

REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

SB-13-CRM-0323-0440  
For: Violation of Section 3(e)  
of Republic Act No. 3019

SB-13-CRM-0441-0558  
For: Article 315 in relation to Article 171 of  
the Revised Penal Code  
(Estafa through Falsification of Public  
Documents)

*-VERSUS-*

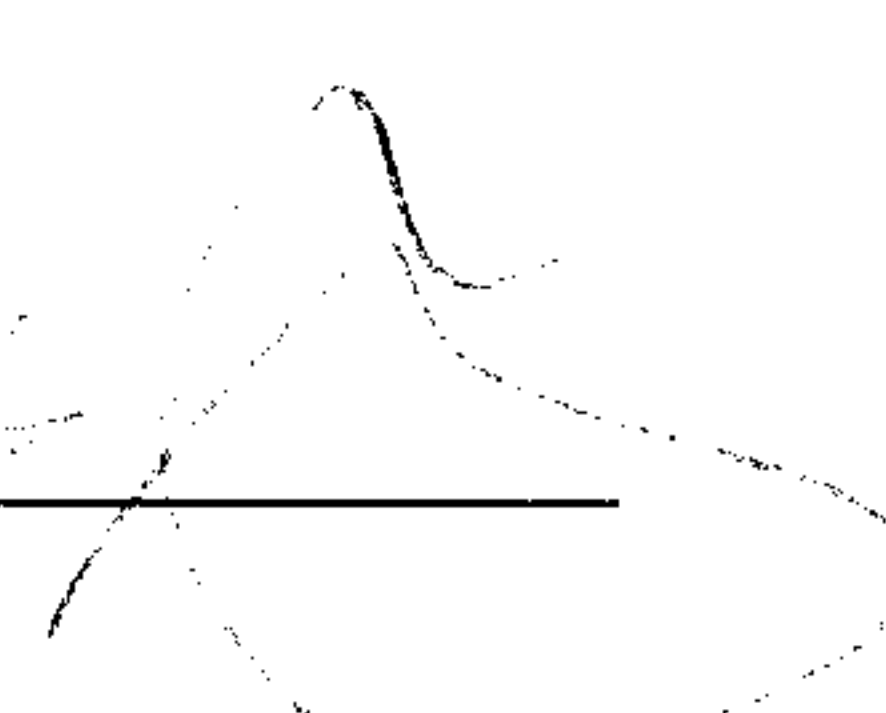
Present:

CABOTAJE-TANG, *P.J.*, \_\_\_\_\_  
MARTIRES, *J.*, \_\_\_\_\_  
QUIROZ, *J.*, \_\_\_\_\_

FLORENDO ARIAS y BUÑAG,  
ET AL.,

*Accused.*

Promulgated on:

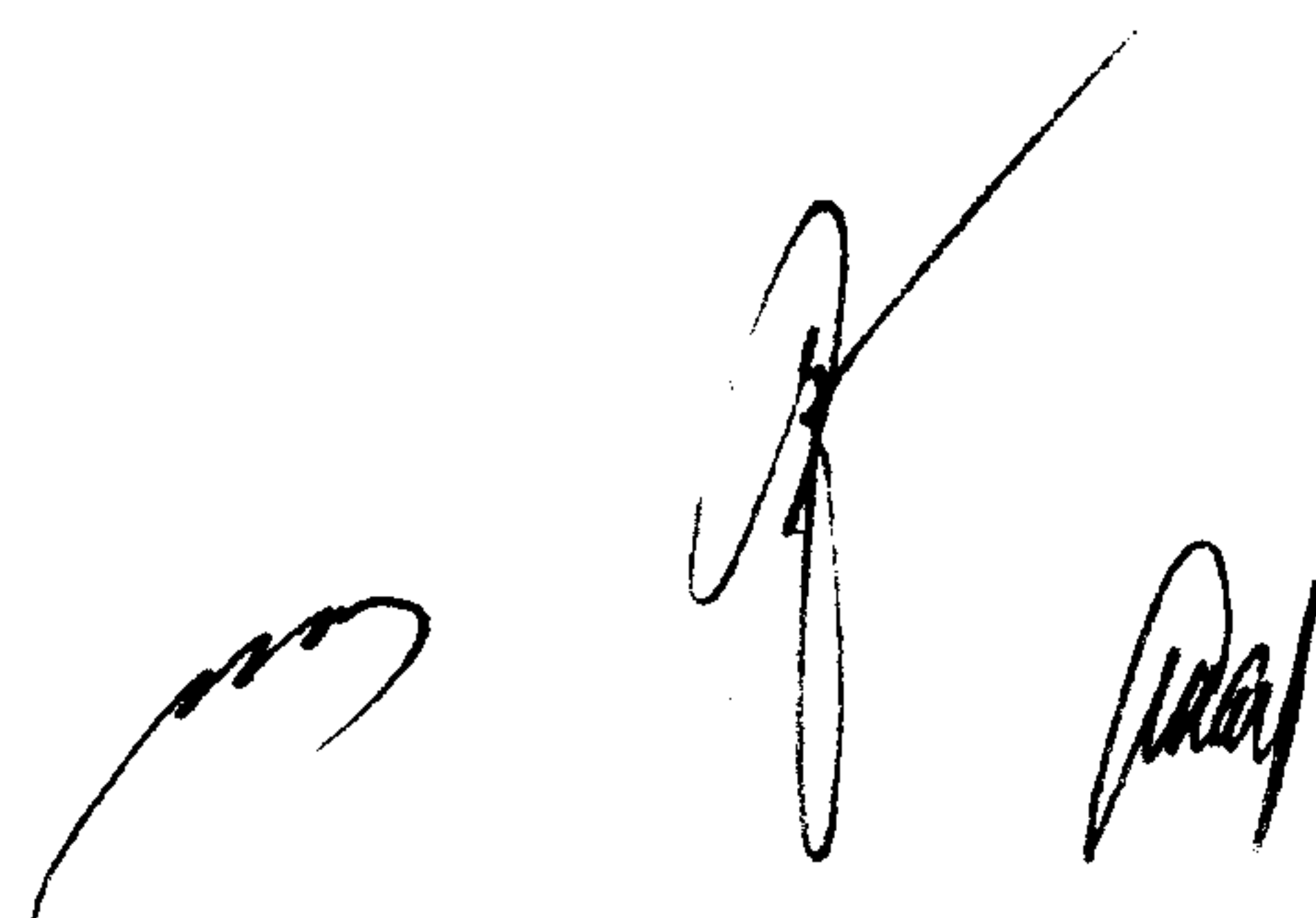
October 14, 2014 

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RESOLUTION

Quiroz, *J.*:

This resolves the following:



1. Motion for Reconsideration with Urgent Motion to Stay Issuance of Warrant of Arrest; and
2. Opposition to the Motion for Reconsideration with Urgent Motion to Stay Issuance of Warrant of Arrest.

In his Motion, accused-movant Maximo A. Borje, Jr., again raises the issue of inordinate delay in the disposition of the cases filed against him; and that the Informations filed against him did not comply with Section 6, Rule 110 of the Revised Rules on Criminal Procedure.

