



REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
Quezon City

**FOURTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**CRIM. CASE NO. SB-16-CRM-0725**

For: Violation of Section 3 (e) of R. A. 3019,  
otherwise known as the Anti-Graft and Corrupt  
Practices Act, as amended

-versus-

**CRIM. CASE NO. SB-16-CRM-0726**

For: Falsification under Article 171, paragraph  
4 of the Revised Penal Code (RPC).

**PRESIDENT D. ELIPE, and**  
**PRISTINE E. QUIZON,**  
*Accused.*

Present:

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

Promulgated on:

July 6, 2018 *ant*

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**DECISION**

**CRUZ, J.**

On 23 September 2016, accused President D. Elipe ("Elipe" for brevity) and accused Pristine E. Quizon ("Quizon" for brevity) were charged in two (2) separate Informations<sup>1</sup> both dated 13 June 2016, with violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, docketed as Criminal Case No. SB-16-CRM-0725, and Falsification by public officer, defined and penalized under paragraph 4; Article 171 of the Revised Penal Code (RPC), docketed as Criminal Case No. SB-16-CRM-0726, the accusatory portions of which read:

**Criminal Case No. SB-16-CRM-0725**

"That in or about October 2013, or sometime prior or subsequent thereto, in the City of Cagayan De Oro, Philippines and within the jurisdiction of this Honorable Court, accused **PRESIDENT**

<sup>1</sup> Records, pp. 1-6

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**DAGONDON ELIPE**, a high ranking public officer, being a member of the *Sangguniang Panglungsod* (SP) of Cagayan De Oro City, conspiring and confederating with his co-accused **PRISTINE ELIPE QUIZON**, a low ranking public employee being his Secretary and committing the crime herein charged while in the performance of their official functions, taking advantage of their official positions and with evident bad faith, manifest partiality or gross inexcusable negligence, did then and there willfully, unlawfully and criminally allow his said co-accused **PRISTINE ELIPE QUIZON** to unduly receive her salary for 25 and 30 October 2013 in the amount of One Thousand Eight Hundred Ninety Four Pesos and Eight Centavos (Php1,894.08) by certifying to the truth and correctness of her Daily Time Record (DTR) for the payroll period of 16-31 October 2013, despite knowing it to be false, as accused **QUIZON** was out of the country at that time, thereby giving her unwarranted benefit, to the damage of the government in the aforesaid amount.

CONTRARY TO LAW.”<sup>2</sup>

**Criminal Case No. SB-16-CRM-0726**

“That in or about October 2013, or sometime prior or subsequent thereto, in the City of Cagayan De Oro, Philippines and within the jurisdiction of this Honorable Court, accused **PRESIDENT DAGONDON ELIPE**, a high ranking public officer, being a member of the *Sangguniang Panlungsod* (SP) of Cagayan De Oro City, and as such, the person in charge of verifying the correctness of the entries indicated in the Daily Time Record (DTR) of his subordinates, conspiring and confederating with his co-accused **PRISTINE ELIPE QUIZON**, a low ranking public employee assigned as his Secretary, while in the performance of their official functions, taking advantage of their official positions and committing the offense in relation to their office, did then and there willfully, unlawfully and feloniously falsify accused **PRISTINE ELIPE QUIZON**'s Daily Time Record (DTR) for the payroll period 16-31 October 2013, by affixing his signature thereon indicating that he verified the truth and correctness of the entries made by accused **PRISTINE ELIPE QUIZON**, that she reported for work on the dates 25, 29 and 30 October 2013, which was known to him to be false, as accused was out of the country at that time, and that by reason of such false narration of facts, accused **QUIZON** was able to unduly collect the salary corresponding to such dates, to the damage and prejudice of the government and public interest.

