

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN

QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,
Plaintiff,

CRIM CASE NO. SB-16-
CRM-0127

- versus -

For: Grave Threats (Article
282 paragraph 2 of the
Revised Penal Code)

JUVENAL AZURIN y
BLANQUERO,

Accused.

Present:
CABOTAJE-TANG, P.J.,
Chairperson,
MARTIRES, J.¹ and
FERNANDEZ, J.

Promulgated on:

SEPTEMBER 15, 2016

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution is accused Juvenal Azurin y Blanquero's *Motion to Quash Information* dated May 19, 2016.² This motion to quash is anchored on the ground that the Court allegedly has no jurisdiction over the offense charged. The accused asserts, among other things, that:

15. In the instant case, the information dated December 23, 2015, filed before the Honorable Court against herein accused, **despondently failed to show the intimacy between [the] discharge of accused's official duties and the commission of the offense charged** in order to qualify the crime as having been

¹ Justice Martires, who is now Chairperson of the Second Division, was a member of the Third Division at the time the *Motion to Quash Information* was submitted for resolution.

² pp. 58-27, Record



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committed in relation to public office and thus would otherwise fall within the jurisdiction of the Sandiganbayan.³

16. Such failure redounds significantly to the very question of jurisdiction of the Sandiganbayan to take cognizance of the instant case. In order for the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter (offense) and the parties.⁴

17. The case of *Alarilla v. Sandiganbayan* is likewise instructive. The Court ruled that:

In the case at bar, the amended information contained allegations that the accused, petitioner herein, took advantage of his official functions as municipal mayor of Meycauayan, Bulacan when he committed the crime of grave threats as defined in Article 282 of the Revised Penal Code against complainant Simeon G. Legaspi, a municipal councilor. The Office of the Special Prosecutor charged petitioner with aiming a gun at and threatening to kill Legaspi during a public hearing, after the latter had rendered a privilege speech critical of petitioner's administration. Clearly, based on such allegations, the crime charged is intimately connected with the discharge of petitioner's official functions.⁵

18. The same, however, is wanting in the instant case. It bears stressing that the information filed against herein accused failed to allege facts showing that the act complained of was committed by accused while he was in the discharge of his official functions as Regional Director of PDEA Regional Office II.⁶

19. The accused's being a public officer does not ipso facto make the case fall within the jurisdiction of Sandiganbayan, for such to be considered, the public official must use the influence, prestige and ascendancy which his office gives him in realizing his purpose.⁷

...

22. Further, as laid down by the Court in *Crisostomo v. Sandiganbayan*, the jurisdiction of the Sandiganbayan over this case will stand or fall on this test: Does the Information allege a

