

REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

FOURTH DIVISION

Minutes of the proceedings held on April 22, 2016.

Present:

Hon. JOSE R. HERNANDEZ..... Associate Justice
Hon. GERALDINE FAITH A. ECONG Associate Justice
Hon. SARAH JANE T. FERNANDEZ Associate Justice

The following resolution was adopted:

SB-16-CRM-0188 – People vs. Diosdado Gonzales Pallasigue

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

The information filed in this case charged the accused with violation of **Article 172, paragraph 1**, of the *Revised Penal Code*, which defines the crime of falsification of public, official, or commercial documents by a private individual or by a public officer or employee who did not take advantage of his official position. The elements of the crime, as correctly cited in the Office of the Ombudsman's Resolution of November 6, 2015 finding probable cause to indict the accused before this Court are: (1) the offender is a private individual or a public officer or employee who did not take advantage of his official position; (2) he committed any of the acts of falsification under Article 171 of the *Revised Penal Code*;¹ and (3) the falsification is committed in a public or official or commercial document.

The crime of falsification, as defined and penalized under Articles 171 and 172 of the *Revised Penal Code*, is ordinarily within the jurisdiction of the lower regular courts, and not the Sandiganbayan, 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. 8249,² the Sandiganbayan may, **by way of exception**, validly take cognizance of falsification cases provided two conditions are met:

¹ **Article 171** of the *Revised Penal Code* defines and penalizes the crime of **falsification by a public officer, employee, or notary, or ecclesiastical minister**. The **acts of falsification** penalized under this provision are the following: (1) counterfeiting or imitating any handwriting, signature, or rubric; (2) causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate; (3) attributing to persons who have participated in an act or proceeding statements other than those in fact made by them; (4) making untruthful statements in a narration of facts; (5) altering true dates; (6) making any alteration or intercalation in a genuine document which changes its meaning; (7) issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or (8) intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

² 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 or about October 15, 2014".



- (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;³ 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.**⁴ Thus, it is incumbent upon this Court to determine whether or not the facts necessary to confer jurisdiction – in other words, “the jurisdictional facts” – were properly averred in the information before proceeding with this case.

The requirement 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, falsification – 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**:⁵

“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.”

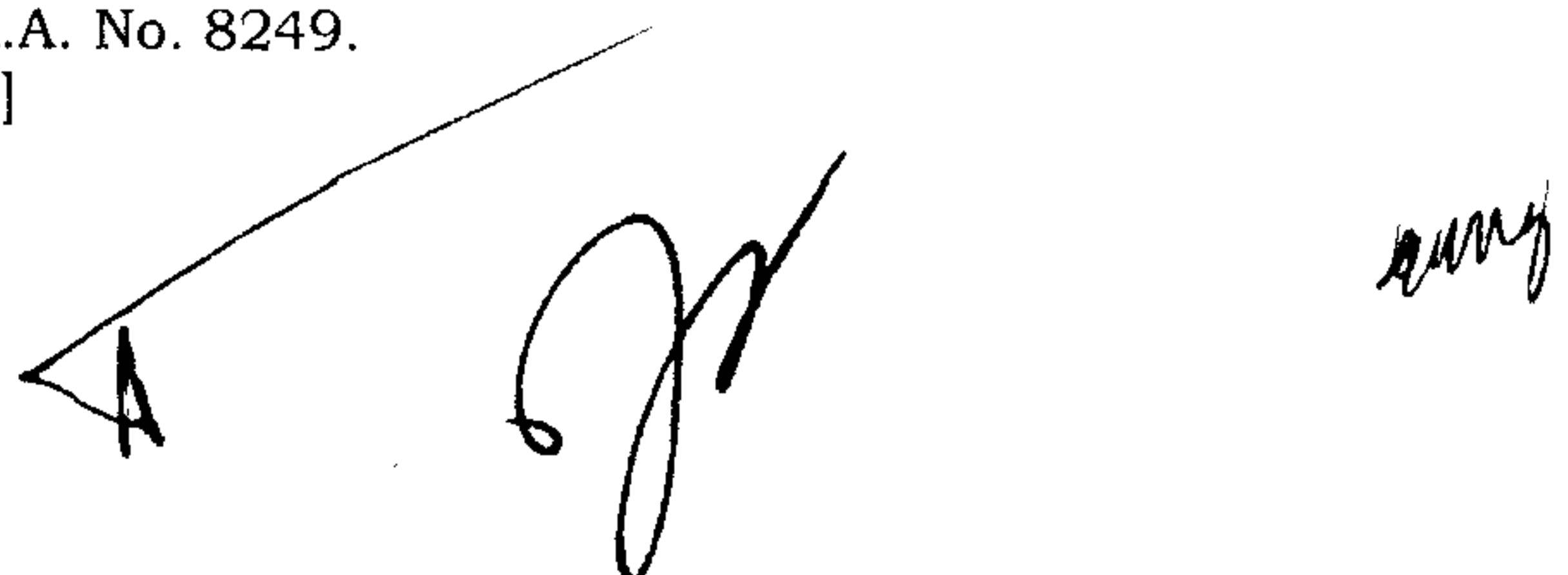
The information filed in this case reads:

“The undersigned Assistant Prosecutor of the Office of the Special Prosecutor, Office of the Ombudsman accuses DIOSDADO GONZALES PALLASIGUE of Falsification of Public Document, defined and penalized under Article 172(1) of the Revised Penal Code, committed as follows:

³ See Section 4(a), P.D. No. 1606 as amended by R.A. No. 8249.

⁴ *Republic vs. Asuncion*, 231 SCRA 211, 232 [1994]

⁵ 301 SCRA 298, 332 [1999].

The bottom of the page features several handwritten marks. On the left, there is a large, stylized signature that appears to be 'A'. To its right is another signature, possibly 'J'. Further to the right, there is a smaller, less distinct signature. These marks are likely the signatures of the undersigned Assistant Prosecutor mentioned in the text above.

“That on or about the 15th of October 2014, in the Municipality of Isulan, Sultan Kudarat, Philippines, and within this Honorable Court’s jurisdiction, **the above-named accused** then Municipal Mayor of Isulan, **committing the offense in relation to office but without taking advantage of his official position, did then and there willfully, unlawfully and feloniously falsify a Complaint Affidavit** subscribed and sworn to before Prosecutor Merian C. Dagum of the Office of the Provincial Prosecutor, Isulan, Sultan Kudarat, hence **a public document, for the purpose of charging Vice-Governor Ernesto F. Matias, MD, and all incumbent members of the 13th Sangguniang Panlalawigan of Sultan Kudarat criminally and/or administratively before the Office of the Ombudsman and the Office of the President; by making an untruthful narration of material facts** to make it appear that Eduardo M. Duque, Orfelina P. Segura, Cesar L. Fornan and Expedito F. Faderan, as members of the Sangguniang Panlalawigan, participated in the passage of Resolution No. 127-13th-SP-14 on 26th of August 2014, when in truth and in fact, as the accused well knew and bound to disclose truthfully, Eduardo M. Duque, Orfelina P. Segura, Cesar L. Fornan and Expedito F. Faderan did not participate in such passage as shown in the Excerpts of the Minutes of the Regular Session of the 13th Sangguniang Panlalawigan on 26 August 2014 which accused himself appended on his Affidavit-Complaint.

CONTRARY TO LAW.”

[Emphasis supplied]

In the case at bar, accused Pallasigue was charged with falsifying a public document (specifically, a complaint-affidavit) by making an untruthful narration of facts therein, that is, by making it appear that certain members of the *Sangguniang Panlalawigan* of Sultan Kudarat (Eduardo M. Duque, Orfelina P. Segura, Cesar L. Fornan and Expedito F. Faderan) participated in the passage of a resolution (Resolution No. 127-13th-SP-14 on 26th) on August 2014 when in truth and in fact they did not. Although the information contained the allegation that the falsification was “*committed in relation to office*”, a mere conclusion of law, there was, however, no other **specific recital of facts** therein that would show that the commission of such falsification was intimately connected with or related to the performance of accused Pallasigue’s



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official functions or duties as Mayor of Isulan, Sultan Kudarat. In other words, from a perfunctory reading of the allegations in the information, which determines whether or not this Court has jurisdiction over the case, there is no indication at all, by means of specific factual recitals, that the falsification 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, albeit maybe improper or irregular, of his official functions or duties, as Mayor of Isulan, Sultan Kudarat. What official function or duty was accused Pallasigue discharging or performing when he filed a falsified complaint-affidavit against Vice-Governor Ernesto F. Matias and all incumbent members of the 13th *Sangguniang Panlalawigan* of Sultan Kudarat before the Office of the Ombudsman and the Office of the President, the information does not so state. **This omission is fatal.**

What is the legal effect of the failure of the information to aver the requisite jurisdictional facts, specifically, the factual recitals that would show that the falsification allegedly committed by the accused was intimately connected with or related to the performance of his official functions or duties? The short answer: **It prevents this Court from validly acquiring jurisdiction over this case *ab initio*.**