CONTRARY TO LAW.”<sup>3</sup>

Upon arraignment, both accused Elipe and Quizon pleaded “**NOT GUILTY**” to the offenses charged.<sup>4</sup>

<sup>2</sup> Records, pp. 1-3

<sup>3</sup> Records, pp. 4-6

<sup>4</sup> Records, pp. 183-184, 186

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Thereafter, the Court issued a Pre-trial Order,<sup>5</sup> based on the Joint Stipulation of Facts<sup>6</sup> submitted by the parties, admitting the following statements:

1. That at the time material and relevant to this case, the following accused were public officers holding government positions:
  - a. President Dagondon Elipe – Member, *Sangguniang Panglungsod* of Cagayan de Oro City; and
  - b. Pristine Elipe Quizon – Secretary of *Sangguniang Panglungsod* Member President Dagondon Elipe.
2. That whenever referred to orally or in writing by the Honorable Court and the prosecution and/or its witnesses, accused President Dagondon Elipe and Pristine Elipe Quizon both admit that they are the same President Dagondon Elipe and Pristine Elipe Quizon, the accused in these cases;
3. Accused President Elipe, as a member of the *Sangguniang Panglungsod*, was entitled to have one Secretary and two Admin. Aides to compose his office staff;
4. Accused Pristine Elipe Quizon travelled overseas from October 25, 2013 to October 30, 2013;
5. Accused Pristine Elipe Quizon personally accomplished her Daily Time Record (DTR) for the month of October 6-31, 2013;
6. Accused Pristine Elipe Quizon's DTR for the month of October 16-31, 2013 shows that she reported for work from October 16, 2013 to October 31, 2013;
7. Accused President Dagondo Elipe signed accused Pristine Elipe Quizon's DTR for the month of October 16-31, 2013;
8. Accused Pristine Elipe Quizon received her salary corresponding to the period October 25, 29, and 30, 2013 in the amount of Php1,894.08;
9. Mr. Gersana, who was the Assistant City Administrator for Cagayan de Oro City, was one of the principal respondents in the case before the Office of the Ombudsman docketed as OMB-M-A-13-0235 for Grave Misconduct, Violation of Sec. 4, par. B and C of R. A. No. 6713.

<sup>5</sup> Records, pp. 294-297

<sup>6</sup> Records, pp. 265-272

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**EVIDENCE FOR THE PROSECUTION**

During the presentation of the prosecution's evidence on 08 November 2017,<sup>7</sup> the prosecution manifested its intention to present two (2) witnesses, namely Ma. Dulce C. Baculo ("Baculo" for brevity), Human Resource Officer of the Local Government of Cagayan De Oro City, and Edwin Benito T. Bugtong ("Bugtong" for brevity), Acting Chief of the Certificate and Clearance Section of the Bureau of Immigration. Witness Baculo was supposed to identify the certified true copy of the daily time record (DTR) and wages of accused Quizon, while witness Bugtong was supposed to testify on the existence and due execution of the Certification dated 13 October 2016. But, said witnesses were not available during the hearing. The prosecution offered for stipulation the matters to be testified on and documents to be identified by these witnesses, which the defense accepted. With the stipulation and admission of the defense, the prosecution dispensed with the presentation of its witnesses, and formally offered its exhibits marked as Exhibits "F", "G", and "H", which the Court admitted into evidence.<sup>8</sup>

After the prosecution rested its case, the herein accused filed a "Motion for Leave to File Demurrer to Evidence,"<sup>9</sup> which the Court denied.<sup>10</sup>

**EVIDENCE FOR THE DEFENSE**

During the proceedings on 07 February 2018,<sup>11</sup> both accused Elipe and Quizon were present. In the said hearing, the prosecution agreed to stipulate that the Secretary I position held by accused Quizon be considered as a confidential position under Civil Service Commission (CSC) Memorandum Circular No. 22, Series of 2007.

Upon inquiry from the Court,<sup>12</sup> Atty. Roderick C. Rosas (Atty. Rosas), defense counsel, confirmed that the herein accused are siblings. Atty. Rosas also stated that they have already stipulated that accused Quizon prepared the DTR, and on the dates at issue, she was out of the country. However, Atty. Rosas contended that since accused Quizon is a confidential employee, then she could properly rely on the rules on flexi-time. In relation to the rules on flexi-time, it is thus not possible to consider the entries of accused Quizon's DTR as falsified.<sup>13</sup>