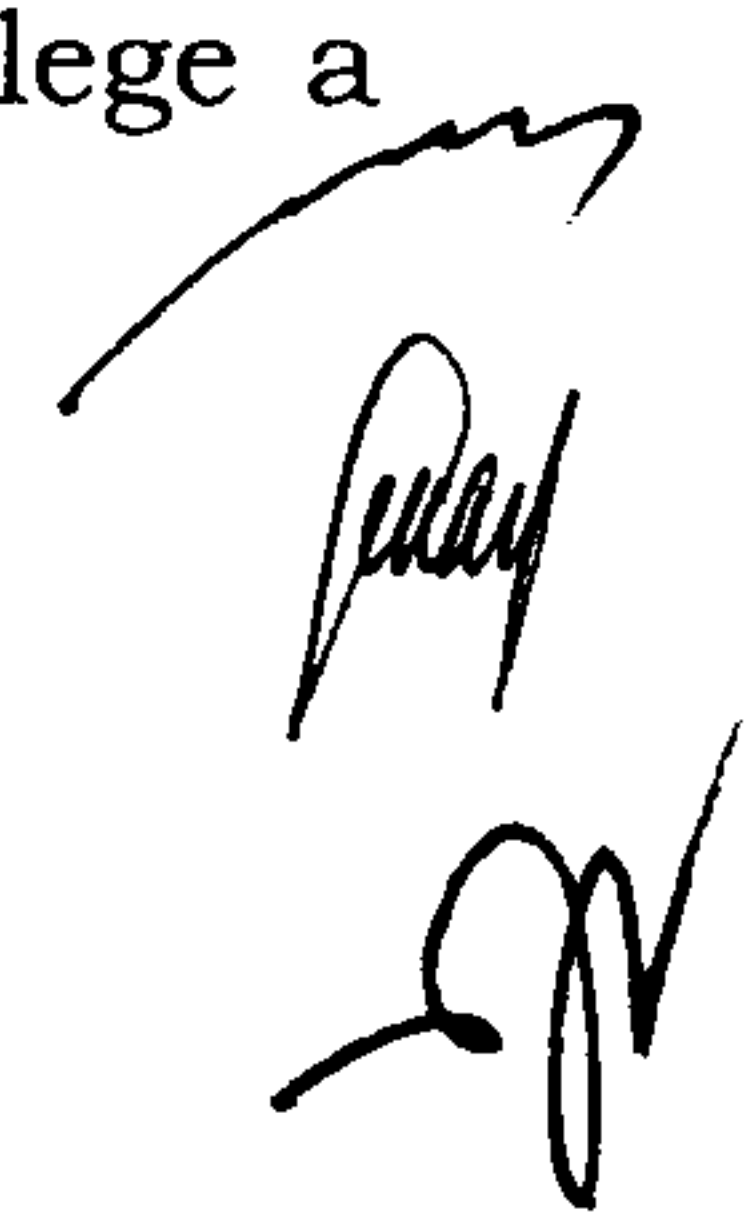
3 p.63, Record

4 *Id.*

5 p. 64, Record

6 *Id.*

7 *Id.*



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close or intimate connection between the offense charged and Crisostomo's public office?⁷

23. As applied in the instant case, it is very apparent that the information filed against herein accused **miserably failed to allege facts showing a close or intimate connection between the offense charged and Azurin's public office.**⁸

The prosecution prays for the denial of the said motion in its *Comment/Opposition* dated May 24, 2016.⁹ According to the prosecution, the recital of facts in the new Information sought to be quashed clearly states the threatening remarks were undoubtedly made in relation to office and the accused took advantage of his position. The prosecution cites the pertinent portion of the Information which provides that the alleged threats were uttered during a telephone conversation **"over internal matters and conflict"**.

The prosecution further avers that the accused admitted in his Counter-Affidavit dated February 24, 2014,¹⁰ submitted before the Office of the Ombudsman, that he called up Jaime Clave, informing the latter of his reassignment to another area; that the recitals of the afore-quoted threatening remarks were uttered relative to office internal matters and conflict which sufficiently meet the element that the acts were intimately and closely connected with the discharge of official functions and duties of the accused.¹¹

In his *Reply* dated June 6, 2016,¹² the accused-movant adverts to the observations of the Fourth Division (4th) of the *Sandiganbayan* which dismissed the previous case docketed as SB-16-CRM-0042, to wit:

The information is bereft, however, of any factual averment as to what official function or duty the accused

⁷ pp. 64-65, *id*


⁸ p. 65, *id*

⁹ pp. 68-71, Record, Prosecution's Comment/Opposition

¹⁰ pp. 25-30, Record

¹¹ pp. 28-71, Record, Prosecution's Comment/ Opposition

¹² pp. 76-81, Record



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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. 2.¹³

The accused reiterates that the Sandiganbayan does not have jurisdiction over the case due to the following reasons: (1) the Information fails to allege that the grave threat allegedly made by the accused via a telephone call at around 12:10 a.m. on November 13, 2013 against the private complainant was intimately connected with or related to the performance of the accused's official functions or duties; and (2) the Information does not allege any damage to the government or any bribery.

