

REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
QUEZON CITY

FOURTH DIVISION

*Minutes of the proceedings held on February 26, 2016.*

*Present:*

Hon. JOSE R. HERNANDEZ..... Associate Justice  
Hon. ALEX L. QUIROZ..... Associate Justice  
Hon. GERALDINE FAITH A. ECONG..... Associate Justice

*The following resolution was adopted:*

**SB-16-CRM-0042 – People vs. Juvenal B. Azurin**

This Court shall address *ex mero motu* the question of whether or not it has validly acquired jurisdiction over this case.

Accused Juvenal B. Azurin, Regional Director of the Philippine Drug Enforcement Agency (PDEA)-Regional Office No. 2, stands charged before this Court with the crime of “Grave Threats” defined and penalized under Article 282 of the *Revised Penal Code*, allegedly committed as follows:

“That on or about November 13, 2013, or sometime prior or subsequent thereto, in Tuguegerao City, Cagayan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Juvenal B. Azurin, a public officer, being the Regional Director of the Philippine Drug Enforcement Agency-Regional Office No. 2, Camp Adduru, Barangay Caggay, Tuguegarao City, Cagayan, committing the offense herein charged in relation to and taking advantage of his office, and moved by personal resentment, did then and there willfully, unlawfully and feloniously threaten, without condition, said Jaime J. Clave, causing him to fear for his life, with the infliction upon him of a wrong amounting to a crime by uttering the following words, “**Putang-ina mo Clave ha, putang-ina mo, Bobot, papatayin kita**”, which in effect threatened said Jaime J. Clave.”

**CONTRARY TO LAW.”**

The crime of “Grave Threats”, as defined and penalized under Article 282, of the *Revised Penal Code*, charged against the accused falls within the jurisdiction of the lower regular courts, and not the

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Sandiganbayan, which is an anti-graft court of limited and special jurisdiction. However, under Section 4(b) of P.D. No. 1606, as amended by R.A. No. 8249,<sup>1</sup> the Sandiganbayan may, **by way of exception**, validly take cognizance of cases involving this crime provided two conditions are met:

(1) That it was **committed in relation to the office** of an accused public officer having the particular rank, position or title specified by law;<sup>2</sup> and

(2) That such fact – i.e., that the crime was committed in relation to public office – is **properly alleged in the information**.

The reason behind the second condition is the unbending rule that **the jurisdiction of the court over a criminal case shall be determined by, and therefore must clearly appear from, the allegations in the complaint or information.**<sup>3</sup> Thus, it is incumbent upon this Court to determine whether or not the facts necessary to confer jurisdiction (i.e., the jurisdictional facts) were properly averred in the information before proceeding with the case.

The condition that the information must aver that the crime charged was committed in relation to public office is not, however, satisfied by the mere expedient of using or incorporating in the information the standard phrase "committing the offense in relation to office" or any other phrase of similar import. Jurisprudence holds that phrase to be merely a **conclusion of law**, and as such, it would not automatically vest jurisdiction on the Sandiganbayan over the case. What is important to validly invoke the jurisdiction of the Sandiganbayan are **specific recitals of facts** in the information that would show that the commission of the crime charged – in this case, "Grave Threats" – is intimately connected with or related to the performance of the accused public officer's official functions or duties. In the language of **Lacson vs. Executive Secretary**:<sup>4</sup>

"What is controlling is the specific factual allegations in the information that would indicate the close intimacy between the discharge of the accused's official duties and the commission of the offense charged, in order to qualify the crime as having been committed in relation to public office."

<sup>1</sup> The jurisdiction of the Sandiganbayan was further amended by **R.A. No. 10660** ("An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as Amended and Appropriating Funds Therefor"). This law is not, however, applicable to this case. Under its transitory provision (Section 5), its amendatory provision (Section 2) relating to the jurisdiction of the Sandiganbayan will apply only to offenses committed after its effectivity. This law, which was approved by the President on April 16, 2015, became effective on May 5, 2015, or fifteen (15) days after its publication in two (2) newspapers of general circulation. The crime charged in this case was committed on November 13, 2013.

<sup>2</sup> See Section 4(a), P.D. No. 1606 as amended by R.A. No. 8249.

<sup>3</sup> *Republic vs. Asuncion*, 231 SCRA 211, 232 [1994]

<sup>4</sup> 301 SCRA 298, 332 [1999].