It is well-settled that when the falsification of a public document was not committed in relation to the office of an accused public officer, it will not come under the jurisdiction of the Sandiganbayan. Thus, in ***Bartolome vs. People***,⁶ a case decided almost thirty years ago, the Supreme Court already held:

“In the instant case, there is no showing that the alleged falsification was committed by the accused, if at all, as a consequence of, and while they were discharging, official functions. The information does not allege that there was an intimate connection between the discharge of official duties and the commission of the offense. Besides, falsification of an official document may be committed not only by public officers and employees but even by private persons only. To paraphrase Montilla, public office is not an essential ingredient of the offense such that the offense cannot exist without the office.

Clearly, therefore, as the alleged falsification was not an offense committed in relation to the office of the accused, it did not come under the jurisdiction of the Sandiganbayan. It follows that all its acts in the instant case are null and void *ab initio*.”⁷

Thus, it is the view of this Court that the information filed in this case, as formulated, charged only the crime of falsification as defined and penalized under Article 172, paragraph (1) of the *Revised Penal Code*,

⁶ 142 SCRA 459 [1986]
⁷ *Ibid.*, at pp. 465-466

Handwritten signature and initials. A large, stylized signature is written in the center, with the initials 'A' and 'J' written to its left. To the right of the signature, the name 'Rung' is written in a cursive script.

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which is cognizable by the lower regular courts of general jurisdiction, and not by the Sandiganbayan, an anti-graft court of special and limited jurisdiction.

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?

In **Antiporda, Jr. vs. Garchitorena**,⁸ 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.⁹

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 acquire jurisdiction over this case *ab initio*. Thus, the continuance of further proceedings herein has become untenable and the only residual authority that this Court can exercise over this case is to issue an order for its dismissal. As held in **Ace Publications, Inc. vs. Commissioner of Customs**:¹⁰

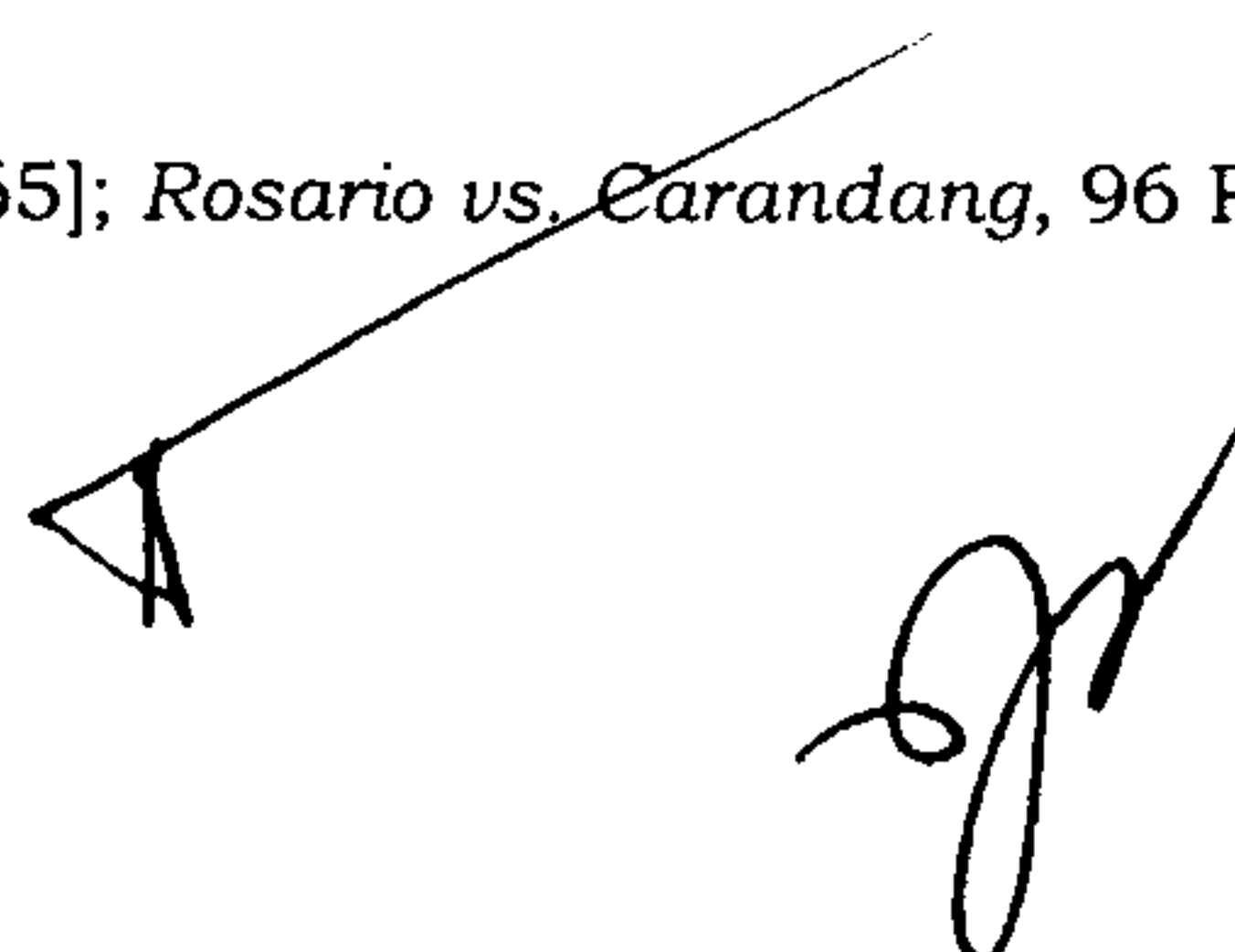
"Courts are bound to take notice of the limits of their authority, and as such, they may by their own motion, even though the question is not raised by the pleadings, or not even suggested by counsel, recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action,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

