Plunder, accused Argosino avers:



³⁸² Demurrer to Evidence dated October 22, 2020; Record, Vol. 20, pp. 292-500

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 65 of 122

X -----X

1. The prosecution failed to prove beyond reasonable doubt that he committed Plunder on or about November 27, 2016, by himself or in conspiracy with accused Robles and Sombero.
 - a. The prosecution's evidence failed to establish that he was the main plunderer.
 - b. The prosecution's evidence failed to establish the existence of conspiracy.

2. The prosecution failed to prove beyond reasonable doubt that he amassed, accumulated and acquired ill-gotten wealth in the amount of ₱50 million through a series of overt or criminal acts by receiving said amount together with accused Robles in two (2) instances, or ₱20 million at around 2:00 A.M., and ₱30 million at around 5:45 A.M., both on November 27, 2016 in the City of Dreams.
 - a. The prosecution failed to establish the element of amassing, accumulating and acquiring, directly or indirectly, ill-gotten wealth in the aggregate amount of ₱50 million through a series of overt acts.
 - i. None of the ₱50 million that he supposedly amassed, accumulated and acquired was in his possession. Of said amount, ₱30 million was in the possession of the Department of Justice, ₱18 million was in the possession of the DILG-PNP, and ₱2 million was in the possession of the Office of the Ombudsman.
 - ii. As seen in Exhibit K, the statements during the press conference would show that the money was not bribe money, but evidence of corruption. The fact that the ₱30 million was in the possession of the DOJ negates any insinuation that the motive for receiving the same was pecuniary interest.
 - iii. There is no series or combination of predicate crimes as required by the Plunder Law.
 - iv. Willison De Jesus testified that the money in the amount of ₱50 million was carried in two (2) tranches because there was supposed to be another person who would help carry the ₱20 million and ₱30 million. Since they could not locate said person, they had to carry the money in two (2) batches.
 - v. The law speaks of "overt or criminal acts," not mere "instances" or "transactions."



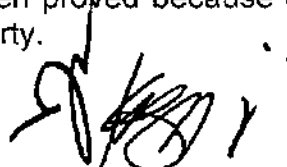
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 66 of 122

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- vi. The second delivery of the money cannot be considered a separate overt act because from the beginning, the prosecution's witness knew that both deliveries were part of the ₱50 million.
 - vii. There is only a single charge of direct bribery, violation of Section 3(e) of R.A. No. 3019 and P.D. 46 arising from a single act or incident in the City of Dreams which happened between 2:00 to 5:45 A.M.
- b. The prosecution failed to establish the minimum threshold of ₱50 million because it did not dispute the finding of counterfeit bills on the 211 pieces of 1,000 Peso bills detected by the bank's counting machines when the amount of ₱30 million was counted and checked for authenticity. The same procedure was not done for the ₱18 million in the possession of the DILG-PNP and the ₱2 million in the possession of the Office of the Ombudsman.
3. The prosecution failed to prove beyond reasonable doubt that he and accused Robles received ₱50 million in consideration for their intervention and assistance in the release of the Chinese nationals arrested and detained at Fontana Leisure and Casino in Pampanga.
 - a. There is no sufficient evidence to establish that the ₱50 million was in consideration of an agreement with the source of the money to intervene and assist in the illegal release of the 1,316 Chinese nationals.
 - b. The prosecution admitted that he did not, in his capacity as Deputy Commissioner of the Bureau of Immigration, intervene in any stage of the deportation proceedings in a way that would harm the Philippine government because all his actions were pursuant to the recommendation of the Legal Department.
 4. The prosecution failed to prove that he and accused Robles demanded and received ₱50 million from a private person, and that they have taken undue advantage of their official position, authority and influence in their capacity as Deputy Commissioners of the Bureau of Immigration to the damage of the Filipino people and of the Republic of the Philippines.
 - a. The prosecution did not present Jack Lam or any person who acknowledged ownership of the ₱50 million, and thus, no damage has been proved because damage is personal to the injured party.



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 67 of 122

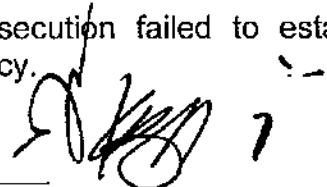
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- b. It was not shown how the Philippine government and the Filipino people were injured or prejudiced by government actions done in this case.

SB-18-CRM-0242³⁸³

Aside from some of the arguments above, specifically with respect to Direct Bribery, accused Argosino avers:

- 1. The prosecution failed to prove that he committed Direct Bribery on or about November 27, 2016, together with accused Robles, and in conspiracy with accused Sombero.
 - a. The prosecution did not present any witness with personal knowledge of the allegations in the Information. Its evidence is not sufficient to prove the actual agreement in the City of Dreams on the date alleged, between Jack Lam as the giver of the money and accused Argosino and Robles as the recipients of the money.
 - b. The prosecution likewise failed to present evidence showing that the purpose of the offer by Jack Lam was by reason of the public office of accused Argosino and Robles, and that the intention of said accused was to accept the money by reason of their public office.
 - i. In Exhibit K, he announced that the money was received not as a bribe but was evidence of corruption. This negates the intention of appropriating said money as his own.
 - ii. In Exhibit M-1, accused Sombero's Judicial Affidavit dated November 27, 2016, it was indicated that the money was for bail and not meant to bribe anyone.
 - iii. In Exhibit I-57, accused Sombero claimed that the ₱2 million in his possession was for attorney's fees. An interpretation would be that the ₱48 million was for bail and the ₱2 million was for attorney's fees to process the bail.
 - c. The prosecution failed to establish the existence of conspiracy.



³⁸³ Demurrer to Evidence dated October 22, 2020; Record, Vol. 20, pp. 501-691

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 68 of 122

X -----X

2. The prosecution failed to prove that he and accused Robles demanded and received ₱50 million from Jack Lam through accused Sombero in consideration of refraining from doing his official duty to enforce immigration laws such as working for the investigation, arrest and detention of foreigners in violation of immigration regulation and other Philippine laws.
 - a. As Deputy Commissioner, he had no mandate to enforce immigration laws like working for the investigation, arrest and detention of foreign nationals. Such mandate is reposed solely to Commissioner Morente as the Chief Executive Officer and Head of the Bureau of Immigration.
 - b. As a member of the Board that handled deportation matters, he lawfully fulfilled his mandate and did not intervene in any stage of the deportation proceedings in a way that would harm the Philippine government. All of his actions were pursuant to the recommendation of the Legal Department.
3. The prosecution failed to prove that he and accused Robles intervened and assisted in the release of 1,316 Chinese nationals arrested and detained at Fontana Leisure Park and Casino in Pampanga.
4. The prosecution did not present evidence on the supposed briber.
 - a. The prosecution failed to present the private person who was the source of the "gift" or "present."
 - b. There is no evidence to show that the money came from Jack Lam.
 - c. The prosecution failed to prove that the Philippine government and the Filipino people were injured or prejudiced.

SB-18-CRM-0243³⁸⁴

Aside from some of the arguments above, specifically with respect to Violation of P.D. No. 46, accused Argosino avers:

1. The prosecution failed to establish that he and accused Robles violated P.D. No. 46 on or about November 27, 2016 by receiving ₱50 million as a valuable thing from Jack Lam through accused Sombero on an unspecified occasion.

³⁸⁴ *Demurrer to Evidence* dated October 22, 2020; Record, Vol. 21, pp. 17-203

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 69 of 122

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- a. The money was not given as a gift. Accused Sombero's Judicial Affidavit dated November 27, 2016 (Exhibit M-1) would show that the money was supposed to be for bail.
 - b. In Exhibit I-57, accused Sombero claimed that the ₱2 million in his possession was for attorney's fees.
 - c. The prosecution failed to establish the existence of conspiracy.
 - d. The prosecution failed to establish that the money was received during a specific occasion, "like Christmas."
2. The prosecution failed to prove that he committed the offense in relation to his public office, or that he took advantage of his position as Deputy Commissioner of the Bureau of Immigration.
 - a. As Deputy Commissioner, he has no authority or control on matters pertaining to the enforcement of immigration laws. The same falls under the full authority and control of Commissioner Morente, as the Chief Executive Officer and Bureau Head of the Bureau of Immigration.
 - b. His authority, as Deputy Commissioner, is limited to taking part as one of the members of the Board of Commissioners in certain cases.
 - c. He did not intervene in any stage of the deportation proceedings.
 3. The prosecution failed to prove that he and accused Robles received ₱50 million by reason of his functions as Deputy Commissioner of the Bureau of Immigration in exchange for a favor, that is, his intervention and assistance in the release of the Chinese nationals arrested and detained at Fontana Leisure and Casino in Pampanga.
 4. The prosecution failed to present evidence on the supposed giver of the gift, present or valuable thing.

In his *Demurrers to Evidence*, accused Robles prays that (1) these cases be dismissed by way of demurrer to evidence, on the ground of insufficiency of evidence; and (2) he be immediately released from detention. He avers:

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DECISION

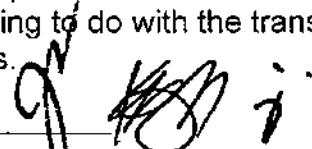
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 70 of 122

X-----X

SB-18-CRM-0240³⁸⁵

1. The totality of the prosecution's evidence is insufficient to sustain the indictment or to support a verdict for violation of R.A. No. 3019.
2. There is no evidence to prove that he committed any prohibited act during the performance of his official duties or in relation to his public position.
 - a. He was a public officer at the time material to the case. However, the prosecution failed to prove the other elements of the offense.
 - b. Gen. Calima's testimony on the receipt of the ₱50 million is hearsay because he testified that matters were merely relayed to him.
 - i. His (accused Robles) reaction during the confrontation in Commissioner Morente's office, as described by Gen. Calima, was natural, and does not prove his guilt.
 - ii. He made no admission during said confrontation. Hence, the need for Gen. Calima to conduct further "counter-intelligence operations."
3. There is no evidence to show undue injury to any party, whether the government or a private party.
 - a. The prosecution failed to present Jack Lam and/or any other person from whom the ₱50 million was sourced.
 - b. Gen. Calima's testimony further shows that Jack Lam was engaged in real estate, and not a gambling operator. He had nothing to do with the release of the 1,316 Chinese nationals.
4. There is no evidence to show that he gave unwarranted benefits, advantage or preference to any person.
5. There is no evidence to show that he acted with manifest partiality, evident bad faith, or gross inexcusable negligence.
 - a. The prosecution's evidence would show that he had nothing to do with the transfers of some detainees to the villas.



³⁸⁵ Demurrer to Evidence (Re: Violation of R.A. 3019) dated October 20, 2020; Record, Vol. 21, pp. 239-264

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 71 of 122

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- b. No unwarranted benefits were given to the bail applicants. The bail applications were meritorious, and were granted upon the recommendation of the Legal Division.
6. The prosecution failed to present clear and convincing evidence to prove conspiracy among the accused.
 - a. His alleged participation, *i.e.*, carrying and keeping paper bags containing money, is neither necessary nor indispensable for the consummation of the offense.
 - b. The simple act of carrying and keeping two paper bags of money is not *per se* illegal, unlike carrying prohibited drugs, false keys, picklocks or other similar tools.
 - c. There is no evidence that would show that he made a demand or received the alleged ₱48 million, or any part thereof. Furthermore, there is no evidence that would show that it was intended for his account or ownership.
 - d. The alleged admission by accused Argosino during the press conference on December 13, 2016 cannot be admitted in evidence against him without violating his constitutional right to be confronted with the witnesses against him and to cross-examine them, and without violating the rule on *res inter alios acta*.

SB-18-CRM-0241³⁸⁶

1. The totality of the prosecution's evidence is insufficient to sustain the indictment or to support a guilty verdict for Plunder under R.A. No. 7080.
 - a. Both Gen. Calima and Comm. Morente had no personal knowledge of the alleged illegal acts that occurred in the City of Dreams on November 27, 2016, much less, his supposed participation in said illegal acts.
 - b. The probative value of the NBI Condensed Video is questionable because the person who made said video was not presented in Court, and because there was a violation of the Chain of Custody Rule.
 - c. Gen. Calima's unknown friend was not presented as a witness to testify on the circumstances of the receipt of the two (2) bags.

³⁸⁶ Demurrer to Evidence (Re: Violation of R.A. No. 7080, or Plunder) dated October 20, 2020; Record, Vol. 21, pp. 293-354

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 72 of 122

x-----x

- d. Gen. Calima took custody of the bags for an unreasonable length of time.
 - e. Gen. Calima was a biased witness. He was motivated by ill-will against accused Argosino, as well as self-preservation, to evade liability when they filed a criminal case for corruption of public officer against him.
 - f. There were substantial and material inconsistencies in Gen. Calima's testimony. Furthermore, he was evasive, non-responsive, and refused to give straightforward answers to cross-examination questions and questions propounded by the Court.
2. The element of "combination or series of acts" within the ambit of Sec. 1(d) of R.A. No. 7080, as alleged in the Amended Information, is absent.
- a. There is no combination of acts. The supposed first act already subsumed the entirety of the ₱50 million allegedly amassed, accumulated or acquired by the accused. There is no ill-gotten wealth acquired through the second act, *i.e.*, taking undue advantage of the official position.
 - b. The prosecution failed to present Jack Lam, the alleged "private person" and supposed victim.
 - c. Gen. Calima testified that Jack Lam is engaged in real estate, and was not a gambling operator. He had nothing to do with the Bureau of Immigration.
 - d. There is no series of criminal acts. As seen from the testimony of prosecution witness Willison De Jesus, there was a single indivisible transaction involving the ₱50 million. The receipt of the ₱50 million refers to only a single criminal act.
3. There is no evidence to show "taking undue advantage of official position" and "damage or prejudice caused to the Filipino people and the Republic of the Philippines," as alleged in the Information.
- a. The prosecution failed to prove that he took advantage of his official position. The prosecution's evidence would show that he had no participation in the transfers of some detainees to the villas.