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In the case at bar, the information, after having averred that the accused committed “*the offense herein charged in relation to and taking advantage of his office and moved by personal resentment*”, simply proceeded to state that said accused “*willfully, unlawfully and feloniously threaten, without condition, said Jaime J. Clave, causing him to fear for his life, with the infliction upon him of a wrong amounting to a crime by uttering the following words, “Putang-ina mo Clave ha, putang-ina mo, Bobot, papatayin kita”, which in effect threatened said Jaime J. Clave*”. Thus, from a perfunctory reading of the text of the above-quoted information, from which the jurisdiction of the Court would be determined, there is no indication at all that the offense charged was perpetrated by the accused *while he was in the performance, or on the occasion of the discharge, or as a consequence of the exercise, though improper or irregular, of his official functions or duties as Regional Director of PDEA-Regional Office No. 2.*

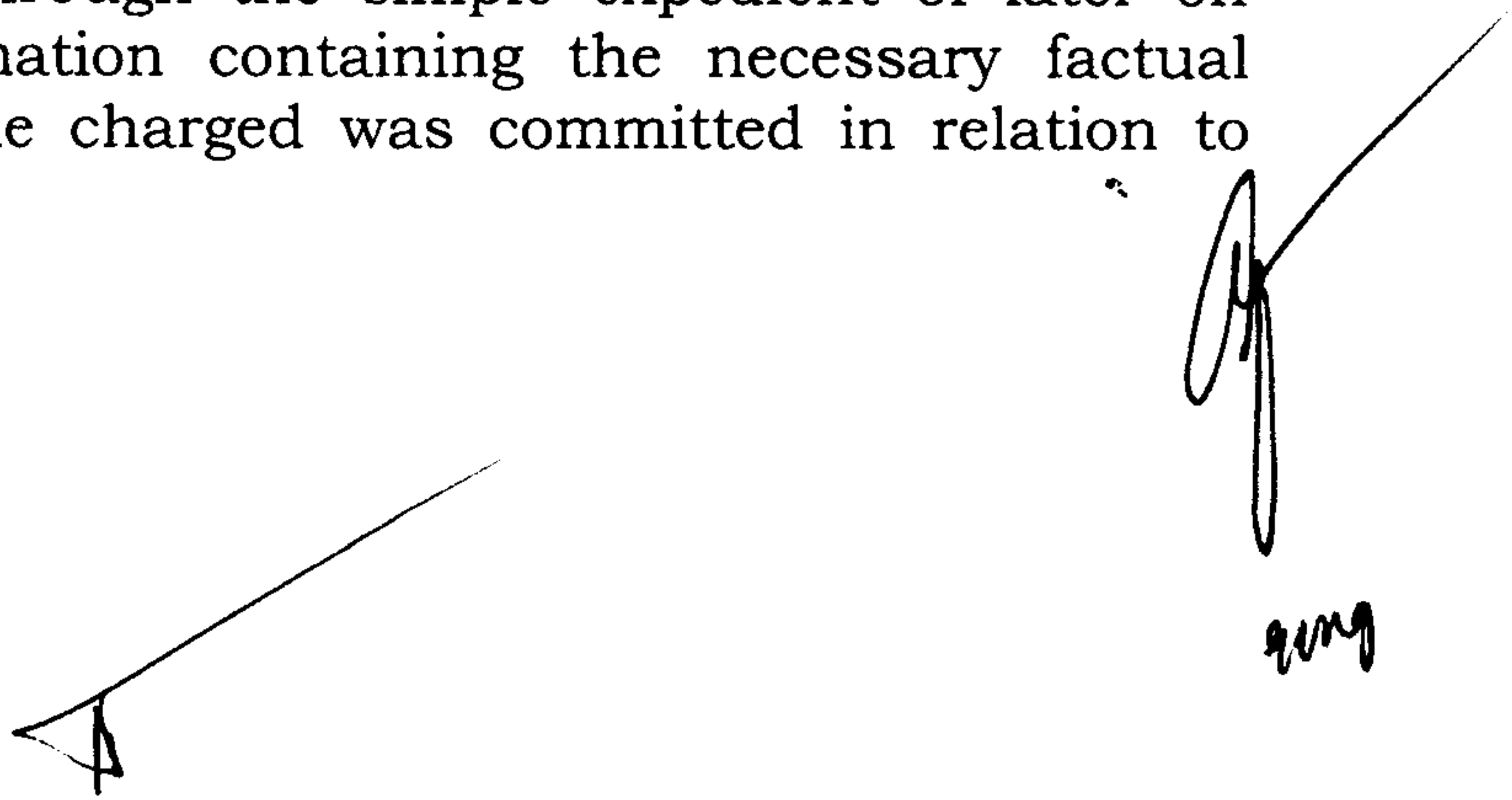
Significantly, the grave threat (“**papatayin kita**”) allegedly uttered by the accused against the private complainant was supposed to have been made via telephone call by the accused at the private complainant’s home around midnight when the private complainant was roused from sleep by the call, or more specifically, at 12:10 a.m. of November 13, 2013.<sup>5</sup> The information is bereft, however, of any factual averment as to what official function or duty the accused was supposedly discharging or performing at 12:10 a.m. of November 13, 2013 when he uttered the threat against the private complainant as to make it intimately related to the performance or discharge of his official functions and duties as Regional Director of PDEA-Regional Office No. 2. This omission is fatal as it actually prevents the Sandiganbayan from validly acquiring jurisdiction over this case. Thus, it is the view of this Court that the information in its present formulation charges only the crime of “Grave Threats” cognizable by the lower regular courts, and not by the Sandiganbayan, an ant-graft court of special and limited jurisdiction.