<sup>7</sup> Transcript of Stenographic Notes (TSN) dated 08 November 2017

<sup>8</sup> Records, p. 304

<sup>9</sup> Records, pp. 373-377

<sup>10</sup> Records, p. 384

<sup>11</sup> TSN dated 07 February 2018

<sup>12</sup> TSN dated 07 February 2018, p. 6

<sup>13</sup> TSN dated 07 February 2018, p. 6

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Atty. Rosas further clarified that the salary for October 25, 29 and 30 were offset by accused Quizon by rendering service on other days, as supported by a document dated 23 October 2013 requesting for flexi-time to cover the entries on dates she was out of the country.<sup>14</sup> Prompted by an opposition to the effect that certain requirements must be met before the flexi-time schedule may be availed of by an employee,<sup>15</sup> the Court inquired whether accused Quizon complied with such requirements.<sup>16</sup> Atty. Rosas answered in the affirmative and maintained that the only requirement was a request to avail of flexi-time.<sup>17</sup> He also stated that the request, the approval of which is contained in the same document, covered the salary received by accused Quizon for October 25, 29 and 30, 2013.<sup>18</sup>

On 19 March 2018, herein accused filed their Formal Offer of Evidence.<sup>19</sup> The Court resolved to admit all of the herein accused's exhibits with its sub-markings, for the purposes for which they were offered, subject to the proper appreciation of their respective probative values.<sup>20</sup>

Then, the parties submitted their respective Memoranda.<sup>21</sup>

**THE FACTS**

The following narration of facts is based on the documentary and testimonial evidence found on record, as well as on the stipulations made between the parties:

Sometime in August 2014, the City Administrator's Office of Cagayan de Oro, under the supervision of private complainant, Assistant City Administrator Dionnie P. Gersana ("Gersana" for brevity), conducted an investigation on reports about several City Hall employees who were not at work but were still paid their salaries.<sup>22</sup> During the said investigation, the Daily Time Record (DTR) of accused Quizon, who was holding the position of Secretary I under the office of then Councilor accused Elipe, was reviewed.<sup>23</sup> Significantly, in her

<sup>14</sup> TSN dated 07 February 2018, p. 7

<sup>15</sup> TSN dated 07 February 2018, pp. 7-8

<sup>16</sup> TSN dated 07 February 2018, p. 8

<sup>17</sup> TSN dated 07 February 2018, pp. 8-9

<sup>18</sup> TSN dated 07 February 2018, p. 9

<sup>19</sup> Records, pp. 426-433

<sup>20</sup> Records, p. 461

<sup>21</sup> Records, pp. 473-496, 497-509

<sup>22</sup> Records, p. 23

<sup>23</sup> *Id.*

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DTR<sup>24</sup> for the period of 16-31 October 2013, accused Quizon indicated that she reported for work on the following dates:


25 October 2013 From 8am to 12pm and 1pm to 5pm  
29 October 2013 From 8am to 12pm and 1pm to 5pm  
30 October 2013 From 8am to 12pm and 1pm to 5pm

However, per records<sup>25</sup> obtained from the Bureau of Immigration (BOI), accused Quizon left the country on 25 October 2013 and only returned on 30 October 2013.<sup>26</sup> This notwithstanding, the said DTR of accused Quizon was signed and approved by her superior, accused Elipe.<sup>27</sup> As a result, accused Quizon was able to receive her salary,<sup>28</sup> corresponding to the dates she was absent from work, in the amount of One Thousand Eight Hundred Ninety Four pesos and Eight centavos (Php1,894.08).<sup>29</sup> This discovery led to the filing of a Complaint-Affidavit<sup>30</sup> before the Office of the Ombudsman for Mindanao ("Ombudsman"). After the preliminary investigation, the Ombudsman found probable cause to indict accused Elipe and Quizon for the offenses charged, and the corresponding Informations were filed.<sup>31</sup>

Hence these cases.

**DISCUSSION**

Accused Elipe and Quizon deny liability for the offenses charged against them, alleging that the City of Cagayan de Oro implements policies on the availment of flexi-time privileges, which serve as the off-setting or compensation for overtime work. In effect, there are certain days where even a confidential employee like accused Quizon takes a day off or is not required to report for work. They insist that there is nothing improper or criminal in the DTR submitted by accused Quizon because she legally availed of and complied with the policies of the said City Government in availing of her flexi-time privileges. They also deny the existence of conspiracy, claiming that accused Elipe's signature on accused Quizon's DTR was done as a matter of standard operating procedure, considering that the latter was assigned to him as his Secretary.