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

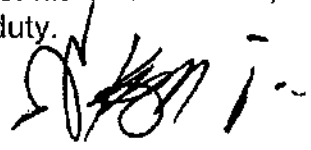
Page 74 of 122

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- e. The prosecution failed to present the Chinese interpreters who had personal knowledge of what happened in the City of Dreams during the time material to the case. The prosecution considered them to be “vital witnesses.” The prosecution’s failure to present them is an admission of the insufficiency of its evidence.
6. The prosecution failed to present clear and convincing evidence of conspiracy among the accused.
- a. His alleged participation, *i.e.*, carrying and keeping two paper bags of money, is neither necessary nor indispensable in the consummation of the crime of Plunder.
 - b. The prosecution failed to prove that he had prior knowledge of the purpose of the alleged paper bags of money.
 - c. The prosecution failed to prove criminal intent on his part relative to his act of carrying and keeping two paper bags of money.
 - d. The alleged admission by accused Argosino during the press conference on December 13, 2016 cannot be admitted in evidence against him without violating his constitutional right to be confronted with the witnesses against him and to cross-examine them, and without violating the rule on *res inter alios acta*.

SB-18-CRM-0242³⁸⁷

- 1. The totality of the prosecution’s evidence is insufficient to sustain the indictment or to support a guilty verdict for Direct Bribery under Art. 210 of the Revised Penal Code.
- 2. Although the prosecution proved that he was a public officer, it failed to establish the other elements of Direct Bribery.
- 3. There is no evidence of any agreement whereby he agreed to do an unjust act or any act constituting a crime, or to refrain from doing his official duty. There is likewise no evidence to prove that he actually committed a crime or any unjust act in connection with the performance of his official duties, or that he actually refrained from doing his duty.



³⁸⁷ Demurrer to Evidence (Re: Direct Bribery under Art. 210, RPC) dated October 20, 2020; Record, Vol. 21, pp. 266-291

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 75 of 122

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- a. The Information did not allege any crime or unjust act which they agreed to perform in consideration of a promise, gift or present. It also did not allege that releasing the detained Chinese nationals *per se* is an unjust act.
 - i. He had no participation in the transfers of some detainees to the villas.
 - ii. The bail applications were meritorious, and were granted upon the recommendation of the Legal Division.
 - b. Gen. Calima's testimony has no evidentiary value because he testified on matters that were relayed to him, and not based on his personal knowledge.
4. The prosecution failed to present clear and convincing evidence to prove conspiracy among the accused with moral certainty.
- a. The prosecution failed to prove any act of his which is certainly necessary and indispensable for the consummation of Direct Bribery to establish common responsibility.
 - b. There is no evidence to show that he made a demand, or that he received the alleged ₱48 million or any part thereof. It was not shown that the money was intended for his account or ownership.

SB-18-CRM-0243³⁸⁸

- 1. The totality of the prosecution's evidence is insufficient to sustain the indictment or to support a guilty verdict for Violation of P.D. No. 46.
- 2. Concededly, he was a public official at the time material to the case. However, the prosecution failed to establish the other elements of Violation of P.D. No. 46.
- 3. There is no evidence to prove that he received ₱50 million from Jack Lam.
 - a. The prosecution did not present Jack Lam and/or any other person in his behalf to testify as witness. There is nothing that would link the ₱50 million to Jack Lam.



³⁸⁸ Demurrer to Evidence (Re: Violation of P.D. No. 46) dated October 20, 2020; Record, Vol. 21, pp. 356-380

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 76 of 122

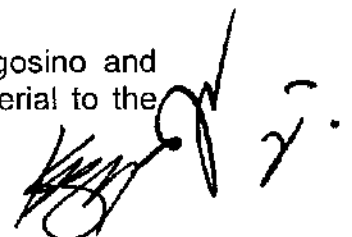
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- b. Gen. Calima's testimony would show that Jack Lam was engaged in real estate, and was not a gambling operator. He had nothing to do with the 1,316 Chinese nationals arrested and detained at Fontana.
 - c. Willison De Jesus testified that Sombero told him that he had a "special operation" concerning a player who was supposed to have won in Clark and wanted to use the money in the COD.
4. There is no proof of the supposed "favor" in exchange of the ₱50 million allegedly received from Jack Lam.
 - a. He had no participation in the transfers of some detainees to the villas.
 - b. The bail applications were meritorious, and were granted upon the recommendation of the Legal Division.
 5. Gen. Calima's testimony has no evidentiary value because he testified on matters that were relayed to him, and not based on his personal knowledge.
 6. The prosecution failed to present clear and convincing evidence to prove conspiracy among the accused with moral certainty.
 - a. The prosecution failed to prove any act of his which is certainly necessary and indispensable for the consummation of Violation of P.D. No. 46 to establish common responsibility.
 - b. There is no evidence to show that he made a demand, or that he received the alleged ₱48 million or any part thereof. It was not shown that the money was intended for his account or ownership.

In its *Consolidated Comment Re: Accused Al C. Argosino and Michael B. Robles' Demurrers to Evidence without Leave of Court*,³⁸⁹ the prosecution counters:

1. The prosecution was able to establish the elements of the offenses accused Argosino and Robles are charged with.
2. Violation of Sec. 3(e) of R.A. No. 3019
 - a. The first element is present. Accused Argosino and Robles were public officers at the time material to the

³⁸⁹ Dated December 28, 2020; Record, Vol. 21, pp. 405-447



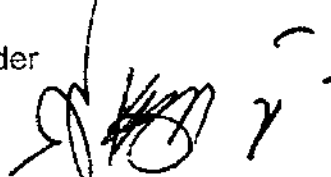
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 77 of 122

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- case. Both of them were Associate or Deputy Commissioners of the Bureau of Immigration. They demanded and received the money by reason of their official positions.
- b. Accused Argosino and Robles, in conspiracy with accused Sombero, acted with manifest partiality, evident bad faith and/or gross inexcusable negligence in demanding and receiving P50 million from Jack Lam in exchange for facilitating the release of the Chinese nationals arrested and detained at Fontana.
- i. The CCTV footages of the COD show that accused Sombero delivered paper bags containing money to accused Argosino and Robles in two (2) instances on November 27, 2016. This is corroborated by the testimony of Willison De Jesus, and further corroborated by the video clip of the press conference on December 13, 2016 where accused Argosino stated that he and accused Robles received P50 million from accused Sombero at the COD.
- ii. Accused Argosino and Robles claim that the money was not bribe money, but evidence of corruption. However, their claim is contradicted by their acts indicating ownership of the P50 million, such as giving P2 million to accused Sombero and P18 million to Gen. Calima, and keeping the remainder for seventeen (17) days, instead of turning over the same to the proper authorities for safekeeping.
- iii. The claim that the money was "legal bail" is belied by the fact that it was given outside the BI office in the wee hours of the morning of November 27, 2016, without any official receipt given therefor, given to public officers who were not cashiers, and before any petition for bail was filed.
- iv. After receiving the money, accused Argosino showed extraordinary interest in the case when he ordered the transfers of some Chinese nationals from the Fontana Convention Center to the villas, and subsequently, requesting that the petitions for bail of said detainees be acted upon by the Board.
- c. Undue injury in the amount of P50 million was caused to Jack Lam.
3. Plunder

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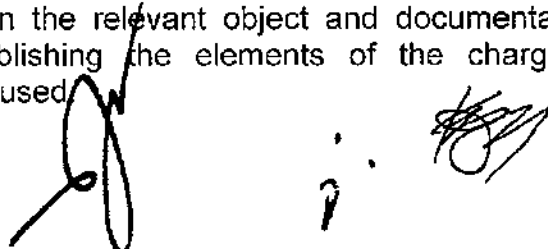
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 78 of 122

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- a. Accused Argosino and Robles were public officers at the time material to the case. They received said ₱50 million by reason of their official positions as Deputy Commissioners of the BI.
- b. The CCTV footages show that accused Argosino acted in connivance with accused Robles and Sombero. On November 27, 2016, accused Argosino and Robles received from accused Sombero two (2) paper bags containing ₱20 million at around 2:00 A.M., and three (3) paper bags containing ₱30 million at around 5:36 A.M. Accused Argosino and Robles held a press conference on December 13, 2016, wherein accused Argosino publicly admitted the receipt of ₱50 million, as shown in the video clip recorded by prosecution witness Julie Ann Aurelio.
- c. The aggregate amount of the money received by accused Argosino and Robles was ₱50 million.
 - i. During the bail hearings, accused Argosino and Robles stipulated that the ₱2 million received by accused Sombero was turned over to the Office of the Ombudsman, and the ₱18 million received by Gen. Calima was turned over to the CIDG.
 - ii. During the ocular inspection at the Land Bank on August 8 and 17, 2018, the count of the money yielded 30,000 pieces of one thousand peso bills, or the aggregate amount of ₱30 million.
 - iii. The issue of whether the bills received were all genuine is of no moment because accused Argosino and Robles admitted that they received ₱50 million from Jack Lam. Furthermore, the Court previously held that the reasons for the rejection of several bills during the physical count were not duly established.
- d. As previously discussed, the money could not have been evidence of corruption, as claimed by accused Argosino, because they performed acts indicating that they treated the money as their own. Neither is the money intended for "legal bail" because of the circumstances surrounding the receipt thereof.
- e. The prosecution's witnesses identified, authenticated and testified on the relevant object and documentary evidence establishing the elements of the charges against the accused.

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

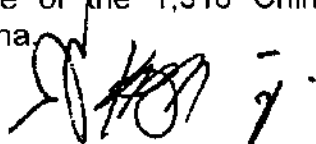
Page 79 of 122

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- i. Mr. Paolo Carlo Calderon testified on the CCTV footages of the COD contained in the WD Elements External Hard Drive with Serial No. WX51A764RJPA. Said hard drive was turned over by Atty. Ryan P. Medrano of the Office of the Ombudsman to PO3 Jeremiah James R. Cajayon of the Anti-Cybercrime Group of the PNP, who handed the same to SPO2 Noel Cuestas who, in turn, conducted the forensic analysis of the footages.
- ii. Julie Anne M. Aurelio of the Philippine Daily Inquirer and Inquirer.net identified and authenticated the video clip of the press conference on December 13, 2016.
- iii. Director Antonia P. Barros of the Legal Records and Archives Services of the Senate of the Philippines identified and authenticated the TSN of the testimony of Alex Yu.
- iv. Col. Chan authenticated the exchange of text messages between him and accused Argosino.

4. Direct Bribery

- a. There is no dispute that accused Argosino and Robles were both Deputy Commissioners of the BI at the time material and relevant to the case.
- b. The CCTV footages and the video clip of the press conference on December 13, 2016 show that accused Argosino and Robles received ₱50 million. They gave ₱2 million to accused Sombero and ₱18 million to Gen. Calima.
- c. As previously discussed, their acts indicate that they treated the money as their own, and that said money could not have been "legal bail."
- d. The evidence on record would show that the ₱50 million demanded and received by accused Argosino and Robles from Jack Lam, through accused Sombero, was given as "goodwill money" or consideration to refrain from doing their official duties as Deputy Commissioners of the BI. Instead of performing their duties, accused Argosino and Robles intervened or assisted in the release of the 1,316 Chinese nationals detained in Fontana.



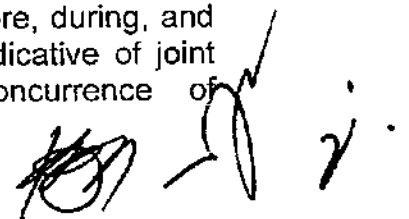
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 80 of 122

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- e. On November 27, 2016, after accused Argosino and Robles received the ₱50 million, accused Argosino ordered the transfers of some Chinese nationals from the Fontana Convention Center to the designated villas.
 - f. Thereafter, accused Argosino proposed the constitution of the Board of Commissioners, with the Commissioner and accused Argosino and Robles as members, to act on the petitions/applications for bail. It was a deviation from the usual procedure that only the Commissioner would act on petitions for bail, as provided in C.A. 613.
 - g. It is of no moment that the DOJ Secretary approved of the change. The proposal came immediately after the receipt of the ₱50 million on November 27, 2016.
5. Violation of P.D. No. 46
- a. Accused Argosino and Robles received ₱50 million from accused Lam through accused Sombero, who acted as intermediary in the subject transaction, by reason of accused Argosino and Robles' official position of Deputy Commissioners of the BI.
 - b. The pay-off was caught on camera, as seen in the CCTV footages of the COD. This was corroborated by the testimony of Willison De Jesus and the video clip of the press conference on December 13, 2016.
 - c. Contrary to accused Argosino's claim, the money could not have been mere evidence of corruption because accused Argosino and Robles' acts indicated that they treated the money as their own. Furthermore, the circumstances belie their claim that it was for "legal bail."
 - d. After the receipt of the money, accused Argosino ordered the transfers of some detainees from the Convention Center to the villas. Thereafter, accused Argosino showed extraordinary interest in the case by requesting that the bail petitions be acted upon by the Board of Commissioners, with the Commissioner and accused Argosino and Robles as members.
6. The prosecution's evidence established the existence of conspiracy.
- a. Conspiracy need not be proved by direct evidence, and may be inferred from the conduct – before, during, and after the commission of the crime – indicative of joint purpose, concerted action, and concurrence of



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 81 of 122

x -----x

sentiments. It is present when one concurs with the criminal design of another, as shown by an overt act leading to the crime committed. It may be deduced from the mode and manner of the commission of the crime.