⁸ 321 SCRA 551 [1999].

⁹ See *Gaspar vs. Dorado*, 15 SCRA 331 [1965]; *Rosario vs. Carandang*, 96 Phil 845 [1955].

¹⁰ 11 SCRA 147, 153 [1964].





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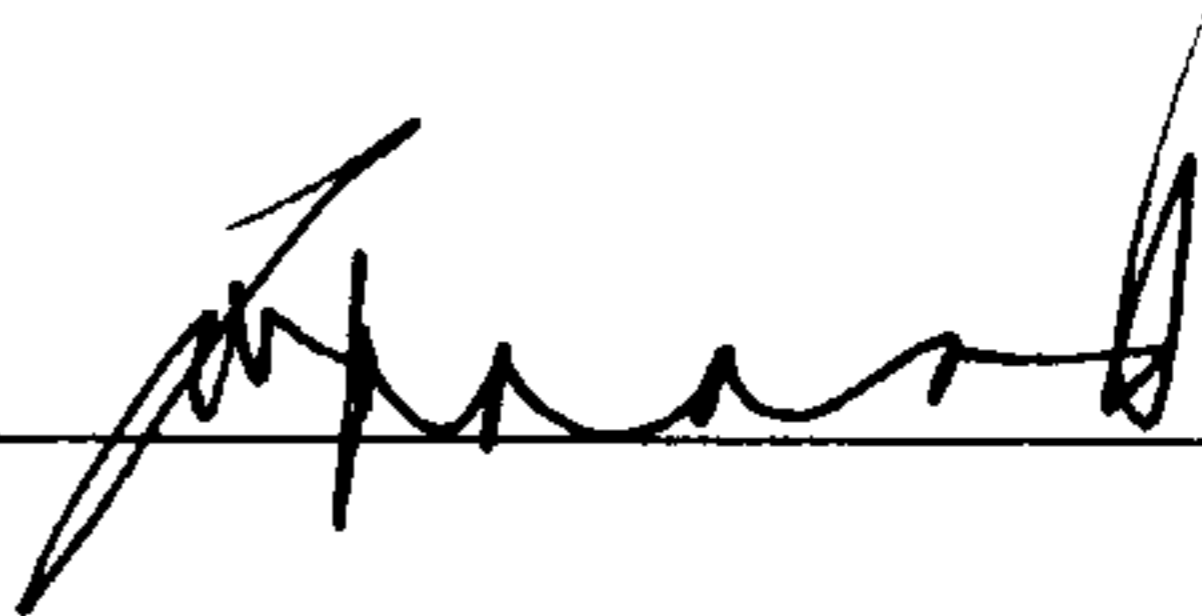
the Sandiganbayan, if the offense charged is really committed in relation to public office, or to the lower regular courts, if it is not.

Let the Hold Departure Order issued in this case against accused Diosdado Gonzales Pallasigue 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 members of the *Sangguniang Panlalawigan* of Sultan Kudarat, namely, Eduardo M. Duque, Orfelina P. Segura, Cesar L. Fornan and Expedito F. Faderan, who filed the joint-complaint against the accused.

Approved:

HERNANDEZ, J., *Chairperson*



ECONG, J.

Audina Faith Army

FERNANDEZ, J. *