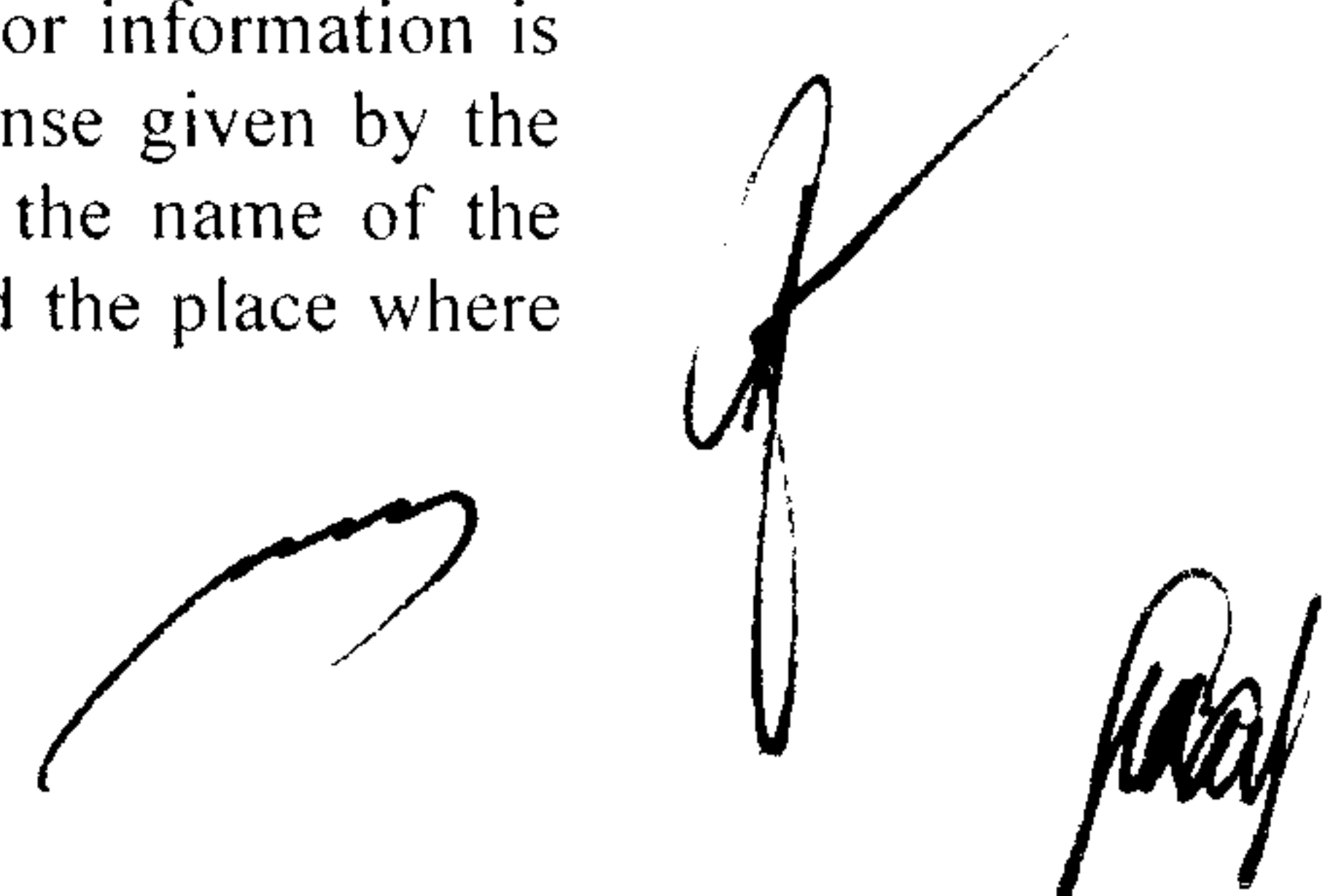
In the Opposition to the Motion, the Prosecution avers that accused-movant Borje, Jr., reiterates the issues he already raised in his earlier Omnibus Motion. It stresses that, contrary to his claim, preliminary investigation had been conducted within a reasonable amount of time considering the voluminous records, and the number of transactions and respondents who were given the opportunity to file their respective pleadings.

To reiterate, to the point of being redundant, the Ombudsman has sufficiently explained its findings of probable cause and enumerated the elements of the offenses which, if later proven, are sufficient to indict the accused for violation of Section 3(e) of R.A. No. 3019, as amended, and for estafa through falsification of public documents. This is borne out by the Complaint, the Amended Resolution, and the 236 Informations filed with this Court.