- b. Accused Robles cannot deny his presence at the time and occasions most crucial to the gist of the charges against him.
- c. The evidence shows that accused Argosino, Robles and Sombero cooperated to achieve a common unlawful objective. Without the individual acts of said accused, no pay-off would have happened.
- d. Their acts, taken together, were intimately connected and related towards the realization of the same unlawful object, i.e., to amass ill-gotten wealth in the total amount of ₱50 million.

THE COURT'S RULING

Paragraph 2 of Sec. 23, Rule 119 of the Rules of Court reads:

Sec. 23. Demurrer to evidence. – x x x

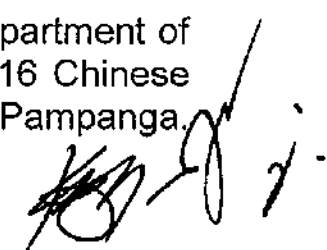
If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

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By filing their respective *Demurrers to Evidence* without leave of court, accused Argosino and Robles were deemed to have waived their right to present evidence. Thus, this Court will render judgment in these cases on the basis of the prosecution's evidence.

FINDINGS OF FACT

On November 24, 2016, an operation led by the Department of Justice (DOJ) resulted in the arrest and detention of 1,316 Chinese nationals in Fontana Leisure Parks (Fontana) in Clark, Pampanga.



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 82 of 122

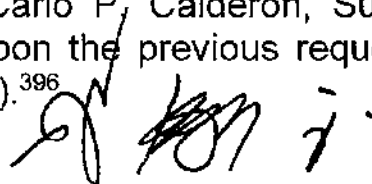
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Some agents of the Intelligence Division of the Bureau of Immigration (BI) were tasked with securing the detainees.³⁹⁰

On November 25, 2016, Gen. Charles T. Calima (Gen. Calima), the acting head of the Intelligence Division of the BI, received information from accused Wenceslao A. Sombero, Jr. (accused Sombero) that there were BI personnel who were "*humihingi ng areglo*." However, Sombero did not give more details.³⁹¹ Gen. Calima reported the matter to BI Commissioner Jaime H. Morente (Commissioner Morente), who authorized Gen. Calima to conduct counter-intelligence operations to find out the identities of the culprits.³⁹²

In the early hours of November 27, 2016, in the City of Dreams (COD), accused Sombero delivered paper bags containing money to accused Al C. Argosino and Michael B. Robles, then Associate Commissioners of the BI. The first delivery of two (2) paper bags containing the total amount of ₱20 million was made at around 3:00 A.M. The second delivery of three (3) paper bags containing the total amount of ₱30 million was made at around 5:40 A.M. These deliveries were captured by the closed-circuit television (CCTV) recording system of the City of Dreams (COD).

Sometime after said date, upon the request of investigators³⁹³ from the Office of the Ombudsman, the COD provided copies of the CCTV footages during the relevant period.³⁹⁴ Said footages were stored in a WD Elements External Hard Drive with Serial No. WX51A76RJPA (hard drive).³⁹⁵ Included in said hard drive was the condensed video made by cutting segments from the footages extracted from the recording system, and then joining such segments so they could be viewed as one continuous clip. The condensed video was made by the team of Paolo Carlo P. Calderon, Surveillance Operations Manager at the COD, upon the previous request of the National Bureau of Investigation (NBI).³⁹⁶



³⁹⁰ TSN, August 1, 2018, pp. 18-19; *Sworn Statement* dated January 3, pp. 1-2 (Record, Vol. 5, pp. 476-477); *Judicial Affidavit* dated July 11, 2019, p. 2; Record, Vol. 15, p. 91; *Judicial Affidavit* dated August 2, 2019, pp. 3-4 (Record, Vol. 15, pp. 131-132); *Judicial Affidavit* dated August 27, 2019, p. 1 (Record, Vol. 15, p. 196)

³⁹¹ *Complaint-Affidavit* dated December 22, 2016, p. 3; Record, Vol. 4, p. 289; Exhibits L-1-g and L-1-h

³⁹² *Complaint-Affidavit* dated December 22, 2016, p. 3 (Record, Vol. 4, p. 289); *Affidavit* dated May 2, 2017 (Record, Vol. 4, pp 121-122); TSN, August 1, 2018, p. 84

³⁹³ *Judicial Affidavit of Atty. Ryan P. Medrano* dated October 17, 2019, p. 5 (Record, Vol. 15, p. 346)

³⁹⁴ *Judicial Affidavit of Atty. Ryan P. Medrano* dated October 17, 2019, pp. 7-8 (Record, Vol. 15, pp. 348-349)

³⁹⁵ Exhibit G

³⁹⁶ *Affidavit* dated March 8, 2017 (Record, Vol. 4, pp. 221-223)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 83 of 122

x -----x

In the condensed video of the relevant CCTV footages, which was viewed in open court, it can be seen that on November 27, 2016, around 12:30 A.M., accused Argosino and Robles, together with another man wearing a white shirt, entered Erwin's Gastro Bar in the COD.

Around 1:30 A.M., accused Sombero, accompanied by Willison De Jesus and Martin Corpuz,³⁹⁷ approached the counter of the area labeled "Pit 21." After talking to the casino employees at the counter, accused Sombero left. Around 1:52 A.M., De Jesus and Corpuz wrote something on some papers, and De Jesus, with the assistance of the man at the counter, proceeded to put the bundles of money already placed on top of one side of the counter into two (2) paper bags, each containing ten (10) bundles. De Jesus and Corpuz, each carrying one paper bag, then left the counter and brought said paper bags to accused Sombero, who was staying at the dining area. Thereafter, the three (3) men left the area.

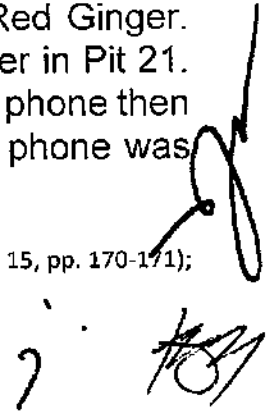
Around 2:07 A.M., when the three (3) men passed Café Society, a coffee shop,³⁹⁸ accused Sombero took the paper bags from De Jesus and Corpuz, and went to Erwin's Gastro Bar by himself, carrying the two (2) paper bags. Around 3:11 A.M., accused Argosino and Robles, together with the man wearing a white shirt, came out of Erwin's Gastro Bar. Accused Sombero, carrying said paper bags, came out of Erwin's Gastro Bar shortly thereafter. Around 3:13 A.M., accused Argosino and Robles, using one entrance, and accused Sombero, using another entrance, went to the Red Ginger restaurant, which was still within the COD.

Inside the Red Ginger restaurant, accused Sombero placed the two (2) paper bags on the floor under the table occupied by accused Argosino and Robles, and left Red Ginger. Several minutes later, accused Sombero returned and occupied the table beside accused Argosino and Robles.

Around 4:37 A.M., accused Sombero went out of Red Ginger. Around 4:41 A.M., he and De Jesus returned to the counter in Pit 21. There, accused Sombero talked to someone on his mobile phone then handed said phone to the man on the counter. After his phone was

³⁹⁷ *Judicial Affidavit of Mr. Willison De Jesus* dated August 16, 2019, pp. 3-4 (Record, Vol. 15, pp. 170-171); Exhibit M-2

³⁹⁸ Exhibit M-2, p. 2

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 84 of 122

X-----X

returned, accused Sombero occupied a table at the corner of the room. De Jesus initially stayed near the counter, but eventually joined accused Sombero. De Jesus returned to the counter around 5:12 A.M. Around 5:20 A.M., he wrote something on a piece of paper, and with the assistance of the persons at the counter, proceeded to put ten (10) bundles of money in each of another three (3) paper bags, which he then brought to accused Sombero. Before they left the area, accused Sombero talked to a casino employee who, a short while later, handed to accused Sombero what appears to be a smaller paper bag, which accused Sombero put into one of the paper bags containing money.

When accused Sombero and De Jesus were walking along the dining area at around 5:30 A.M., the handle of the paper bag carried by accused Sombero was torn from the bag because of the weight of the contents. Casino employees gave them a replacement paper bag and they transferred the contents to the new paper bag. De Jesus folded the original paper bag and placed it inside the replacement paper bag. They then proceeded to the area labeled "Area 11 B1 3-6," where they met a man wearing a black shirt, who carried the paper bag that accused Sombero previously carried.

Around 5:36 A.M., outside the casino area, De Jesus and accused Sombero parted ways. Accused Sombero, now accompanied by said man wearing a black shirt, returned to Red Ginger. Accused Argosino and Robles were still occupying the same table and the first two (2) paper bags were still on the floor.

Accused Argosino and Robles, with the man wearing a white shirt, together with accused Sombero and his companion, left Red Ginger around 5:37 A.M. The man wearing a white shirt carried the first two (2) paper bags which accused Sombero previously placed under the table occupied by accused Argosino and Robles, while accused Sombero's companion carried two (2) paper bags, and accused Sombero carried one (1) paper bag.

The five (5) men went to the parking area. Accused Robles and the man wearing a white shirt went together, while accused Sombero and his companion went with accused Argosino. Around 5:42 A.M., accused Argosino's group was walking in the parking area as the lights of a parked white SUV momentarily flashed. Soon after, accused Argosino's group walked past the driver's side of the white SUV. Accused Sombero's companion was still carrying two (2) bags, while accused Sombero was still carrying one (1) bag when the group went

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 85 of 122

X-----X

to the back portion of said vehicle. When accused Sombero and his companion were leaving said area, they no longer carried the three (3) aforementioned paper bags. Accused Sombero only carried what appears to be a smaller paper bag.

Around 5:45 A.M., a vehicle appearing to be a Mitsubishi SUV with Plate No. 17 (front) and WFO 147 (back) stopped in front of the parking spot of the aforementioned white vehicle. Accused Robles and the man wearing a white shirt came out of the Mitsubishi SUV. Accused Robles then went to the back portion of the white vehicle. He was carrying what appears to be a paper bag when he returned to the Mitsubishi SUV. Accused Robles waved, and the man wearing a white shirt extended his hand, to the person who came from the back portion of the white SUV. The man wearing a white shirt then boarded the front passenger side of the Mitsubishi SUV while accused Robles boarded the driver's seat. Said vehicle then left the parking area. The vehicle which appears to be a white Toyota SUV with Plate No. WQL 852 also left the parking area shortly thereafter.

Later, on the same day, November 27, 2016, Col. Eduard T. Chan, then detailed as Technical Assistant of the BI Intelligence Operations Unit, which was tasked with providing security to the arrested Chinese nationals,³⁹⁹ received several calls and text messages from accused Argosino instructing him to transfer some of the detainees from the Fontana Convention Center to the designated villas.⁴⁰⁰

On November 28, 2016, during a meeting at the BI SM Aura office, accused Argosino requested Commissioner Morente to allow the Board of Commissioners (Board) composed of Commissioner Morente, and accused Argosino and Robles, to act on the bail petitions in connection with the Fontana case. Under the usual procedure, only the Commissioner acted on such bail petitions. Commissioner Morente advised accused Argosino to seek guidance from then Secretary of Justice Vitaliano N. Aguirre II (Sec. Aguirre). Accused Argosino immediately contacted Sec. Aguirre and a meeting was set in the afternoon of the same day. In said meeting, Sec. Aguirre approved accused Argosino's request.⁴⁰¹



³⁹⁹ *Judicial Affidavit* dated July 11, 2019, pp. 1-2; Record, Vol. 15, pp. 90-91

⁴⁰⁰ *Judicial Affidavit* dated July 11, 2019, pp. 4-6 (Record, Vol. 15, pp. 93-95); Exhibits S-1, S-2 and S-4

⁴⁰¹ *Judicial Affidavit* dated August 2, 2019, p. 7 (Record, Vol. 15, p. 135); *Judicial Affidavit* dated August 27, 2019, pp. 2-4 (Record, Vol. 15, pp. 197-199)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

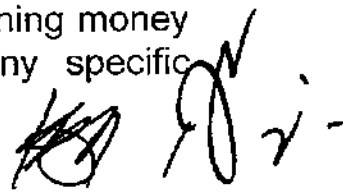
Page 86 of 122

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The first petition for bail was filed on November 29, 2016.⁴⁰² All bail orders were acted upon by the Board. However, only two (2) bail orders were signed by accused Argosino and Robles because the rest were issued after they went on a leave of absence and eventually resigned as a result of the Fontana controversy.⁴⁰³ The subsequent bail orders were signed by Commissioner Morente and the officers who replaced accused Argosino and Robles.⁴⁰⁴

On December 8, 2016, prior to the resignation of accused Argosino and Robles, Commissioner Morente called accused Argosino and Robles to his office so they could confront Gen. Calima, after they complained that the latter was harassing them.⁴⁰⁵ Accused Robles arrived before accused Argosino. While they were waiting for the latter at Commissioner Morente's office, Gen. Calima said that he had proof of accused Argosino and Robles' illegal activities, and called Ramon Tulfo and talked to him by speaker phone. He did the same with accused Sombero.⁴⁰⁶ Accused Robles appeared to be distraught and asked to use Commissioner Morente's restroom several times. Accused Robles asked Commissioner Morente's advice on what to do. Commissioner Morente told him that they have to face the consequences of their actions.⁴⁰⁷ After accused Argosino arrived sometime later, they informed him of what happened. Accused Argosino also asked Commissioner Morente's advice on what to do, and Commissioner Morente gave the same answer given to accused Robles.⁴⁰⁸