What is the legal effect of the failure of the information filed in this case to aver the requisite jurisdictional facts, specifically, the factual recitals that would show that the grave threat allegedly made by the accused against the private complainant was intimately connected with or related to the performance of the accused’s official functions or duties? The short but decisive answer: **It prevents this Court from validly acquiring jurisdiction over this case *ab initio*.**

The next question now arises: Can this Court preserve its jurisdiction to try this case through the simple expedient of later on admitting an amended information containing the necessary factual recitals showing that the crime charged was committed in relation to public office?

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<sup>5</sup> See Complaint-Affidavit of Jaime J. Clave

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In **Antiporda, Jr. vs. Garchitorena**,<sup>6</sup> the Supreme Court held that if the Sandiganbayan has no jurisdiction over the offense charged in the information for its failure to aver facts showing the office-related character thereof it cannot be permitted to subsequently acquire such jurisdiction by the simple expedient of amending the information to supply for the first time jurisdictional facts not previously averred in said information. It is well-settled that a complaint or information cannot be validly amended for the purpose of conferring jurisdiction to the court. Thus, it has been held that where a court did not acquire jurisdiction over the case by filing of the information, it neither has the power nor the jurisdiction to act on the motion for the admission of the amended information, much less allow such amendment, since it is elementary that the court must first acquire jurisdiction over the case in order to validly act therein.<sup>7</sup>

Consequently, and inasmuch as the information filed in this case failed to allege the requisite jurisdictional facts showing the office-related or service-connected character of the crime charged, it is evident that this Court did not validly take cognizance of this case *ab initio*. Consequently, the continuance of further proceedings in this case has become untenable. Indeed, the only residual authority that this Court can legally exercise over this case is to issue an order for its dismissal. As held in **Ace Publications, Inc. vs. Commissioner of Customs**:<sup>8</sup>

"Courts are bound to take notice of the limits of their authority, and as such, they may by their own motion, even though the question is not raised by the pleadings, or not even suggested by counsel, recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action, or otherwise noticing the defect, at any stage of the proceedings."

WHEREFORE, it appearing that the information filed in this case failed to aver the facts necessary to confer jurisdiction to this Court, let this case be DISMISSED, without prejudice, however, to the re-filing of another information which is sufficient to confer jurisdiction, either to the Sandiganbayan, if the offense charged is really committed in relation to public office, or to the regular lower courts, if it is not.