 <sup>24</sup> Records, p. 302 (Exhibit "F")

<sup>25</sup> Records, p. 301 (Exhibit "G")

<sup>26</sup> *Supra*, footnote 23


<sup>27</sup> *Supra*, footnote 24

<sup>28</sup> Records, p. 303 (Exhibit "H")

<sup>29</sup> Records, p. 25

<sup>30</sup> Records, pp. 22-29

<sup>31</sup> Records, pp. 1-6



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The evidence<sup>32</sup> adduced by herein accused confirms that the City of Cagayan de Oro enforces the following guidelines on the availment of flexi-time privileges, to wit:

1. There must be a written request to render extra services stating therein the reasons for such services, duly signed by the Department Head/Chief of Office concerned;
2. The request must be duly approved by the City Administrator or the City Mayor;
3. A written request to avail flexi-time privileges as compensation for extra-services actually rendered must be submitted to the Office of the City Administrator for approval, with the following attachments:
  - a. Approved request to render extra services (item no. 2); and
  - b. Schedule of availment of flexi-time privileges indicating the day(s) and number of hours of extra services actually rendered by each employee.
4. Flexi-time privileges:
  - a. May only be availed of from Tuesday to Thursday;
  - b. Must not fall on consecutive days; and
  - c. If covering several days, may only be availed of once a week;
5. Approved flexi-time must be scheduled within a month of the date on which extra services were rendered.
  - For example, approved flexi-time earned in return for extra services rendered last 08 May 2014, must be scheduled within the period from 08 May 2014 to 08 June 2014, otherwise flexi-time privileges earned shall be forfeited;
6. No approved request, no flexi-time privileges.<sup>33</sup>

To justify their actions, accused Elipe and Quizon submitted a copy of the latter's Request for Flexi-time<sup>34</sup> dated 23 October 2013, which contains the following entries:

REQUEST FOR FLEXI TIME  
Date: October 23, 2013

May we request for a flexi time on:

Name	Date	Purpose
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<sup>32</sup> Records, pp. 133, 134, 136 (Exhibits "4", "5", "7")

<sup>33</sup> Records, p. 136 (Exhibit "7")

<sup>34</sup> Records, p. 137 (Exhibit "8")

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Pristine E. Quizon	Oct. 24-25, 2013, 2 Days	Attend important personal/family matters
	Oct. 29-30, 2013, 2 Days	-do-

For the overtime services we have rendered on:

Name	Date	Purpose
Pristine E. Quizon	Sept. 7 (1-5pm, 4hrs)	-Assist meeting in caucus of Councilors.
	Sept. 20 (1-5pm, 4hrs)	-Run errand for Coun. Elipe (research) in the matters concerning budget appropriation.
	Oct. 5 (10-4pm, 6hrs)	-Attend/Assist in the caucus of Councilors.
	Oct. 12 (6-10pm, 4hrs)	-Attend/Accompanied Coun. Elipe on briefing/meeting with business re. revenue code amendments.
	Oct. 14 (5-8pm, 3hrs)	-Assist in the preparation of materials for meeting of Committee on Appropriation.
	Oct. 19 (10-3pm, 5hrs)	-Accompanied Coun. Elipe on meeting Brgy. Officials at Brgy. re. revenue code amendments.
	Oct. 19 (6-10pm, 4hrs)	-Attend/Assist in the caucus of Councilors.
	Oct. 21 (5-8pm, 3hrs)	-Assist in the preparation of materials for meeting of Committee on Appropriation.

Requested by:

(sgd.)

Pristine E. Quizon

(Name and Signature of Employee)

Approved:

(sgd.)

PRESIDENT D. ELIPE

(Head of Office/Supervisor)

At a glance, it is readily apparent that accused Quizon's request for flexi-time is flawed. To note, the services rendered for Sept. 7 (1-5pm), Sept. 20 (1-5pm), October 5 (10-4pm), and October 19 (10-3pm) are still part of accused Quizon's regular work hours (8am to 5pm). Thus, these services cannot be considered as overtime work. Consequently, only those services done beyond her regular work hours, like those rendered on Oct. 12 (6-10pm), Oct. 14 (5-8pm), October 19 (6-10pm) and Oct. 21 (5-8pm) are allowed to be off-set as compensation for her overtime work. This gives accused Quizon fourteen (14) hours of overtime work, which entitles her to one (1) day and six (6) hours off from work. Clearly, accused Quizon's

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accumulated overtime work hours cannot cover her request for four (4) days off. Furthermore, there is no evidence to establish that accused Quizon's request for flexi-time was approved prior to her availment thereof. Here, the Court observes that the copy of accused Quizon's approved request for flexi-time was not adduced in evidence despite the Certification<sup>35</sup> dated 15 January 2018, issued by Vice Mayor Caesar Ian E. Acenas ("Acenas" for brevity), attesting that his Office had on file such request and that the same was duly approved. In other words, the Certification of Vice Mayor Acenas as to the approval of the said request cannot not be taken at face value, bearing in mind that the best available evidence to prove such fact would be the copy of the said approved request. Verily, these blatant violations of accused Quizon of the strictly enforced guidelines on the availment of flexi-time privileges negate her entitlement thereto.