After the confrontation, Gen. Calima met accused Argosino in Promenade, Greenhills. There, they arranged another meeting on the next day.⁴⁰⁹ In the afternoon of the following day, December 9, 2016, accused Argosino, followed by accused Robles, met in Quezon City. There, accused Argosino gave two (2) paper bags containing money to Gen. Calima. Accused Argosino did not give any specific



⁴⁰² TSN, August 1, 2018, p. 21; *Judicial Affidavit* dated August 27, 2019, p. 3 (Record, Vol. 15, p. 198)

⁴⁰³ *Judicial Affidavit* dated August 27, 2019, p. 4 (Record, Vol. 15, p. 199)

⁴⁰⁴ TSN, September 26, 2019, p. 47

⁴⁰⁵ *Affidavit* dated May 2, 2017 (Record, Vol. 4, pp. 121-122; TSN, August 1, 2018, p. 50)

⁴⁰⁶ TSN, August 1, 2018, pp. 50-53, 142, 146; TSN, August 10, 2018, pp. 29-30; *Complaint-Affidavit* dated December 22, 2016, p. 9 (Record, Vol. 4, p. 295)

⁴⁰⁷ TSN, August 1, 2018, pp. 53, 55, 57, 65-66; *Complaint-Affidavit* dated December 22, 2016, p. 9 (Record, Vol. 4, p. 295)

⁴⁰⁸ TSN, August 1, 2018, pp. 58, 60-61; *Complaint-Affidavit* dated December 22, 2016, p. 9 (Record, Vol. 4, p. 295)

⁴⁰⁹ *Complaint-Affidavit* dated December 22, 2016, p. 10; Record, Vol. 4, p. 296

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 87 of 122

x -----x

instructions on what to do with the paper bags, and merely requested Gen. Calima to help them.⁴¹⁰

On December 13, 2016, accused Argosino and Robles held a press conference, a video of which was recorded by Julie Anne M. Aurelio, a journalist affiliated with the Philippine Daily Inquirer. Said video was shortened to tell a more concise story, and then uploaded to YouTube.⁴¹¹

In the shortened video, accused Argosino and Robles were presenting a complaint against Jack Lam, accused Sombero, two (2) interpreters, and Gen. Calima, in connection with a continuing investigation they conducted in their capacity as Associate Commissioners of the Bureau of Immigration. Accused Argosino declared that they received the money from accused Sombero, and that said money was evidence in a case against Jack Lam. Only accused Argosino spoke, while accused Robles stood beside accused Argosino. In front of them is a table on which bundles of cash wrapped in plastic are placed. Hereunder is a transcript of the entire video:⁴¹²

Accused Argosino:

[Mr.] President, we are presenting to you the first criminal complaint against Jack Lam, against Wally Sombrero (sic), against the two (2) interpreters, with the collusion of Gen. Charles Calima.

(break)

Reporter:

Magkano po bang kabuuang perang binigay ni Wally Sombero?

Accused Argosino:

Ah... 50 million *binigay niya, at ang sabi niya*, "sir, *balato niyo na yung 2 million.*" Okay. We do not look at it as bribe money. We look at it as evidence of corruption. It doesn't matter to us whether he gets 2 million, he gets 5 million, so we got 48 million. And then General Calima should explain where is the 18 million.

(break)



⁴¹⁰ TSN, August 20, 2018, pp. 29, 31-33; *Complaint-Affidavit* dated December 22, 2016, pp. 10-11 (Record, Vol. 4, pp. 296-297)

⁴¹¹ <https://www.youtube.com/watch?v=HlyS9-z90pQ>

⁴¹² Breaks are indicated to prevent the statements from being taken out of context

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 88 of 122

X -----X

So *ang nangyari dito* is a continuing... is a continuing investigation in our capacity as Associate Commissioners of the Bureau of Immigration.

(break)

At the time that we have received in custody of ₱50 million, *alisin mo lang yung binawas ni Wally Sombrero* (sic), we could have easily made the arrest. But why did we not pursue it and consider this as future evidence? Because at the time that, uh, Wally Sombrero (sic) had met us in the City of Dreams, *walang* signs of Jack Lam. *Mahuhuli ko si Wally Sombrero* (sic) but there is no sign of Jack Lam. We were not born yesterday. We know... We know that when we put ourselves in the City of Dreams, *sa tingin niyo ba na di namin alam na may... mga camera diyan? Sa tingin niyo ba di namin niri-risk ang aming chance na makita ang opportunity kung hanggang saan ang korupsiyon... kung hanggang saan ang korupsiyon na ginagawa ng mga taong hindi nagbabayad ng tamang buwis, at rather, ibinibigay sa mga present officers of the gov... sa mga previous officers of the government. Yan ang katibayan* that corruption exists through the illegal operations of Jack Lam.

(break)

Mr. President, we were able to give you the living proof that Jack Lam is into corruption. And we are the first officer... at we are able to file corruption charge against Jack Lam.

(break)

Kami ni Commissioner... Kami ni Deputy Commissioner Mike Robles ang naka-diskubre ng the only living evidence against Jack Lam.

(break)

We may be new... we may be new as public officers, but please, our integrity is intact when we go here and assume that we are the appointed of President Duterte as his trusted immigration officers.

Thereafter, accused Argosino and Robles turned over cash in the amount of ₱30 million to the Department of Justice (DOJ), which was deposited in Safety Deposit Boxes No. 916 and 917 of the Land Bank of the Philippines (LBP) Main Office in Manila.⁴¹³ The count of

⁴¹³ Exhibits I-55, I-55-A, I-55-B; Order dated August 10, 2018, p. 1 (Record, Vol. 4, p. 333-A)

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 89 of 122

x -----x

the money⁴¹⁴ during the ocular inspection at the LBP Main Office on August 8, 2018⁴¹⁵ and August 17, 2018⁴¹⁶ yielded a total of ₱30 million.

On December 20, 2016, Gen. Calima turned over two (2) paper bags containing money to the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP) for accounting and safekeeping. There, the money was counted, and the count yielded the amount of ₱18 million.⁴¹⁷ Finally, on December 22, 2016, accused Sombero turned over a paper bag containing ₱2 million to the Office of the Ombudsman for safekeeping.⁴¹⁸

The following complaints were filed: (1) accused Sombero's *Complaint-Affidavit* dated December 16, 2016⁴¹⁹ and his *Supplemental Complaint-Affidavit* dated December 22, 2016;⁴²⁰ (2) Gen. Calima's *Complaint-Affidavit* dated December 22, 2016;⁴²¹ and the complaint of the National Bureau of Investigation (NBI) dated January 26, 2017.⁴²² These eventually led to the filing of the Informations in the present cases.⁴²³

DISCUSSION

**SB-18-CRM-0241
(Plunder)**

Sec. 2 of Republic Act No. 7080 (R.A. No. 7080), as amended, provides for the crime of Plunder. To wit:

Section 2. Definition of the Crime of Plunder; Penalties. – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal

⁴¹⁴ Exhibits I-25 to I-54

⁴¹⁵ Record, Vol. 4, pp. 232-A to 232-F (Exhibits I-25 to I-39)

⁴¹⁶ Record, Vol. 4, pp. 347-358 (Exhibits I-40 to I-54)

⁴¹⁷ *Complaint-Affidavit* dated December 22, 2016 of Charles T. Calima, p. 15 (Record, Vol. 4, p. 301); Order dated July 20, 2018, pp. 1-3 (Record, Vol. 4, pp. 117-A to 117-C)

⁴¹⁸ Order dated July 20, 2018, pp. 3-4 (Record, Vol. 4, pp. 117-C and 117-D); *Judicial Affidavit* dated October 9, 2019 (Record, Vol. 15, pp. 281-334)

⁴¹⁹ Exhibit H

⁴²⁰ Exhibit I-57

⁴²¹ Exhibit L

⁴²² Exhibit M

⁴²³ Record, Vol. 1, pp. 22-49

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 90 of 122

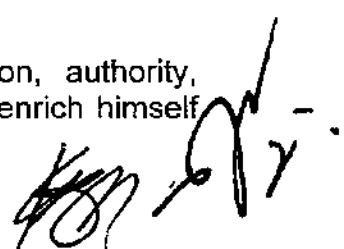
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acts as described in Section 1(d) hereof in the aggregate amount or total value of at least Fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by *reclusion perpetua* to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

Sec. 1(d), which defines "Ill-gotten wealth," provides:

d) "*Ill-gotten wealth*" means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

- 1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;
- 2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other forms of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
- 3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agency or instrumentalities or government-owned or -controlled corporations and their subsidiaries;
- 4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
- 5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
- 6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 91 of 122

X -----X

or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

In *Revilla v. Sandiganbayan (First Division)*,⁴²⁴ it was held that the essential elements of Plunder are as follows:

Plunder, defined and penalized under Section 2 of RA 7080, as amended, has the following elements: (a) that the offender is a public officer, who acts by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons; (b) that he amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts described in Section 1(d) hereof; and (c) that the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least Fifty Million Pesos (P50,000,000.00).

The first element is present as to both accused. Accused Al C. Argosino and Michael B. Robles were Associate Commissioners of the BI at the time material to the case. They connived with each other, and were alleged to have connived with accused Wenceslao A. Sombero, Jr., a private individual, when they performed the acts charged in the Information, as will be discussed later.

The second and third elements are likewise present. The prosecution proved beyond reasonable doubt that accused Argosino and Robles amassed, accumulated or acquired ill-gotten wealth by receiving or collecting, in two (2) instances, money in the aggregate amount of P50 million from Jack Lam through accused Sombero by reason of their position as Associate Commissioners of the BI.

In the Resolution dated November 12, 2018, denying the accused's respective *Motions for Reconsideration* of the Resolution denying their respective applications for bail, this Court noted that accused Argosino and Robles, in essence, admitted that they received the subject money, and they only dispute the reason behind said receipt of money.⁴²⁵ Even disregarding accused Argosino and Robles' admissions, there is overwhelming evidence of such receipt of money.

In the video clip of the press conference held on December 13, 2016,⁴²⁶ accused Argosino and Robles presented bundles of cash and

⁴²⁴ G.R. Nos. 218232, 218235, 218266, 218903 and 219162, July 24, 2018

⁴²⁵ Resolution dated November 12, 2018, pp. 23-25; Record, Vol. 6, pp. 238-240

⁴²⁶ Exhibit K

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 92 of 122

x-----x

a criminal complaint against Jack Lam, accused Sombero, two (2) interpreters and Gen. Calima. There, accused Argosino, with accused Robles standing beside him the whole time, declared in no uncertain terms that (1) they received the amount of ₱50 million from accused Sombero in the City of Dreams, even mentioning that he was aware of the cameras therein; (2) said money was not bribe money, but was evidence of corruption; and (3) from the ₱50 million, ₱2 million was given to accused Sombero, and ₱18 million was with Gen. Calima.

Accused Argosino's declaration that he and accused Robles received the aggregate amount of ₱50 million from accused Sombero is corroborated by the CCTV footages from the City of Dreams showing that around 3:13 A.M. on November 27, 2016, accused Sombero delivered to them two (2) paper bags containing money in the total amount of ₱20 million, and that around 5:42 A.M. of the same day, accused Sombero delivered another three (3) paper bags containing money in the total amount of ₱30 million.

Corroborating accused Argosino's declaration that ₱2 million was given to accused Sombero are said CCTV footages showing that when accused Sombero parted ways with accused Argosino in the COD parking area, he was carrying a small paper bag, and the declaration of Atty. Czarina May C. Altez-Domingo in her Judicial Affidavit that she witnessed accused Sombero's turn over of a sealed paper bag containing ₱2 million to the Records Section of the Office of the Ombudsman on December 22, 2016. Gen. Calima's declaration and/or testimony that he received the paper bags containing ₱18 million from accused Argosino⁴²⁷ and that the same were turned over to the CIDG of the PNP⁴²⁸ corroborates accused Argosino's declaration during the press conference. Finally, a count of the bundles of cash stored in Safety Deposit Boxes No. 916 and 917 rented by the DOJ yielded the amount of ₱30 million.

In fine, accused Argosino and Robles' admissions, coupled with the foregoing overwhelming evidence, clearly prove that accused Argosino and Robles received the aggregate amount of ₱50 million from accused Sombero. Said amount of ₱50 million was amassed, accumulated or acquired by accused Argosino and Robles through a series of overt acts. In *Estrada v. Sandiganbayan (Third Division)*,⁴²⁹

⁴²⁷ *Complaint-Affidavit* dated December 22, 2016, p. 10; Record, Vol. 4, p. 296

⁴²⁸ *Complaint-Affidavit* dated December 22, 2016, p. 15 (Record, Vol. 4, p. 301); TSN, August 15, 2018, p. 160; Order dated July 20, 2018, pp. 1-3 (Record, Vol. 4, pp. 117-A to 117-C)

⁴²⁹ G.R. No. 148560, November 19, 2001

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 93 of 122

x -----x

the Supreme Court explained the terms "combination" and "series," as contemplated in the R.A. No. 7080. To wit:

Thus when the Plunder Law speaks of "combination," it is referring to at least two (2) acts falling under different categories of enumeration provided in Sec. 1, par. (d), e.g., raids on the public treasury in Sec. 1, par. (d), subpar. (1), and fraudulent conveyance of assets belonging to the National Government under Sec. 1, par. (d), subpar. (3).