THE COURT'S RULING

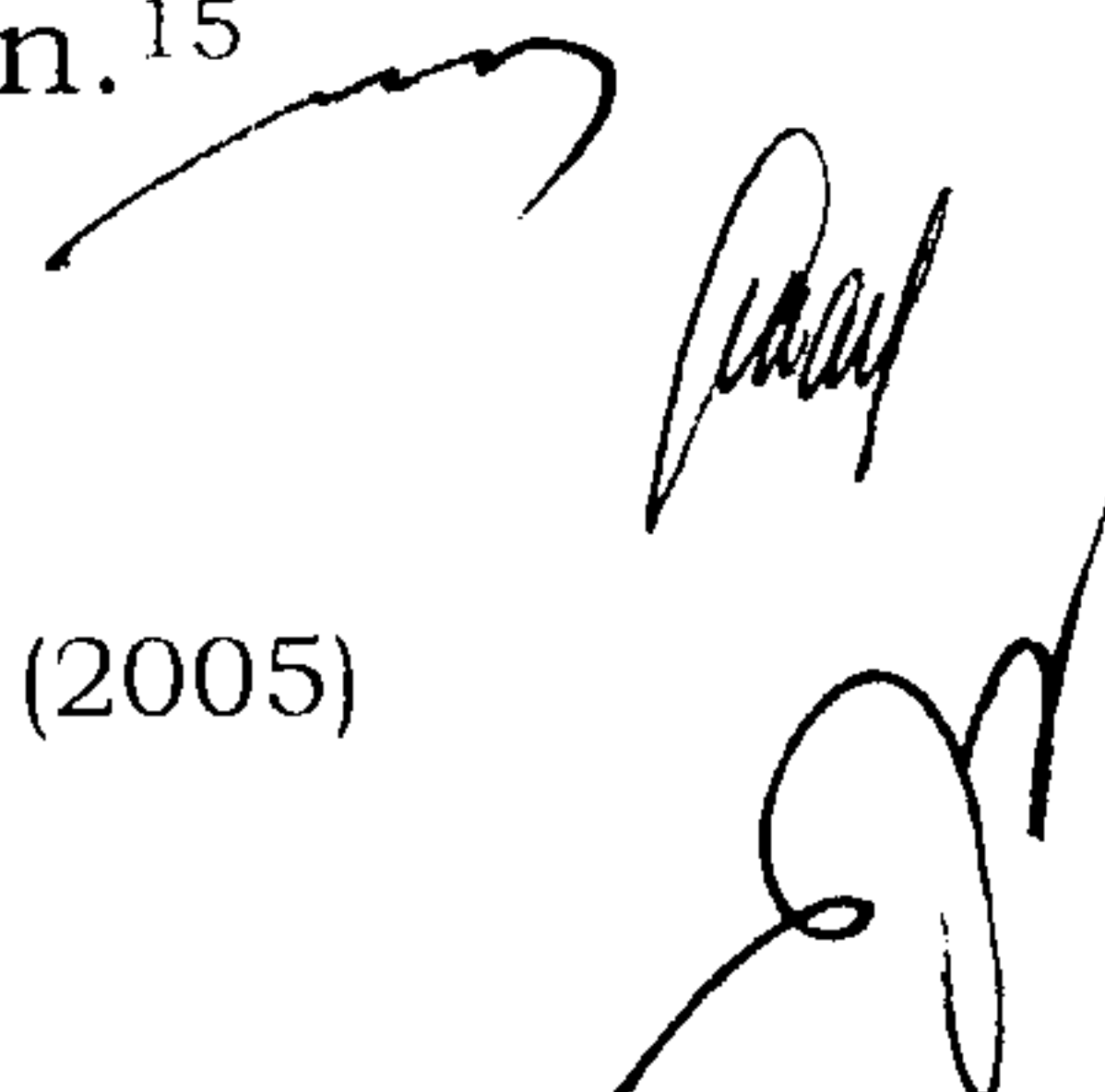
Under Republic Act No. 8249, the Sandiganbayan has original jurisdiction over crimes and felonies committed by public officers and employees, at least one of whom belongs to any of the five (5) categories thereunder enumerated at the time of the commission of such crimes. There are two (2) classes of public office-related crimes under subparagraph (b) of Section 4 of R.A. No. 8249: first, those crimes or felonies in which public office is a constituent element as defined by statute; and second, such offenses or felonies which are intimately connected with the public office and are perpetrated by the public officer or employee while in the performance of his official functions, through improper or irregular conduct.¹⁴

The crime of grave threats no doubt falls under the second classification as the accused's public office is not a statutory element of the offense. Under the law, crimes falling under the second classification need to have been committed "in relation to the office", for this Court to acquire jurisdiction.¹⁵

¹³ p. 77, Record

¹⁴ Barriga v. Sangidanbayan, 457 SCRA 301, 310-312 (2005)

¹⁵ Sec. 4 (b), R.A. No. 8249



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In **People v. Montejo**,¹⁶ it was said that a crime is considered to have been committed in “relation to the office”, if the offense is intimately connected with the accused’s office and was perpetrated while in the performance, though improper or irregular, of their official functions. It is a requirement that this intimate connection be alleged in the Information through specific factual allegations, and not mere conclusions of law.¹⁷ Thus, in **Lacson v. Executive Secretary**¹⁸, the Supreme Court held that the Information must contain specific factual allegations 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 in this case, filed on March 18, 2016, reads:

That on November 13, 2013, or sometime prior or subsequent thereto, in Tuguegarao City, Cagayan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused JUVENAL AZURIN y BLANQUERO, a public officer, being the Regional Director of Philippine Drug Enforcement Agency (PDEA)- Regional Office No. 2, Camp Adduru, Barangay Caggay, Tuguegarao City, Cagayan, committing the offense herein charged in relation to his office and taking advantage of his position, did then and there, willfully, unlawfully, and feloniously threaten, without condition, his subordinate Jaime J. Clave, with the infliction of a wrong amounting to a crime by uttering the following words during their telephone conversation: **“Putang-ina mo Clave ha, putang-ina mo Bobot, papatayin kita”**, over office internal matters ad conflict, which threatened the said Jame J. Clave and causing the latter to fear for his life believing that accused, as PDEA Regional Director, has the capacity and means to carry out the threat.

The accused argues that the above-quoted Information *“despondently failed to show the intimacy between [the] discharge of*

¹⁶ 108 Phil. 613 (1960)

¹⁷ Barriga v. Sandiganbayan, 457 SCRA 301, at pp. 310-312, citing Lacson v. Executive Secretary, 301 SCRA 298 (1999)

¹⁸ 301 SCRA 298 (1999)

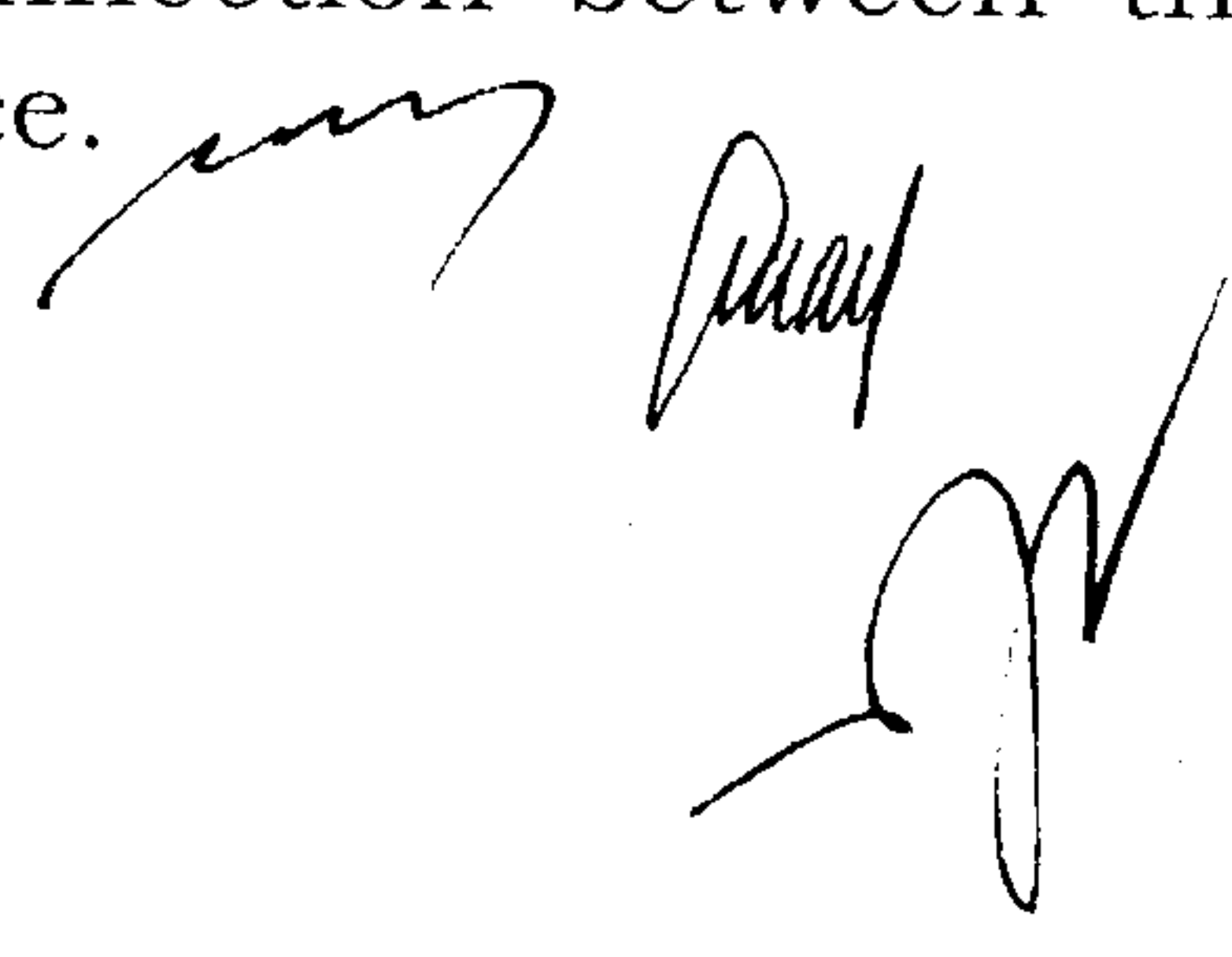
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accused's official duties and the commission of the offense charged."¹⁹ The accused also argues that the prosecution failed to allege facts that show that he was in the discharge of official functions as Regional Director when the act complained of was committed.²⁰