After finding that accused Quizon is not entitled to flexi-time privileges, the Court will now discuss the liability of the herein accused vis-à-vis the offenses charged against them.

In **Criminal Case No. SB-16-CRM-0725**, accused Elipe and Quizon are charged with the violation of Section 3 (e) of R. A. No. 3019,<sup>36</sup> which requires the concurrence of the following elements:

1. That the accused is a public officer discharging administrative, judicial or official functions;
2. That the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. That the action of the accused caused undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.<sup>37</sup>

Here, the presence of the first element is already admitted per joint stipulation of facts submitted by the parties that both accused Elipe and

<sup>35</sup> See Exhibit "9-g"

<sup>36</sup> Section 3 (e) of R. A. No. 3019, states:

"Section 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx

xxx

xxx

(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 permit or other concessions.  
xxx"

<sup>37</sup> Napoleon O. Cedeño vs. People of the Philippines and the Sandiganbayan, Fifth Division (G. R. No. 193020 & 193040-193042, November 08, 2017)

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Quizon are public officers, holding the positions of *Sangguniang Panglunsod* member (Councilor) and Secretary I, respectively, at the time material to these cases.<sup>38</sup> Moreover, it is also established that while in the discharge of their respective functions, accused Quizon personally accomplished her DTR for 16-30 October 2013, and that the said DTR was subsequently signed by accused Elipe.<sup>39</sup>

The second element of Section 3 (e) of R. A. No. 3019, specifies the different modes by which means the offense may be committed, and these are through manifest partiality, evident bad faith, or gross inexcusable negligence.<sup>40</sup> In jurisprudence, partiality is deemed synonymous with "bias", which "excites a disposition to see and report matters as they are wished rather than as they are."<sup>41</sup> On the other hand, bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.<sup>42</sup> While, gross 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 a conscious indifference to consequences in so far as other persons may be affected.<sup>43</sup> It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.<sup>44</sup> Jurisprudence declares that these modes are distinct and different from each other.<sup>45</sup> Thus, proof of the existence of any of these modes in connection with the prohibited act is sufficient to warrant conviction.<sup>46</sup>

In this case, accused Elipe's partiality or bias is manifested when he approved accused Quizon's request for flexi-time, notwithstanding her non-compliance with the guidelines for the availment thereof. As certified to by City Secretary Arturo de San Miguel ("San Miguel" for brevity), flexi-time privileges represent actual overtime work rendered by an employee.<sup>47</sup> This allows the employee to indicate in the DTR, a "time-in" and "time-out" for the period covered by the request for flexi-time, or the dates the flexi-time privileges are actually availed of.<sup>48</sup> Thus, accused Quizon's right to input a "time-in" and "time-out" entry in her DTR is premised on the fact that she had actually rendered overtime work for the day where she requested to take a day off. Here, the records show that accused Quizon did not render enough overtime

<sup>38</sup> *Supra*, footnote 6

<sup>39</sup> *Id.*

<sup>40</sup> Teofilo Giangan, et al., vs. People of the Philippines, 768 SCRA 221, (2015), p. 233, citing *Fonacier vs. Sandiganbayan*, 238 SCRA 655, (1994), p. 687

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> See Exhibit "9"

<sup>48</sup> *Id.*

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work to cover the period she requested. But, instead of disapproving her request, accused Elipe approved the same, and later, certified the truthfulness and correctness of the entries accused Quizon made in her DTR for the period of 16-30 October 2013. Concomitantly, the act of accused Elipe in certifying the entries in accused Quizon's DTR likewise demonstrates evident bad faith. As accused Quizon's superior officer and the one in charge, accused Elipe failed to perform his duty to verify such entries before he signed the said DTR. Essentially, the entries made by accused Quizon in her DTR, indicating that she was at work on 25, 29 and 30 October 2013, are unauthorized because she did not have enough overtime hours to entitle her to the days off she requested.