On the other hand, to constitute a series" there must be two (2) or more overt or criminal acts falling under the same category of enumeration found in Sec. 1, par. (d), say, misappropriation, malversation and raids on the public treasury, all of which fall under Sec. 1, par. (d), subpar. (1). Verily, had the legislature intended a technical or distinctive meaning for "combination" and "series," it would have taken greater pains in specifically providing for it in the law.

In *Estrada v. Sandiganbayan (Third Division)*,⁴³⁰ the Supreme Court held that the phrase "on several instances" means that the predicate acts were committed in series. *Viz.:*

Pertinent to the case at bar is the predicate act alleged in sub-paragraph (a) of the Amended Information which is of "receiving or collecting, directly or indirectly, **on several instances**, money in the aggregate amount of ₱545,000,000.00 for illegal gambling in the form of gift, share, percentage, kickback or any form of pecuniary benefit x x x." In this sub-paragraph (a), **petitioner**, in conspiracy with former President Estrada, is charged with the act of receiving or collecting money from illegal gambling amounting to ₱545 million. Contrary to petitioner's posture, the allegation is that he received or collected money from illegal gambling "**on several instances.**" **The phrase "on several instances" means the petitioner committed the predicate act in series.** To insist that the Amended Information charged the petitioner with the commission of only one act or offense despite the phrase "several instances" is to indulge in a twisted, nay, "pretzel" interpretation.

It matters little that sub-paragraph (a) did not utilize the exact words "combination" or "series" as they appear in R.A. No. 7080. For in ***Estrada v. Sandiganbayan***, we held that where two terms are to be taken in their popular, not technical, meaning, the word "series" is synonymous with the clause "on several instances." "Series" refers to a repetition of the same predicate act in any of the items in Section 1(d) of the law. The word "combination" contemplates the commission of at least two different predicate acts in any of said

⁴³⁰ G.R. No. 148965, February 26, 2002

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 94 of 122

X -----X

items. Plainly, sub-paragraph (a) of the Amended information charges petitioner with plunder committed by a series of the same predicate act under Section 1 (d) (2) of the law.

On the other hand, in *Baleros v. People*,⁴³¹ the Supreme Court defined an "overt act" as follows:

Overt or external act has been defined as some *physical activity or deed*, indicating the intention to commit a particular crime, *more than* a mere planning or preparation, which if carried out to its complete termination following its natural course, without being frustrated by external obstacles nor by the voluntary desistance of the perpetrator, will *logically and necessarily* ripen into a concrete offense.

In the second element of Plunder, there must be a combination or series of overt or criminal acts described in Sec. 1(d) of R.A. No. 7080. Here, there were two (2) acts that fall under Sec. 1(d) (2)⁴³² of R.A. No. 7080. Each act of receiving paper bags containing money was an overt act constituting the predicate act of receiving money by reason of the accused's official position. Hence, Plunder was committed through a series of acts.

The first act of receiving money was committed around 3:13 A.M., when accused Sombero placed two (2) paper bags containing the total amount of ₱20 million under the table then being occupied by accused Argosino and Robles at the Red Ginger restaurant in the COD. Although the videos did not show accused Argosino and Robles touch said paper bags, the same were placed in their control. After accused Sombero left said paper bags under the table until they left Red Ginger restaurant,⁴³³ at no point did accused Sombero take possession of the same again. Also, at no point did accused Argosino and Robles return or attempt to return the same to accused Sombero. It was the companion of accused Robles, the person in white shirt who rode in the Montero SUV with accused Robles, who carried the bags when they left Red Ginger and headed to the vehicle.

The second act was committed around 5:42 A.M. at the parking area of the COD. When accused Argosino and Sombero, and accused

⁴³¹ G.R. No. 138033, February 22, 2006

⁴³² By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other forms of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned (underscoring supplied)

⁴³³ Exhibit G, 2016-11-26_23-00-00_2613_Red_Ginger_OV_1_2016-11-27_06-30-00_34_1481358491604.AVI

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 95 of 122

x-----x

Sombero's companion went to the back portion of the white SUV, accused Sombero and his companion were carrying the three (3) paper bags containing the total amount of ₱30 million. When they went away from the white SUV, they no longer carried said paper bags. Accused Sombero carried what appeared to be a paper bag smaller than those they previously carried. It can be concluded therefrom that they left the paper bags containing money with accused Argosino, who was no longer with them when they walked away from the white SUV.

Indeed, as accused Argosino and Robles argue, the physical act of carrying paper bags containing money *per se* is not illegal, and does not necessarily lead to the conclusion that a crime was committed. In *Formilleza v. Sandiganbayan*,⁴³⁴ in connection with Indirect Bribery under Art. 211 of the Revised Penal Code (RPC), it was held:

The essential ingredient of indirect bribery as defined in Article 211 of the Revised Penal Code is that the public officer concerned must have accepted the gift or material consideration. There must be a clear intention on the part of the public officer to take the gift so offered and consider the same as his own property from then on, such as putting away the gift for safekeeping or pocketing the same. Mere physical receipt unaccompanied by any other sign, circumstance or act to show such acceptance is not sufficient to lead the court to conclude that the crime of indirect bribery has been committed. To hold otherwise will encourage unscrupulous individuals to frame up public officers by simply putting within their physical custody some gift, money or other property.

(underscoring supplied)

In the present case, accused Argosino and Robles' receipt of the paper bags containing money was not only mere physical receipt. Their subsequent acts would show that they considered the money as their property. First, before leaving the parking area of the COD, accused Argosino gave ₱2 million to accused Sombero as "*balato*." Second, accused Argosino, in the presence of accused Robles, gave ₱18 million to Gen. Calima for "damage control," to prevent Tulfo and accused Sombero from continuing with their exposé.

It is clear that accused Argosino and Robles received the total amount of ₱50 million, and that they considered said money as their own property. The prosecution was also able to establish beyond reasonable doubt that the money was given to accused Argosino and

⁴³⁴ G.R. No. 75160, March 18, 1988

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 96 of 122

X-----X

Robles by reason of their official position. While there is no direct evidence to show that accused Argosino and Robles received the money by reason of their office or position, the same is proved by circumstantial evidence.

Sec. 4, Rule 133 of the 2019 Proposed Amendments to the Revised Rules on Evidence provides:

Sec. 4. Circumstantial evidence, when sufficient. – Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Inferences cannot be based on other inferences.

In *People v. Lignes*,⁴³⁵ it was held that circumstantial evidence is sufficient for conviction if the conditions under Sec. 4, Rule 133 of the Rules of Court are met. Citing *People v. Modesto*,⁴³⁶ the Supreme Court discussed the standards to be observed in appreciating circumstantial evidence. To wit:

The lack or absence of direct evidence does not necessarily mean that the guilt of the accused cannot be proved by evidence other than direct evidence. Direct evidence is not the sole means of establishing guilt beyond reasonable doubt, because circumstantial evidence, if sufficient, can supplant the absence of direct evidence. The crime charged may also be proved by circumstantial evidence, sometimes referred to as indirect or presumptive evidence. Circumstantial evidence has been defined as that which “goes to prove a fact or series of facts other than the facts in issue, which, if proved, may tend by inference to establish a fact in issue.”

The Rules of Court itself recognizes that circumstantial evidence is sufficient for conviction, under certain circumstances. Section 4, Rule 133 of the Rules of Court provides:

Sec. 4. Circumstantial evidence, when sufficient. – Circumstantial evidence is sufficient for conviction if:

- (1) There is more than one circumstance;

⁴³⁵ G.R. No. 229087, June 17, 2020

⁴³⁶ G.R. No. L-25484, September 21, 1968

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 97 of 122

X -----X

- (2) The facts from which the inferences are derived are proven; and
- (3) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.

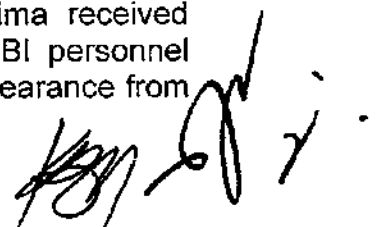
Circumstantial evidence may be resorted to when to insist on direct testimony would ultimately lead to setting felons free. The standard that should be observed by the courts in appreciating circumstantial evidence was extensively discussed in the case of *People v. Modesto*, thus:

x x x No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.

It has been said, and we believe correctly, that the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the guilty person. From all the circumstances, there should be a combination of evidence which in the ordinary and natural course of things, leaves no room for reasonable doubt as to his guilt. Stated in another way, where the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with innocence and the other with guilt, the evidence does not fulfill the test of moral certainty and is not sufficient to convict the accused.

The prosecution's un rebutted evidence proved the following circumstances:

1. Accused Argosino and Robles met accused Sombero in the COD in the early hours of November 27, 2016.
2. After accused Argosino and Robles received the second batch of paper bags containing money, they left the COD.
3. The deliveries of the paper bags containing money by accused Sombero to accused Argosino and Robles on said date, and accused Sombero's receipt of the small paper bag at the COD parking area, were recorded by the CCTV cameras of the COD.
4. The following day, on November 28, 2016, accused Argosino requested Commissioner Morente to constitute the Board of Commissioners to act on the petitions or applications for bail in connection with the Fontana case, purportedly because of the large number of detainees to be processed.
5. Meanwhile, on November 25, 2016, Gen. Calima received information from accused Sombero that some BI personnel were "*humihingi ng areglo.*" Gen. Calima, with clearance from



DECISION

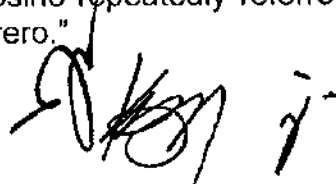
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 98 of 122

x-----x

Commissioner Morente, started to conduct counter-intelligence operations from said date.

6. On November 30, 2016, Gen. Calima met accused Sombero, who revealed to Gen. Calima that the BI personnel who were asking for "areglo" were accused Argosino and Robles, and that they had already received ₱50 million on November 27, 2016.
7. Thereafter, Gen. Calima revealed to accused Argosino and Robles that he knew about what happened in the COD on November 27, 2016. Consequently, accused Argosino and Robles complained to Commissioner Morente that Gen. Calima was harassing them.
8. On December 8, 2016, Commissioner Morente called Gen. Calima, and accused Argosino and Robles, to his office to discuss the matter.
9. There, Gen. Calima called Ramon Tulfo, a journalist, put him on speaker phone, and in the presence of accused Robles who arrived first, talked about writing an article that would expose the incident to the public. Gen. Calima then called accused Sombero, put him on speaker phone, and accused Sombero confirmed that he was at the NBI, preparing his affidavit.
10. After accused Argosino arrived, they informed him about what happened. Accused Argosino and Robles asked Commissioner Morente for advice on what to do. Commissioner Morente told them that they should accept the consequences of their actions.
11. After the confrontation in Commissioner Morente's office, Commissioner Morente authorized Gen. Calima to continue his counter-intelligence operations against accused Argosino and Robles. Accused Argosino then met Gen. Calima in Promenade, Greenhills, talked about "damage control," and set a meeting with Gen. Calima on the following day.
12. The next day, December 9, 2016, accused Argosino and Robles met Gen. Calima and gave to the latter two (2) paper bags. When the bags were opened at the CIDG on December 20, 2016, it was found that the same contained ₱18 million.
13. On December 13, 2016, accused Argosino and Robles conducted the press conference which was recorded by Julie Anne M. Aurelio of the Philippine Daily Inquirer. In said press conference, accused Argosino repeatedly referred to accused Sombero as "Wally Sombrero."



DECISION

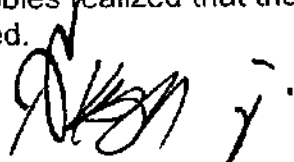
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 99 of 122

X-----X

The following inferences can be derived from said circumstances:

1. Accused Argosino, Robles and Sombero had an agreement to meet at the COD for the purpose of receiving money.
 - a. Accused Argosino and Robles left the COD only after receiving the second batch of paper bags, indicating that their business at the COD was done.
 - b. There was no close relation between accused Argosino and Sombero. Otherwise, accused Argosino would not have mistakenly referred to accused Sombero as "Wally Sombrero" during the press conference.
 - c. Accused Argosino and Robles could not have been unaware that they were receiving money. An ordinary person would check the contents of a package before receiving the same from someone he or she has no close relation with. Here, accused Argosino and Robles received a total of five (5) large and heavy paper bags. It is unlikely that they would have received the same from accused Sombero without even checking or knowing the contents.
2. Accused Argosino and Robles considered the money as their own property.
 - a. From the total amount of ₱50 million they received, ₱2 million was given to accused Sombero, and ₱18 million was given to Gen. Calima.
 - b. They did not inform Commissioner Morente of their receipt of the ₱50 million. Commissioner Morente learned of the same from Gen. Calima on November 30, 2016, only after accused Sombero revealed said information to Gen. Calima.
 - c. Even after the confrontation at Commissioner Morente's office, accused Argosino and Robles did not immediately surrender the money or turn over the same for safekeeping.
 - d. Had Gen. Calima not revealed to accused Argosino and Robles that he knew about the events in the COD on November 27, 2016, they would have kept silent about the receipt of the money.
3. After the confrontation in Commissioner Morente's office, accused Argosino and Robles realized that their activities were in danger of being exposed.