This Court is not convinced.

It can be readily seen that the Information alleges that accused Azurin was the Regional Director, while the private complainant was his "subordinate", and that the subject matter of their telephone conversation covered "office internal matters and conflict" during which occasion, the accused made the threatening remarks. **The allegation of an official relationship between the accused and the private complainant, coupled with the allegation of the official content of such conversation in which the alleged threats were levelled, are factual allegations which, to the mind of this Court, satisfactorily show that the accused was in the performance of his duty.**

As Regional Director of the PDEA, the accused undoubtedly possessed supervisory authority over the accused. His act of contacting the private complainant through the phone, albeit irregular in the manner and timing, would clearly be in the performance of his duty when the content of such a conversation covers, as is alleged in the Information, official matters. Moreover, as aptly pointed out by the Prosecution in its *Comment/Opposition*²¹ to the present motion, the accused himself admitted in the Counter-Affidavit²² he submitted before the Office of the Ombudsman, that he called up the private complainant to inform him of the latter's reassignment to another area.²³ The foregoing factual allegations clearly show an intimate connection between the offense charged and the accused's public office.



¹⁹ MTQ p. 6, Record, p. 63
²⁰ MTQ p. 7, Record p. 64
²¹ p. 68, Record
²² p. 25, *Id.*
²³ p. 26, *Id.*

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The accused also argues that re-filing of the Information does not cure the defect of the first Information filed.

This argument is untenable.

The accused confuses the amendment of an Information with its re-filing. If the prosecution had opted to amend the first Information filed before the Fourth (4th) Division, then the accused would be correct as it is settled that an amendment to vest the court with jurisdiction is not permissible.²⁴ On the other hand, the re-filing of an Information for all intents and purposes is a separate case, and treated as a new Information. There is no defect to be cured as the first Information does not even form a part of the record of the present case.

In his *Reply*, the accused also cites the Fourth (4th) Division's Resolution, where it was held that the first Information lacked any factual averment as to what official function or duty the accused was supposedly discharging or performing when he uttered the threat against the private complainant.²⁵ The present Information suffers no such defect. As discussed earlier, the allegation of the official relationship existing between the accused and the private complainant, coupled with the averment that the conversation covered "office internal matters", are sufficient factual allegations that tend to show that the accused was in the discharge of his duties when the alleged threat was levelled. In any case, it is settled that courts of a co-ordinate authority do not bind each other²⁶ as the judicial decisions that form part of our legal system are only the decisions of the Supreme Court.²⁷



Lastly, the accused argues that the failure of the Information to allege any damage to the government or bribery, in accordance

²⁴ Gonzales v. Salvador, 509 SCRA 521, 531 (2006)

²⁵ Reply, p. 2. , Record p. 77

²⁶ Francisco v. Rojas, G.R. No. 167120 , April 23; 2014.

²⁷ Quasha v. Court of Appeals, 607 SCRA 712, 722 (2009)

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with Section 2²⁸ of R.A. No. 10660, is fatal. If the accused had taken the time to study the law in its entirety, he would have easily known that the amendments to this Court's jurisdiction only apply to cases arising from offenses committed **after** the effectivity of R.A. No. 10660.²⁹ The offense charged in this case was purportedly committed on November 13, 2013.


WHEREFORE, accused Juvenal Azurin y Blanquero's *Motion to Quash*, dated May 23, 2016, is **DENIED** for lack of merit.


SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


SAMUEL R. MARTIRES
Associate Justice


SARAH JANE T. FERNANDEZ
Associate Justice

²⁸ Incorrectly cited by the Accused as Section 4

²⁹ R.A. No. 10660 was signed into law by then President Benigno Aquino III on April 16, 2015.