Further, under Section 6, Rule 110 of the Rules on Criminal Procedure,<sup>1</sup> the 236 Informations are sufficient as they allege how the accused, including accused-movant, came to commit the offenses they are charged with. There is nothing in its issuances or anywhere else in the records that would indicate a manifest error or grave abuse of discretion on the part of the Ombudsman. Contrary to Borje, Jr.'s claim that "the facts thereof do not constitute an offense," the Informations in question contain

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<sup>1</sup> **SEC. 6.** *Sufficiency of complaint or information.* – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.



all the elements necessary for the eventual conviction of the accused for the above-mentioned offenses, should they be proven by the Prosecution during trial. As previously discussed, the Informations collectively allege that: (1) herein accused DPWH employees, being public officers; (2) took advantage of their official positions, conspired and confederated with one another; (3) acted with evident bad faith and manifest partiality; (4) caused undue injury to the Government; (5) falsified documents such as job order requests, disbursement vouchers, requisitions for supplies and equipments, etc.; (6) to make it appear that several DPWH vehicles underwent repairs and replacements of their spare parts when they knew that no repairs and replacements took place; (7) causing the DPWH to issue checks, which amount was purportedly misappropriated several amounts to the damage and prejudice of the Government.

The courts have almost always adopted a policy of non-interference in the exercise of the Ombudsman's constitutionally mandated powers.<sup>2</sup> This rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well.<sup>3</sup> Otherwise, the functions of the courts will be grievously hampered by innumerable petitions with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they were compelled to review the exercise of discretion on the part of the fiscals, or prosecuting attorneys, each time they decide to file an information in court or dismiss a complaint by a private complainant.<sup>4</sup>

Has accused-movant been deprived of his right to a speedy disposition? This Court, as previously held in the assailed Resolution, must resolve in the negative.