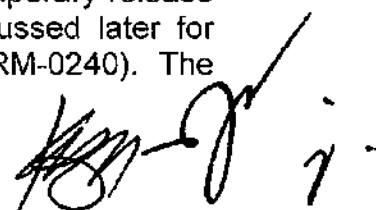
DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 100 of 122

x-----x

- a. Accused Argosino and Robles met Gen. Calima in Quezon City for the purpose of giving Gen. Calima ₱18 million for "damage control."
 - b. They held a press conference on December 13, 2016, in a desperate attempt to make it appear that they received the money as part of a legitimate operation against Jack Lam. At the time, they had in their possession only ₱30 million. They included accused Sombero and Gen. Calima in the complaint they filed to explain the missing ₱20 million.
4. The money was not received as part of a legitimate operation.
 - a. If there was indeed a legitimate operation, at the very least, accused Argosino and Robles would have informed Commissioner Morente, the head of the BI, prior to, or immediately after the purported operation, especially considering that a large amount of money was involved. Instead, Commissioner Morente learned about the receipt of the money from Gen. Calima. The first time accused Argosino and Robles told Commissioner Morente about the receipt of the money was only on December 8, 2016, during the confrontation at Commissioner Morente's office.
 - b. That the money was received purportedly as part of a legitimate operation was never brought up during the confrontation on December 8, 2016.
 - c. Commissioner Morente would not have advised accused Argosino and Robles to "accept the consequences of your actions," and would not have authorized Gen. Calima to continue conducting counter-intelligence operations, had the receipt of the money been part of a legitimate operation.
 - d. If the money was evidence in a legitimate operation, it would have been kept intact.
 5. The receipt of the money was in connection with the release of the Chinese nationals detained in Fontana.
 - a. After accused Argosino and Robles received the money, accused Argosino showed an extraordinary interest in the Fontana case by requesting that the applications or petitions for bail to be filed by the Fontana detainees be acted upon by the Board of Commissioners.
 - b. Under the law, the Commissioner has the sole authority and discretion on whether or not to allow the temporary release of such detainees on bail, as will be discussed later for Violation of 3(e) of R.A. No. 3019 (SB-18-CRM-0240). The



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 101 of 122

X -----X

approval by the other members of the Board was a mere superfluity.

- c. The decision to approve the bail petitions by Board action did not expedite the process, and instead, added layers of review. That it was additional due diligence was an incidental benefit.
- d. Accused Argosino made said request to show that he and accused Robles participated in the release of the detainees to make it appear that they kept their side of the bargain.

In fine, the circumstances would show that accused Argosino and Robles received the total amount of ₱50 million by reason of their official position.

Next, the Court finds that the prosecution proved the existence of conspiracy among the accused. In *People v. Escobal*,⁴³⁷ the Supreme Court discussed that with respect to proving the existence of conspiracy, there are two (2) forms—the express form, where the actual agreement to commit a crime must be proved; and the implied form, which is proved through the mode and manner of the commission of the offense, or from the acts of the accused, pointing to a joint purpose, a concert of action and a community of interest. *Viz.:*

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony, and decide to commit it; hence, the agreement concerning the commission of the crime must be shown to precede the decision to commit it. x x x

Knowledge of, or acquiescence in, or agreement to cooperate is not enough to constitute one a party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose. In this regard, we have discoursed in *Macapagal-Arroyo v. People*:

We also stress that the community of design to commit an offense must be a conscious one. Conspiracy transcends mere companionship, and mere presence at the scene of the crime does not in itself amount to conspiracy. Even knowledge of, or acquiescence in, or agreement to cooperate is not enough to constitute one a party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose. Hence, conspiracy must be established, not by conjecture, but by positive and conclusive evidence.

In terms of proving its existence, conspiracy takes two forms. The first is the express form, which requires proof of an actual agreement among all

⁴³⁷ G.R. No. 206292, October 11, 2017

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 102 of 122

X -----X

the co-conspirators to commit the crime. However, conspiracies are not always shown to have been expressly agreed upon. Thus, we have the second form, the implied conspiracy. An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.

But to be considered a part of the conspiracy, each of the accused must be shown to have performed at least an overt act in pursuance or in furtherance of the conspiracy, for without being shown to do so none of them will be liable as a co-conspirator, and each may only be held responsible for the results of his own acts. In this connection, the character of the *overt act* has been explained in *People v. Lizada*:

An overt or external act is defined as some physical activity or deed, indicating the intention to commit a particular crime, more than a mere planning or preparation, which if carried out to its complete termination following its natural course, without being frustrated by external obstacles nor by the spontaneous desistance of the perpetrator, will logically and necessarily ripen into a concrete offense. The *raison d'être* for the law requiring a direct overt act is that, in a majority of cases, the conduct of the accused consisting merely of acts of preparation has never ceased to be equivocal; and this is necessarily so, irrespective of his declared intent. It is that quality of being equivocal that must be lacking before the act becomes one which may be said to be a commencement of the commission of the crime, or an overt act or before any fragment of the crime itself has been committed, and this is so for the reason that so long as the equivocal quality remains, no one can say with certainty what the intent of the accused is. It is necessary that the overt act should have been the ultimate step towards the consummation of the design. It is sufficient if it was the "first or some subsequent step in a direct movement towards the commission of the offense after the preparations are made." The act done need not constitute the last proximate one for completion. It is necessary, however, that the attempt must have a causal relation to the intended crime. In the words of *Viada*, the overt acts must have an immediate and necessary relation to the offense.

(underscoring supplied)

Furthermore, in *Macapagal-Arroyo v. People*,⁴³⁸ it was held that when Plunder is committed in conspiracy with others, there is a need to identify the main plunderer or the mastermind. *Viz.:*

The law on plunder requires that a particular public officer must be identified as the one who amassed, acquired or accumulated ill-gotten wealth because it plainly states that plunder is committed by

⁴³⁸ G.R. Nos. 220598 and 220953, July 19, 2016

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 103 of 122

X -----X

any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth in the aggregate amount or total value of at least P50,000,000.00 through a *combination* or *series* of overt criminal acts as described in Section 1(d) hereof. Surely, the law requires in the criminal charge for plunder against several individuals that there must be a main plunderer and her co-conspirators, who may be members of her family, relatives by affinity or consanguinity, business associates, subordinates or other persons. In other words, the allegation of the wheel conspiracy or express conspiracy in the information was appropriate because the main plunderer would then be identified in either manner. Of course, implied conspiracy could also identify the main plunderer, but that fact must be properly alleged and duly proven by the Prosecution.

Here, the prosecution's evidence would show that accused Argosino was the main plunderer, and that he committed Plunder in conspiracy with accused Robles.⁴³⁹ The acts of accused Argosino and Robles during and after the commission of the crime would show that they acted for the purpose of helping accused Argosino amass, accumulate or acquire ill-gotten wealth in the total amount of P50 million.

As discussed earlier, accused Sombero delivered the paper bags containing money to accused Argosino and Robles. Although there is no proof that accused Argosino and Robles touched the paper bags containing money from the time the first two (2) were delivered to the Red Ginger restaurant until accused Argosino, together with accused Sombero and the man wearing a black shirt, went to the back portion of the white SUV in the parking area, there is no doubt that they eventually came into the physical possession of the same.

After receiving the money, accused Argosino and Robles kept silent about the same until Gen. Calima revealed to them that he knew about such receipt of money. Had accused Robles not known about such agreement to receive money from the start, accused Robles would have said so during the confrontation at Commissioner Morente's office on December 8, 2013, or even prior to said date. Similarly, during the press conference on December 13, 2013, accused Robles remained silent while he stood beside accused Argosino, while the latter declared that the two (2) of them received the total amount of P50 million from accused Sombero.

⁴³⁹ Accused Sombero's complicity in the acts charged will be discussed in the decision pertaining to him.

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 104 of 122

x -----x

Accused Robles' contention that accused Argosino's declarations during said press conference cannot bind him is untenable. Indeed, under the principle of *res inter alios acta*, a party cannot be prejudiced by the act, declaration, or omission of another. Sec. 29, Rule 130 of the *2019 Proposed Amendments to the Revised Rules on Evidence* provides:

Sec. 29. Admission by third party. – The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

(underscoring supplied)

However, as Sec. 29, Rule 130 expressly provides, there are exceptions. One of such exceptions is under Sec. 33, Rule 130,⁴⁴⁰ or admission by silence. In *Spouses Cipriano Pamplona and Bibiana Intac v. Spouses Cueto*,⁴⁴¹ it was held:

x x x. It is basic that the rights of a party cannot be prejudiced by an act, declaration, or omission of another. *Res inter alios acta alteri nocere non debet*. As an exception to the rule, the act or declaration made in the presence and within the hearing or observation of a party who does or says nothing may be admitted as evidence against a party who fails to refute or reject it. This is known as admission by silence, and is covered by Section 32, Rule 130 of the *Rules of Court*, which provides:

Section 32. *Admission by silence.* – An act or declaration made in the presence and within the hearing or observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him to do so, may be given in evidence against him.

For an act or declaration to be admissible against a party as an admission by silence, the following requirements must be present, namely: (a) the party must have heard or observed the act or declaration of the other person; (b) he must have had the opportunity to deny it; (c) he must have understood the act or declaration; (d) he must have an interest to object as he would naturally have done if the act or declaration was not true; (e) the facts are within his

⁴⁴⁰ Sec. 33. *Admission by silence.* – An act or declaration made in the presence and within the hearing or observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him or her to do so, may be given in evidence against him or her.

⁴⁴¹ G.R. No. 204735, February 19, 2018

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 105 of 122

x -----x

knowledge; and (f) the fact admitted or the inference to be drawn from his silence is material to the issue.

Here, all the requirements are present. Accused Robles was beside accused Argosino the whole time accused Argosino was making his declarations. Had accused Robles not known that he was receiving money, and if he did not receive said money by reason of his official position, he would have objected when accused Argosino declared that they received the money in their capacity as Associate Commissioners of the BI. There is no dispute that the facts were within his knowledge because he in fact received paper bags containing money from accused Sombero at the COD on November 27, 2016. It was his companion who carried the 2 bags going to the parking area of COD; and his companion rode with him when he drove off in the Montero SUV bearing the plate number 17. He had an interest in objecting to accused Argosino's declarations admitting that they received money in their capacity as Associate Commissioners because there was no legitimate operation, and he could be charged with committing a crime in connection with such receipt of money. There was nothing that stopped accused Robles from setting the record straight, but he did not do so. Instead, he tapped the arm of accused Argosino, seemingly in support or approval, during the press conference.⁴⁴²

Although the video clip of the press conference was shorter than the original, which had been lost, it can still be concluded that accused Robles did not make any objection to accused Argosino's declarations. Julie Anne M. Aurelio, who recorded the original video, testified that the video clip reasonably represented what actually happened during the press conference, and that the original video was shortened to tell a more concise story. Had accused Robles made any objection during said press conference, such portion of the video would not have been cut because it would have materially altered the story.

That accused Robles knew about the agreement to receive money by reason of their official position from the beginning, and actively participated in receiving and keeping the money, would show that accused Robles acted in conspiracy with accused Argosino.

That accused Argosino was the main plunderer or the mastermind is also clear from the prosecution's evidence. It was

⁴⁴² Exhibit K, 00:02:33

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 106 of 122

x -----x

accused Argosino who appears to have decided on the disposition of the money. He was the one who gave, or allowed accused Sombero to take ₱2 million from the total amount of ₱50 million as "balato." Although accused Robles was also present during the meeting with Gen. Calima in Quezon City on December 9, 2016, it was accused Argosino alone who discussed the matter with Gen. Calima in Promenade, Greenhills on December 8, 2016. It was also accused Argosino who showed extraordinary interest in the release on bail of the detainees at Fontana by requesting that the petitions for bail be acted upon by the Board despite it being clear from the law that it is the solely the Commissioner of the BI who has the discretion on whether or not to allow such temporary release on bail. At the press conference on December 13, 2016, it was accused Argosino who made all the declarations, with accused Robles merely standing beside him. The foregoing, considered together with accused Robles' declaration of "*isinama lang naman ako dito*" during the confrontation at Commissioner Morente's office on December 8, 2016, leave no doubt that accused Argosino was the main plunderer.

Finally, the matter of the genuineness of the one thousand peso bills stored in Safety Deposit Boxes No. 916 and 917 at the Landbank, Main Office. In *People v. Rodrigo*,⁴⁴³ it was held:

While an accused stands before the court burdened by a previous preliminary investigation finding that there is probable cause to believe that he committed the crime charged, the judicial determination of his guilt or innocence necessarily starts with the recognition of his constitutional right to be presumed innocent of the charge he faces. This principle, a right of the accused, is enshrined no less in our Constitution. It embodies as well a duty on the part of the court to ascertain that no person is made to answer for a crime unless his guilt is proven beyond reasonable doubt. Its primary consequence in our criminal justice system is the basic rule that the prosecution carries the burden of overcoming the presumption through proof of guilt of the accused beyond reasonable doubt. Thus, a criminal case rises or falls on the strength of the prosecution's case, not on the weakness of the defense. Once the prosecution overcomes the presumption of innocence by proving the elements of the crime and the identity of the accused as perpetrator beyond reasonable doubt, the burden of evidence then shifts to the defense which shall then test the strength of the prosecution's case either by showing that no crime was in fact committed or that the accused could not have committed or did not commit the imputed crime, or at the very least, by casting doubt on the guilt of the accused. x x x

⁴⁴³ G.R. No. 176159, September 11, 2008

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 107 of 122

x -----x

As discussed earlier, the prosecution proved beyond reasonable doubt, as to both accused Argosino and Robles, all the elements of Plunder, including the third element, *i.e.*, that the aggregate amount of the ill-gotten wealth is at least ₱50 million. The burden of evidence then shifted to the defense. It is, thus, accused Argosino and Robles' burden to prove that the total amount of money they received was not in fact ₱50 million, as they claim. When this Court denied accused Argosino and Robles' respective *Motions for Reconsideration* in the Resolution dated September 15, 2020, accused Argosino and Robles were given the opportunity to adduce evidence in their defense, or in the alternative, to file their demurrers to evidence without leave of court. Accused Argosino and Robles chose to file their demurrers to evidence without leave of court. Having waived their right to present evidence in their defense, the Court's finding that they received ₱50 million, based on the prosecution's evidence, stands.