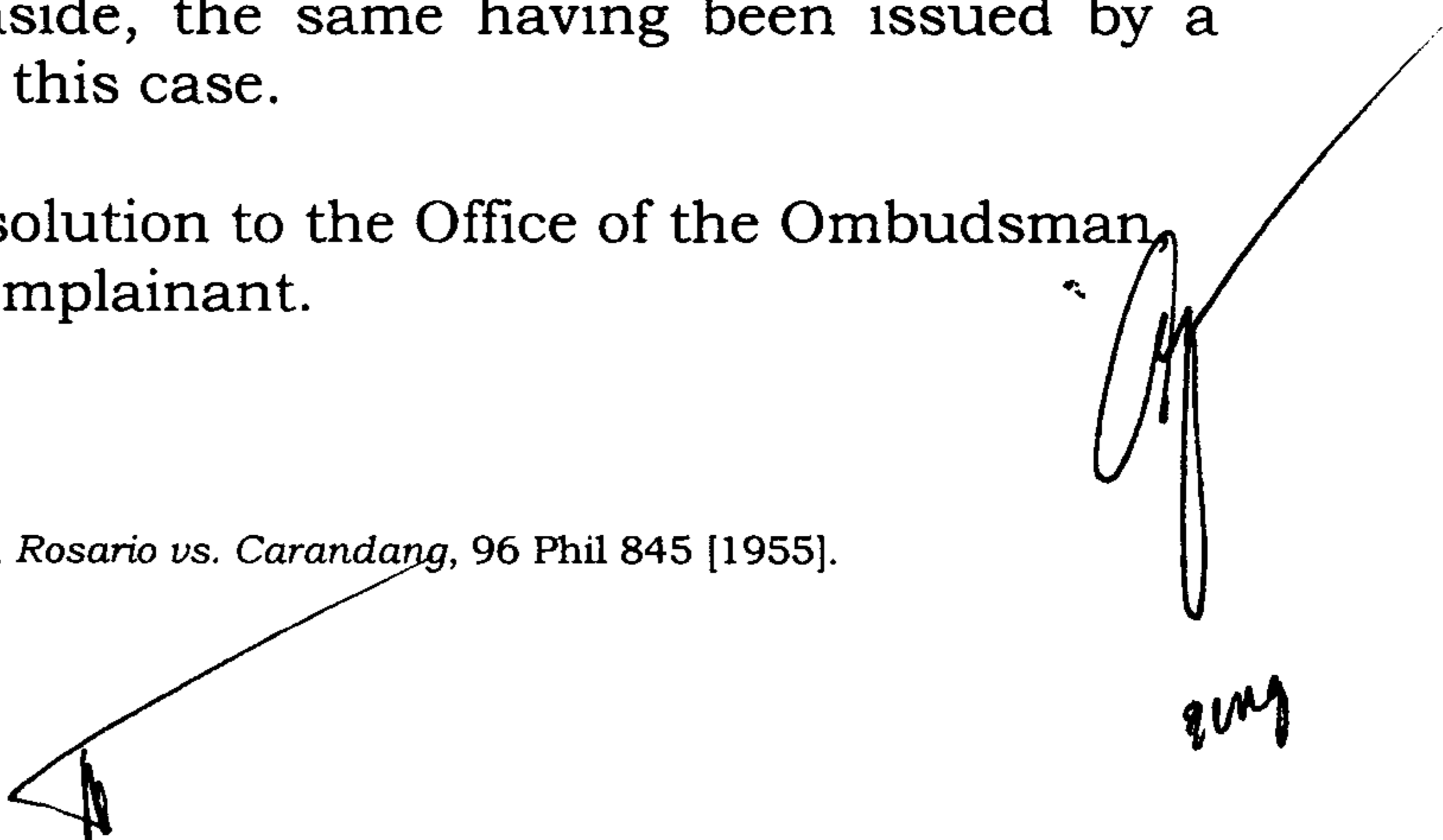
Let the Hold Departure Order issued in this case against the accused be recalled and set aside, the same having been issued by a court bereft of jurisdiction over this case.

Furnish copies of this resolution to the Office of the Ombudsman, the accused, and the private complainant.

<sup>6</sup> 321 SCRA 551 [1999].

<sup>7</sup> See *Gaspar vs. Dorado*, 15 SCRA 331 [1965]; *Rosario vs. Carandang*, 96 Phil 845 [1955].

<sup>8</sup> 11 SCRA 147, 153 [1964].

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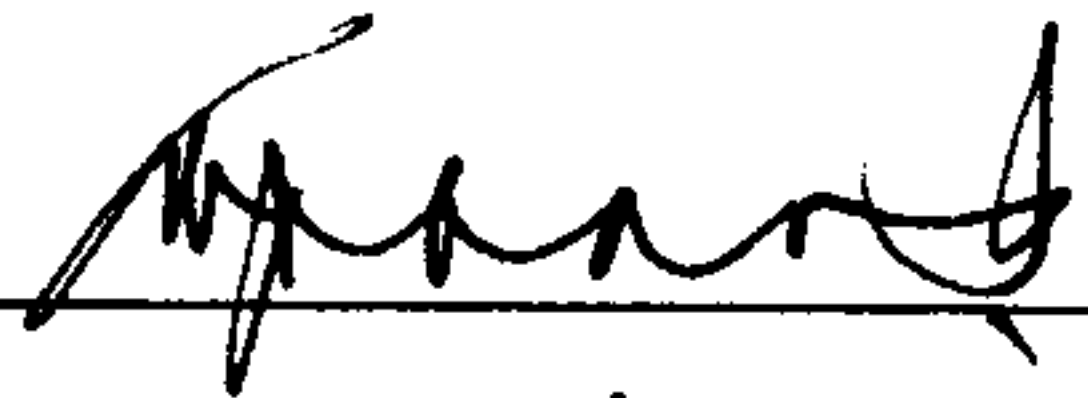


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Approved:

HERNANDEZ, J., Chairperson

QUIROZ, J.

ECONG, J.

  
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