The third element provides the two (2) ways by which Section 3 (e) of R. A. No. 3019 may be violated – the first, by causing undue injury to any party, including the government, or the second, by giving any private party any unwarranted benefit, advantage or preference.<sup>49</sup> Significantly, jurisprudence dictates that the above-mentioned ways do not constitute a distinct offense, but the accused may be charged under either one or both.<sup>50</sup>

In this case, the Court is convinced that the actions of accused Elipe in approving the request for flexi-time and in certifying the entries in accused Quizon's DTR for 16-30 October 2013, gave the latter unwarranted benefits. Accordingly, jurisprudence describes the term "unwarranted" as something lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason.<sup>51</sup> On the other hand, the term "benefit" means profit or gain of any kind.<sup>52</sup> Here, it is the approval given by accused Elipe that paved the way for accused Quizon to unduly receive her salary for 25, 29 and 30 October 2013, even though her request for flexi-time corresponding to these dates should have been unauthorized, on account that she did not render enough overtime work to cover the same. Similarly, the actions of accused Elipe also caused undue injury<sup>53</sup> to the government, in the amount of Php1,894.08, equivalent to the salary paid to accused Quizon for the days where she did not work or render actual service.

Meanwhile, in **Criminal Case No. SB-16-CRM-0726**, accused Elipe and Quizon are charged for Falsification by public officer defined

<sup>49</sup> Rolando E. Sision vs. People of the Philippines, 614 SCRA 670, (2010), p. 681

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*, p. 682

<sup>53</sup> In the case of Cresente Y. Llorente, Jr. vs. Sandiganbayan and Leticia G. Fuertes, [287 SCRA 382 (1998), p. 399], "undue injury" has been interpreted as actual damage. Used in this context, undue injury as an actual damage is akin to that defined under Article 2199 of the Civil Code, which states:

"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."

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and penalized under paragraph 4, Article 171 of the Revised Penal Code (RPC), the pertinent provision thereof states:

*"Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister – The penalty of prison mayor and a fine not to exceed P5,000.00 pesos shall be imposed to any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:*

xxx

xxx

xxx

**4. Making untruthful statement in a narration of facts:**

xxx

xxx

xxx

The elements for the crime of falsification under paragraph 4 are as follows:

1. The offender makes in a public document untruthful statements in a narration of facts;
2. The offender has a legal obligation to disclose the truth of the facts narrated by him; and
3. The facts narrated by him are absolutely false.<sup>54</sup>

In addition to the aforementioned elements of the crime, it must also be proven that the public officer or employee had taken advantage of his official position in making the falsification.<sup>55</sup> In jurisprudence, the offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies.<sup>56</sup>

It is admitted that accused Quizon personally accomplished her DTR for the payroll period of 16-31 October 2013, where she indicated that she reported for work on 25, 29, and 30 October 2013, when in truth and in fact, she was out of the country during the said dates. Despite knowing that accused Quizon was not at work on these dates, accused Elipe, who approved accused Quizon's request for flexi-time even though she is not entitled thereto, also signed the said DTR, thereby signifying that he verified the truthfulness and correctness of the said entries. Here, it is obvious that both accused made untruthful statements in the assailed DTR, in the case of accused Quizon, when she made it appear in her DTR that she reported for work when she did not, and as to accused Elipe, when he verified the truthfulness and correctness in the entries thereon by signing the same.

<sup>54</sup> Rosalio S. Galeos vs. People of the Philippines, 642 SCRA 485 (2011), 505-506.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*, p. 506.

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Concomitantly, both accused Elipe and Quizon have the obligation to disclose the truth about the entries made in the assailed DTR. Under Civil Service Form No. 48,<sup>57</sup> or the DTR form filled out by accused Quizon, she certifies that the entries made thereon are the true and correct report of the daily hours of work she performed, recorded at the time of her arrival and departure from work. On the other hand, accused Elipe as the officer "In-Charge" of accused Quizon, undertakes to verify and see to it that the entries made are in accordance with the prescribed government hours.<sup>58</sup>

It is also undisputed that both accused Elipe and Quizon have to take advantage of their respective official positions to make the falsification possible, as they both have to intervene in the preparation of the assailed DTR. Accused Quizon had to input the entries thereon, while accused Elipe had to verify the said entries and sign the same.