SB-18-CRM-0240
(Violation of Sec. 3(e) of R.A. No. 3019)

Sec. 3(e) of R.A. No. 3019 provides:

Sec. 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:

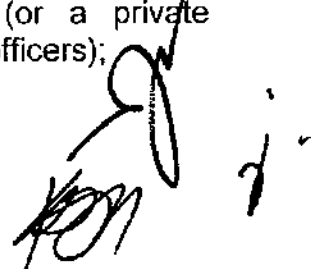
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(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident 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 essential elements of the offense are as follows:⁴⁴⁴

1. That the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers);

⁴⁴⁴ Please see *People v. Nacangayo*, G.R. No. 243897, June 8, 2020



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 108 of 122

X-----X

2. That the accused acted with manifest partiality, evident bad faith, or inexcusable negligence; and
3. That the accused's 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 or her functions.

Accused Argosino and Robles are charged with demanding and receiving ₱50 million from Jack Lam through accused Sombero as a consideration for the release of 1,316 Chinese nationals who were arrested and detained at Fontana for violating Philippine Immigration laws.

Without doubt, accused Argosino and Robles were public officers at the time material to the case, then being Associate Commissioners of the BI. The question is whether they acted in the discharge of their administrative, judicial or official functions. The Court rules in the affirmative.

If the peculiar circumstances of the present case are not considered, it would appear that releasing aliens under arrest in a deportation proceeding on bail is not one of the official functions of an Associate Commissioner. Sec. 37(e) of Commonwealth Act No. 613 (C.A. No. 613), otherwise known as the *Philippine Immigration Act of 1940*, provides:

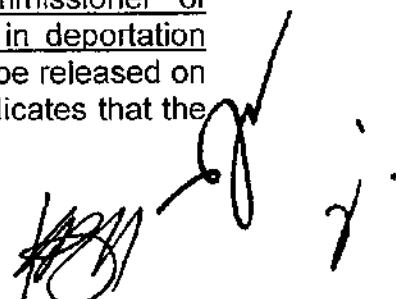
Sec. 37. x x x

(e) Any alien under arrest in a deportation proceeding may be released under bond or under such other conditions as may be imposed by the Commissioner of Immigration.

In *Ong See Hang, et al. v. Commissioner of Immigration*,⁴⁴⁵ the Supreme Court held that under said provision, the Commissioner of Immigration is given the exclusive and full discretion to determine whether an alien subject to deportation should or should not be granted bail. To wit:

Note that this provision confers upon the Commissioner of Immigration the power and discretion to grant bail in deportation proceedings, but does not grant to aliens the right to be released on bail. The use of the word "may" in said provision indicates that the

⁴⁴⁵ G.R. No. L-9700, February 28, 1962



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 109 of 122

x -----x

grant of bail is merely permissive and not mandatory or obligatory on the part of the Commissioner. The exercise of the power is wholly discretionary (U.S. ex rel. Zapp, et al. v. District Director of Immigration and Naturalization, 120 F. 2d. 762; Ex parte Perkov, 45 F. Supp. 864; Colyer v. Skeffington, 265 F. 17). The determination as to the propriety of allowing an alien, subject to deportation under the Immigration Act to be released temporarily on bail, as well as the conditions thereof, falls within the exclusive jurisdiction of the Commissioner, and not in the courts of justice. x x x

x x x

The case of *U.S. v. Go-Siaco* (12 Phil. 490) is not in point, because said case was a proceeding brought under the provisions of Act No. 702 which falls, by provision of said law, under the jurisdiction of the courts of justice. The case at bar is a deportaticn proceeding under the Philippine Immigration Act of 1940, which expressly vests in the Commissioner of Immigration the exclusive and full discretion to determine whether an alien subject to deportation should or should not be granted bail. And the fact that petitioners-appellees herein instituted the present habeas corpus proceedings before the Court of First Instance of Manila does not place them in the custody of said court, so as to deprive the Commissioner of Immigration of his supervision over them and of his discretionary power to grant bail. x x x

(underscoring supplied)

Although under the law, only the Commissioner of Immigration has the authority to temporarily release aliens subject to deportation on bail, herein accused Associate Commissioners can also be deemed to have discharged their official functions in connection with the release on bail of some Chinese nationals who were arrested and detained in Fontana because they participated by signing two (2) of the bail orders after the Secretary of Justice approved accused Argosino's request to allow the Board to be constituted for the purpose of acting on the bail petitions of said detainees.

The three (3) modes by which the offense may be committed are through manifest partiality, evident bad faith, or gross inexcusable negligence. These were explained in *Cruz v. People*,⁴⁴⁶ as follows:

Manifest partiality, evident bad faith and gross inexcusable negligence are defined as follows:

⁴⁴⁶ G.R. Nos. 197142 and 197153, October 9, 2019

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 110 of 122

X -----X

x x x There is "manifest partiality" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes 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 or self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

In *Suller v. Sandiganbayan*,⁴⁴⁷ the Supreme Court held that therein accused acted with evident bad faith when he demanded and received money in exchange for a supposed favorable resolution of the complainant's administrative case. *Viz.:*

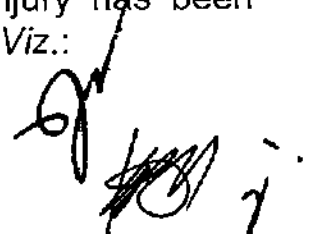
All the elements of the offense charged had been duly established beyond reasonable doubt. Petitioner, being a legal researcher of the Adjudication Board of the NAPOLCOM, is a public officer discharging administrative and official functions. His act of demanding and receiving money from SPO1 Nicolas in exchange for a supposed favorable resolution of the latter's administrative case was clearly tainted with or attended by evident bad faith. It was driven by an utterly corrupt intention to profit materially at the expense of another and was founded upon dishonesty and fraud.

As discussed earlier for Plunder, there is overwhelming evidence to show that on November 27, 2016, accused Argosino and Robles received money in the total amount of ₱50 million from accused Sombero in the City of Dreams. While there is no direct evidence to prove that said money was given as consideration for the release of the 1,316 Chinese nationals arrested in Fontana, the prosecution was able to prove through circumstantial evidence that said money was given by reason of accused Argosino and Robles' official position. As in *Suller*, accused Argosino and Robles' act of receiving, in two (2) instances, money in the total amount of ₱50 million is tainted with evident bad faith.

In *Llorente v. Sandiganbayan*,⁴⁴⁸ the Supreme Court explained that undue injury cannot be presumed. It must be proven as one of the elements of the crime, and must be specified, quantified and proven to the point of moral certainty. Furthermore, undue injury has been interpreted as actual damage, akin to that in civil law. *Viz.:*

⁴⁴⁷ G.R. No. 153686, July 22, 2003

⁴⁴⁸ G.R. No. 122166, March 11, 1998



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 111 of 122

x -----x

x x x. 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 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.

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal;" and injury as "any wrong or damage done to another, either in his person, rights, reputation or property[; that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

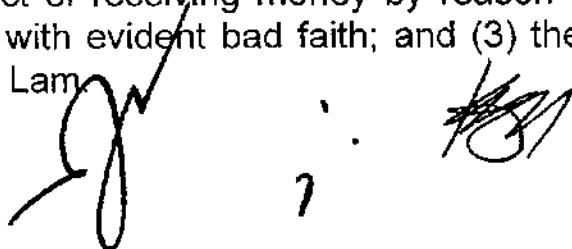
In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

Fundamental in the law on damages is that one injured by a breach of contract, or by a *wrongful or negligent act or omission* shall have a fair and just compensation commensurate to the loss sustained as a consequence of the defendant's act. Actual pecuniary compensation is awarded as a general rule, except where the circumstances warrant the allowance of other kinds of damages. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong.

In *Suller*, the Supreme Court held that therein complainant suffered undue injury to the extent of the amount extorted by therein accused. The prosecution herein proved that accused Argosino and Robles received from Jack Lam, through accused Sombero, money in the total amount of ₱50 million by reason of their official position.

In fine, the prosecution proved beyond reasonable doubt that (1) accused Argosino and Robles were public officers discharging their official functions; (2) their act of receiving money by reason of their official position was tainted with evident bad faith; and (3) the same caused undue injury to Jack Lam.

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 112 of 122

x-----x

**SB-18-CRM-0242 (Direct Bribery)
and
SB-18-CRM-0243 (Violation of P.D. No. 46)**

Direct Bribery

Art. 210 of the RPC, which provides for Direct Bribery, reads:

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

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of *prisión correccional*, in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of *prisión correccional* in its maximum period to *prisión mayor* in its minimum period and a fine not less than three times the value of such gift.

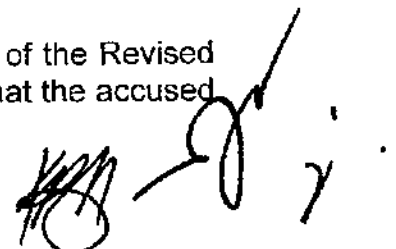
In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

In *Marifosque v. People*,⁴⁴⁹ it was held that the elements of said felony are as follows:

The crime of direct bribery as defined in Article 210 of the Revised Penal Code consists of the following elements: (1) that the accused

⁴⁴⁹ G.R. No. 156685, July 27, 2004



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 113 of 122

x-----x

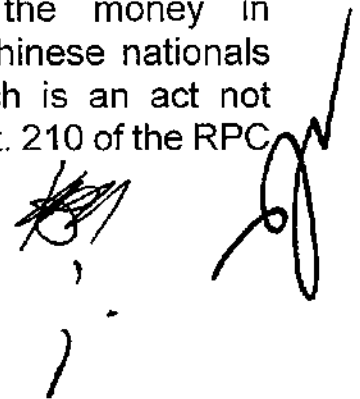
is a public officer; (2) that he received directly or through another some gift or present, offer or promise; (3) that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his official duty to do; and (4) that the crime or act relates to the exercise of his functions as a public officer.

In the present case, the Information alleges that accused Argosino and Robles demanded and received ₱50 million from Jack Lam through accused Sombero in exchange for (1) their refraining from performing their official duty to enforce immigration laws, and instead, (2) intervening or assisting in the release of the Chinese nationals who were arrested and detained at Fontana for violation of Philippine immigration laws, both of which are related to the performance of their functions. Said allegations fall under the second and third paragraphs of Art. 210 of the RPC.

The alleged act of accused Argosino and Robles' refraining from performing their official duty to enforce immigration laws falls under the third paragraph of Art. 210, while the act of intervening or assisting in the release of the Chinese nationals who were arrested and detained at Fontana falls under the second paragraph of said provision.

The first and second elements of Direct Bribery are present. As previously discussed, at the time material to the case, accused Argosino and Robles were Associate Commissioners of the BI, and they received money in the total amount of ₱50 million from Jack Lam, through accused Sombero.

As for the third element, the prosecution failed to prove beyond reasonable doubt that the delivery to, and receipt by, accused Argosino and Robles of the money were in exchange for their refraining from performing their duty to enforce immigration laws. The prosecution did not even point out to any specific immigration law which accused Argosino and Robles supposedly refrained from enforcing. The third element of Direct Bribery is nonetheless present because the prosecution was able to convincingly prove, as previously discussed, that accused Argosino and Robles received the money in consideration of intervening in the release of the Chinese nationals who were arrested and detained at Fontana, which is an act not constituting a crime under the second paragraph of Art. 210 of the RPC.

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 114 of 122

X-----X

Finally, the fourth element of Direct Bribery is present. In *Tad-y v. People*,⁴⁵⁰ it was held that the acts which the offender agrees to perform or execute must be related to or linked with the performance of the offender's official duties. To wit:

Official duties include any action authorized. It is sufficient if the officer has the official power, ability or apparent ability to bring about or contribute to the desired end. The acts referred to in the law, which the offender agrees to perform or execute, must be ultimately related to or linked with the performance of his official duties. It is sufficient if his actions, affected by the payment of the bribe, are parts of any established procedure consistent with the authority of the government agency. However, where the act is entirely outside of the official functions of the officer to whom the money is offered, the offense is not bribery.

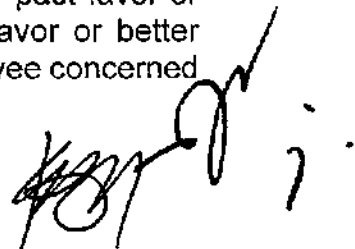
There is no doubt that the act of intervening in the release of said detainees was related to the performance of accused Argosino and Robles' official duties. As Associate Commissioners of the BI, they had the apparent ability to facilitate the release of the detainees, and such act is not entirely outside their official functions. More importantly, as previously discussed for Violation of Sec. 3(e) of R.A. No. 3019, such act became part of their official functions because accused Argosino initiated the constitution of the Board of Commissioners for the purpose of acting on the applications or petitions for bail of the Chinese nationals detained at Fontana.