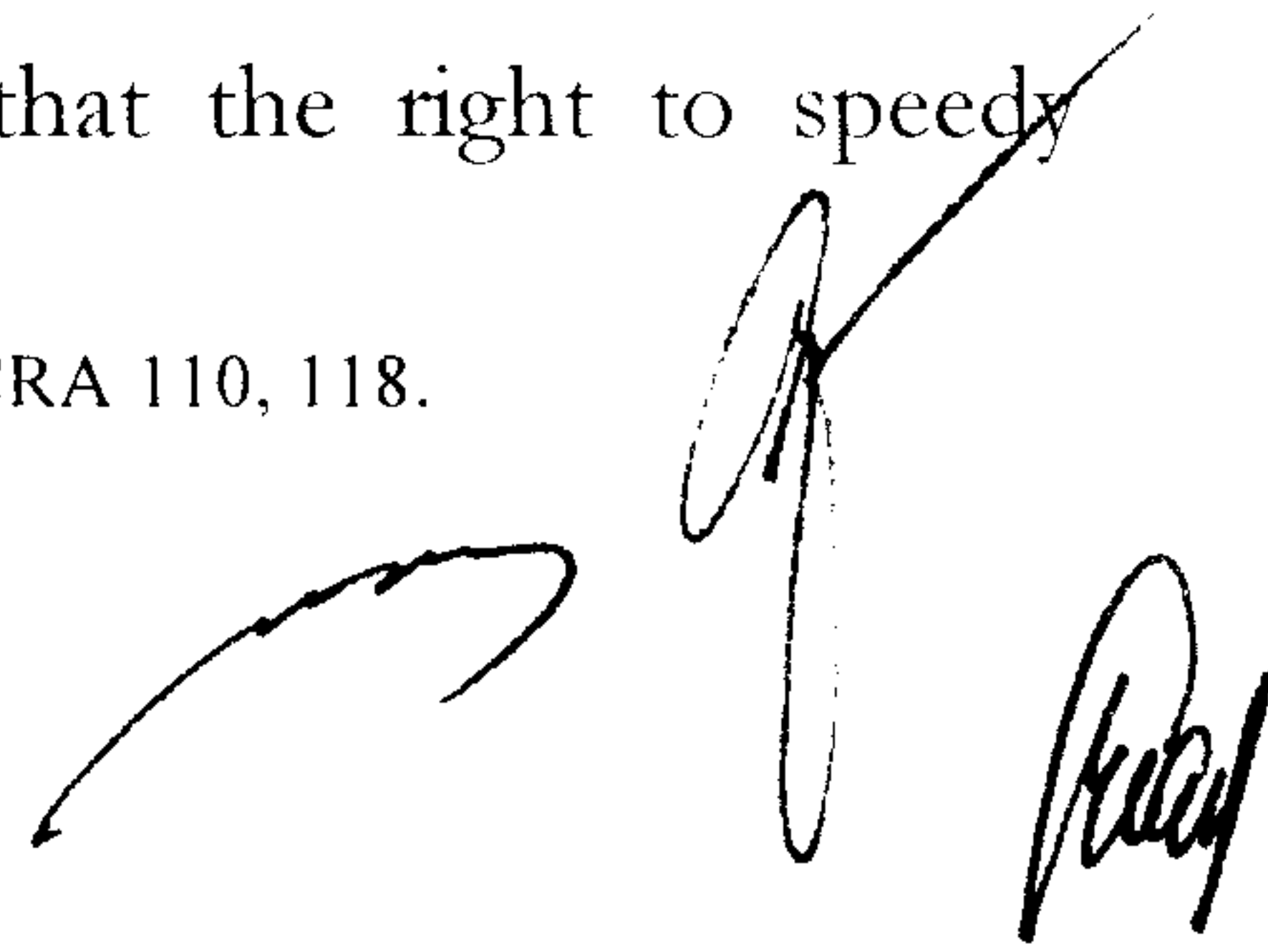
In *Jacob v. Sandiganbayan*, the Supreme Court set forth the following factors to consider in determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial: (a) length of delay; (b) the reason for the delay; (c) the [accused]'s assertion of his right; and (d) prejudice to the [accused].<sup>5</sup> It also held in *Mendoza-Ong v. Sandiganbayan* that the right to speedy

<sup>2</sup> *Redulla v. Sandiganbayan*, G.R. No. 167973, February 28, 2007, 517 SCRA 110, 118.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> G.R. No. 162206, November 17, 2010, 635 SCRA 94, 108.