Finally, the falsity of the DTR entries prepared by both accused has been proven beyond reasonable doubt, as accused Quizon was admittedly out of the country and could not have rendered work on the said dates indicated therein.

At this juncture, it is important to emphasize that the allegation of conspiracy against both of the accused is properly established. Jurisprudence instructs that to establish conspiracy, direct proof of an agreement concerning the commission of a felony and the decision to commit it is not necessary.<sup>59</sup> This is so because conspiracy may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances.<sup>60</sup> Corollary, to hold one as a co-principal by reason of conspiracy, it must be shown that he performed an overt act in pursuance of or furtherance of the conspiracy, although the acts performed might have been distinct and separate.<sup>61</sup> This overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the time of the commission of the crime, or by exerting a moral ascendancy over the other co-conspirators by moving them to execute or implement the criminal plan.<sup>62</sup> In this case, the records reveal that both accused Elipe and Quizon each performed overt acts in furtherance of the conspiracy. By making it appear that the entries in the DTR of accused Quizon are

<sup>57</sup> *Supra*, footnote 24

<sup>58</sup> *Id.*

<sup>59</sup> Henry T. Go vs. Sandiganbayan, et al., 521 SCRA 270 (2007), p. 290.

<sup>60</sup> *Id.*

<sup>61</sup> People of the Philippines vs. Felipe Natividad, et al., 411 SCRA 587 (2003), p. 594.

<sup>62</sup> *Id.*

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true and correct, accused Elipe aided accused Quizon to be paid and unduly receive her salary corresponding to the dates when she was not at work and did not actually render any service, resulting to the damage and prejudice of the government. As such, their individual and active participation contributed to the commission and accomplishment of the crimes charged herein.

From the foregoing discussion, the Court finds that both of the accused committed the offenses charged and there is enough evidence to support their conviction.

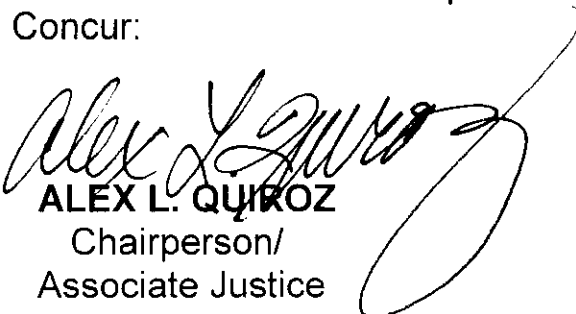
**WHEREFORE**, premises considered, judgment is hereby rendered as follows:

1. In **Criminal Case No. SB-16-CRM-0725**, accused **President D. Elipe** and accused **Pristine E. Quizon** are found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R. A. No. 3019 and, pursuant to Section 9 thereof, are hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum, to ten (10) years as maximum, with perpetual disqualification from holding public office.
2. In **Criminal Case No. SB-16-CRM-0726**, accused **President D. Elipe** and accused **Pristine E. Quizon** are found **GUILTY** beyond reasonable doubt of the crime of Falsification of Public Document under paragraph 4 of Article 171 of the Revised Penal Code and are hereby sentenced to suffer an indeterminate penalty of imprisonment from six (6) years of *prision correccional* as minimum, to eight (8) years and one (1) day of *prision mayor* as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (Php5,000.00) each.

**SO ORDERED.**

  
**REYNALDO P. CRUZ**  
Associate Justice

We Concur:

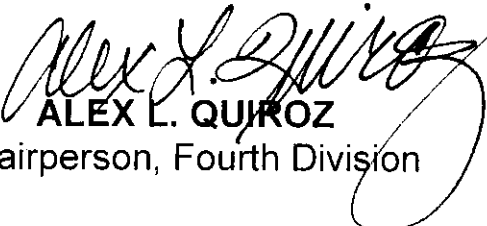
  
**ALEX L. QUIROZ**  
Chairperson/  
Associate Justice

  
**BAYANI H. JACINTO**  
Associate Justice

x-----x

**ATTESTATION**

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

  
**ALEX L. QUIROZ**  
Chairperson, Fourth Division

**CERTIFICATION**

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

  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice

*[Handwritten initials]*