Violation of P.D. No. 46

The pertinent portion of P.D. No. 46 reads:

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081 dated September 21, 1972, and General Order No. 1 dated September 22, 1972, do hereby make it punishable for any public official or employee, whether of the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable thing on any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned

⁴⁵⁰ G.R. No. 148862, August 11, 2005



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 115 of 122

X-----X

in the discharge of his official functions. Included within the prohibition is the throwing of parties or entertainments in honor of the official or employees or his immediate relatives.

For violation of this Decree, the penalty of imprisonment for not less than one (1) year nor more than five (5) years and perpetual disqualification from public office shall be imposed. The official or employee concerned shall likewise be subject to administrative disciplinary action and, if found guilty, shall be meted out the penalty of suspension or removal, depending on the seriousness of the offense.

(emphasis and underscoring supplied)

From said law, it can be gleaned that Violation of P.D. No. 46 may be committed by a public officer or by a private person. The elements of the offense are as follows:

When committed by a public officer

1. The offender must be a public official or employee, whether of the national or local governments;
2. The offender receives, directly or indirectly, any gift, present or other valuable thing on any occasion; and,
3. Such gift, present or other valuable thing is given by reason of the offender's official position.

When committed by a private person

1. The offender must be a private person;
2. The offender gives or offers to give, directly or indirectly, to a public official or employee, any gift, present or other valuable thing on any occasion; and,
3. The offender gives or offers to give such gift, present or other valuable thing by reason of the public official or employee's official position.

Before discussing whether or not accused Argosino and Robles violated P.D. No. 46, this Court must first discuss the matter of the word "occasion," as used in P.D. No. 46.



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 116 of 122

x -----x

The word "occasion," as ordinarily used,⁴⁵¹ may refer to an instance, or a time at which something happens. It may also refer to a special event or ceremony, such as Christmas. This Court holds that the word "occasion," as used in P.D. No. 46, refers to the former.

In *Re: Allegations Made Under Oath at the Senate Blue Ribbon Committee Hearing Held on September 26, 2013 Against Associate Justice Gregory S. Ong, Sandiganbayan*,⁴⁵² it was found that therein respondent Gregory S. Ong, then an Associate Justice of the Sandiganbayan, received from Janet Lim-Napoles access to the robe of the Black Nazarene and fragrant cotton balls, both of which he believed to have healing powers. Napoles was previously acquitted from a case for Malversation before the Sandiganbayan's Fourth Division, then chaired by said respondent.

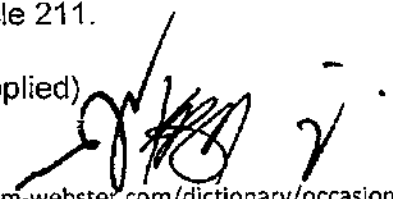
In his separate concurring opinion, Justice Francis H. Jardeleza discussed that the acts of gift-giving and gift-receiving prohibited under P.D. No. 46 are analogous to the practices prohibited under Art. 211 of the RPC and R.A. No. 3019. *Viz.:*

x x x. The acts of gift-giving and gift-receiving prohibited in PD 46 are analogous to those same practices similarly prohibited under Article 211 of the RPC (*Indirect Bribery*) and Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The common element under PD 46 and Article 211 of the RPC is that both laws consider a public official's act of receiving a gift, given by reason of his official position, as corrupt.

x x x

Significantly, under both PD 46 and Article 211 of the RPC, a public officer becomes liable upon mere acceptance of a gift. It is not necessary that the official should do any particular act or promise to do an act, as it is enough that he accepts gifts offered to him by reason of his office. Neither is it required that the giver hopes or expects to receive a favor or better treatment in the future. That PD 46 and Article 211 is a variant of the other appears to be confirmed by Luis B. Reyes who, in his commentary on the Revised Penal Code, included PD 46 in his discussion of Article 211.

(underscoring supplied)



⁴⁵¹ Merriam-Webster Online Dictionary. <https://www.merriam-webster.com/dictionary/occasion>. Accessed on February 9, 2021.

⁴⁵² A.M. No. SB-14-21-J [Formerly A.M. No. 13-10-06-SB], September 23, 2014

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 117 of 122

x-----x

According to Justice Jardeleza, therein respondent's act of accepting gifts from Napoles may constitute violation of P.D. No. 46 and Art. 211 of the RPC. The access to the robe was a gift in the form of a favor. Moreover, the gifts given, *i.e.*, access to the robe and the fragrant cotton balls, were considered by therein respondent to be valuable because he believed that such items bestowed the gift of healing. Finally, according to Justice Jardeleza, said gifts were given to therein respondent by reason of his office because therein respondent was not a relative or a family friend of Napoles, and neither were they colleagues or employees of the same office. Notably, said gifts were not given in connection with a special occasion.

Although Justice Jardeleza's interpretation of P.D. No. 46 in his concurring opinion is not considered as binding precedent, the same has persuasive effect, in the absence of a definitive ruling on the matter of whether "occasion," as used in P.D. No. 46, refers to "an instance" or "a special occasion."

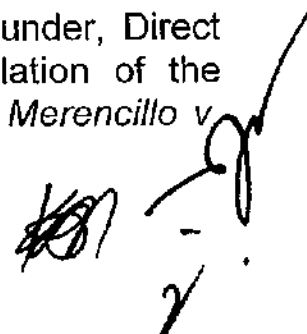
The Court will now resolve the matter at hand, *i.e.*, whether or not accused Argosino and Robles committed Violation of P.D. No. 46. This Court rules in the affirmative.

As discussed earlier, the prosecution proved beyond reasonable doubt that accused Argosino and Robles were public officers at the time material to the case, and that they received the total amount of ₱50 million—a gift, present or valuable thing—from accused Sombero in exchange for their intervention and assistance in the release of the Chinese nationals detained in Fontana, or by reason of their position as Associate Commissioners of the BI.

Double Jeopardy

Accused Argosino and Robles could have been convicted of Violation of P.D. No. 46 had said offense been the sole charge against them. However, in these cases, they are also charged with Plunder and Direct Bribery.

Convicting and separately punishing them for Plunder, Direct Bribery and Violation of P.D. No. 46 will be a violation of the constitutional proscription against double jeopardy. In *Merencillo v.*

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DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 tc 0243

Page 118 of 122

X-----X

People,⁴⁵³ the Supreme Court explained the test for determining whether one will be placed in double jeopardy. To wit:

The rule against double jeopardy prohibits twice placing a person in jeopardy of punishment for the same offense. The test is whether one offense is identical with the other or is an attempt to commit it or a frustration thereof; or whether one offense necessarily includes or is necessarily included in the other, as provided in Section 7 of Rule 117 of the Rules of Court. An offense charged necessarily includes that which is proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter; and an offense charged is necessarily included in the offense proved when the essential ingredients of the former constitute or form a part of those constituting the latter.

For convenience, hereunder are the elements of Plunder committed through a series of acts as described in Sec. 1 (d) (2) of R.A. No. 7080, Direct Bribery, and Violation of P.D. No. 46:

Plunder (Sec. 1 [d] [2] of R.A. No. 7080)	Direct Bribery	Violation of P.D. No. 46
<ol style="list-style-type: none"> 1. The offender is a public officer who acts by himself or herself, or in connivance with others; 2. The offender amasses, accumulates or acquires ill-gotten wealth through a series of acts described in Sec. 1 (d) (2) of R.A. No. 7080, i.e., by <u>receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;</u> and, 	<ol style="list-style-type: none"> 1. The accused is a public officer; 2. The accused <u>received directly or through another some gift or present, offer or promise;</u> 3. Such gift, present or promise has been given <u>in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his or her official duty to do;</u> and, 4. The crime or act <u>relates to the exercise of the accused's functions as a public officer.</u> 	<ol style="list-style-type: none"> 1. The offender must be a public official or employee; 2. The offender receives, directly or indirectly, any <u>gift, present or other valuable thing on any occasion; and,</u> 3. Such gift, present or other valuable thing is <u>given by reason of the offender's official position.</u>

⁴⁵³ G.R. Nos. 142369-70, April 13, 2007

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 119 of 122

X -----X

3. The aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least P50 million.		
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As seen above, Violation of P.D. No. 46 is necessarily included in Direct Bribery because all the elements of Violation of P.D. No. 46 are necessarily included in the elements of Direct Bribery. The first element is the same for both. The second element of Violation of P.D. No. 46 is one of the ways by which Direct Bribery may be committed, the others being that the accused received an offer or promise. Finally, the third element of Violation of P.D. No. 46 is included in the fourth element of Direct Bribery because in the latter, the crime or the act relates to the exercise of the accused's functions as a public officer, meaning that the gift was given by reason of the offender's office.

Similarly, the elements of Direct Bribery and Violation of P.D. No. 46 are also necessarily included in Plunder committed through a series of acts as described in Sec. 1 (d) (2) of R.A. No. 7080. Hence, there is only one offense—Plunder. There being only one offense, SB-18-CRM-0242 and 0243 must be dismissed.

Penalty

Plunder under R.A. No. 7080 is punishable by *reclusion perpetua* to death.⁴⁵⁴ Art. 63 of the RPC provides for the application of indivisible penalties. To wit:

Art. 63. Rules for the application of indivisible penalties. – In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x

3. When the commission of the act is attended by some mitigating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

⁴⁵⁴ Republic Act No. 9346 prohibits the imposition of death penalty.

DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 120 of 122

X-----X

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This Court appreciates the mitigating circumstance of voluntary surrender in favor of accused Argosino and Robles.⁴⁵⁵ The records would show that they posted their bail bonds for SB-18-CRM-0240, 0242 and 0243 prior to the issuance of warrants of arrest against them.⁴⁵⁶ Their voluntary surrender to the Court in connection with said cases was also made prior to the issuance of the warrant of arrest for SB-18-CRM-0241.

There being one (1) mitigating circumstance in their favor and no aggravating circumstance, the lesser penalty⁴⁵⁷ of *reclusion perpetua* shall be applied.

CONCLUSION

In SB-18-CRM-0240, the prosecution proved beyond reasonable doubt all the essential elements of Violation of Section 3(e) of Republic Act No. 3019.

In SB-18-CRM-0241, the prosecution proved beyond reasonable doubt all the essential elements of Plunder.

In SB-18-CRM-0242, the prosecution proved beyond reasonable doubt all the elements of Direct Bribery under Art. 210 of the RPC; and in SB-18-CRM-0243, the prosecution proved beyond reasonable doubt all the elements of Violation of P.D. No. 46. However, the two (2) cases must be dismissed because Direct Bribery and Violation of P.D. No. 46 are included in Plunder committed through a series of acts as described in Sec. 1 (d) (2) of R.A. No. 7080.

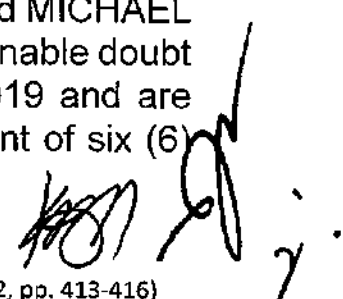
WHEREFORE, the Court rules as follows:

1. In **SB-18-CRM-0240**, accused AL C. ARGOSINO and MICHAEL B. ROBLES are hereby found **GUILTY** beyond reasonable doubt of Violation of Section 3(e) of Republic Act No. 3019 and are sentenced each to suffer the penalty of imprisonment of six (6)

⁴⁵⁵ Record, p. 56; Please see *Valle v. Sandiganbayan*, G.R. No. 97651, October 13, 1992

⁴⁵⁶ Record, Vol. 3, p. 161-A; Resolution dated February 28, 2019, pp. 9-12 (Record, Vol. 12, pp. 413-416)

⁴⁵⁷ Applying R.A. No. 9346, the greater penalty is *reclusion perpetua* without eligibility for parole.



DECISION

People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 121 of 122

x-----x

years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification to hold public office.

2. In **SB-18-CRM-0241**, accused AL C. ARGOSINO and MICHAEL B. ROBLES are found **GUILTY** beyond reasonable doubt of Plunder under R.A. No. 7080, and are each accordingly sentenced to suffer the penalty of *reclusion perpetua*.
3. **SB-18-CRM-0242 and 0243** are hereby **DISMISSED** as to accused Argosino and Robles.

The ill-gotten wealth accumulated, amassed, or acquired by accused Argosino and Robles in the amount of Fifty Million Pesos (P50,000,000.00), now under the custody of the concerned government agencies, is hereby **FORFEITED** in favor of the State.⁴⁵⁸

Let the hold departure orders against accused Argosino and Robles by reason of SB-18-CRM-0242 and 0243 be lifted and set aside, and their bonds released, subject to the usual accounting and auditing procedure.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


ZALDY V. TRESPESES
Associate Justice

⁴⁵⁸ R.A. No. 7080. Sec. 2. Definition of the Crime of Plunder; Penalties. – x x x. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

DECISION

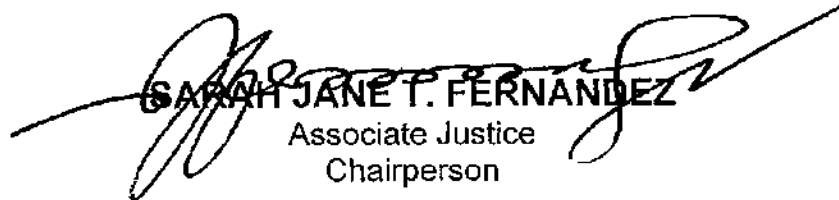
People vs. Argosino, et al.
SB-18-CRM-0240 to 0243

Page 122 of 122

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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.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

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. GABOTAJE-TANG
Presiding Justice