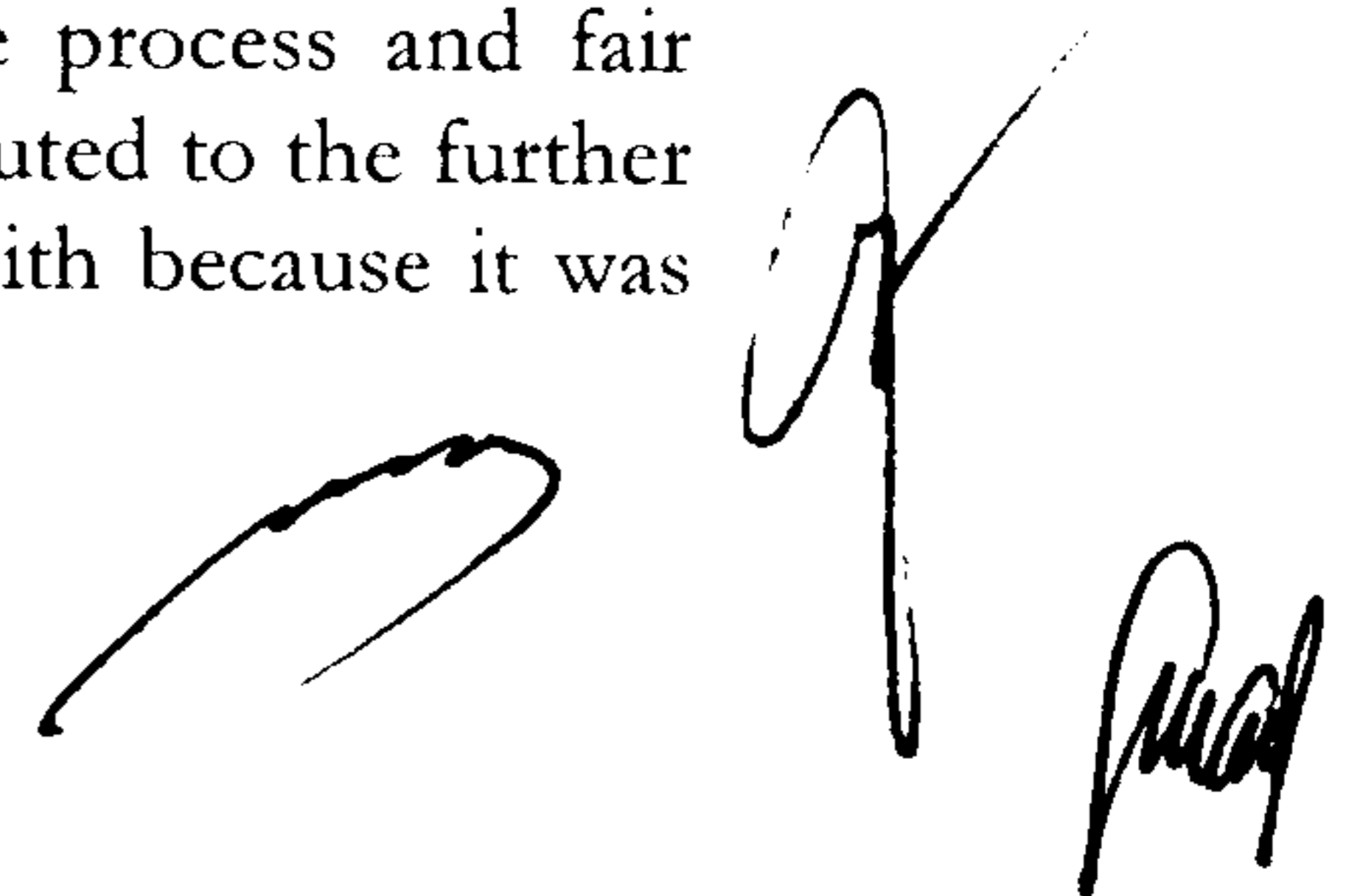
disposition of cases, like the right to speedy trial, is violated only when the proceedings are attended by vexatious, capricious and oppressive delays, and a mere mathematical reckoning of time involved would not be sufficient.<sup>6</sup>

In the present case, Borje, Jr., would have this Court believe that it took twelve (12) years from the time the transactions in question took place up to the filing of the cases with the Third Division, thus resulting in inordinate delay in their disposition. On the other hand, the Prosecution avers that although the transactions subject of these cases occurred in 2001, the formal preliminary investigation thereof took place only upon the Complaint filed by the Office of the Ombudsman FIO on March 14, 2008. Thereafter, the Borje, Jr. was given time to file his counter-affidavit and other pleadings pertinent to the proceedings. The Ombudsman then rendered its Resolution finding probable cause and recommending the filing of the Informations against Borje, Jr., and his co-accused on April 15, 2011. This Resolution was later amended on October 18, 2011 after the Ombudsman noticed that it inadvertently omitted the name of one of the accused. The 236 Informations against herein accused were filed on April 22, 2013.

This Court finds that the length of time which transpired from the preliminary investigation up to the filing of Informations cannot be deemed as exceedingly unreasonable, particularly when the Ombudsman had to examine 118 Informations for violation of Section 3(e) of R.A. No. 3019, as amended, and 118 Informations for estafa through falsification of public documents, not to mention the voluminous records consisting of the pleadings of the several accused and documents pertaining to the transactions. In the recent case of *Isabelo A. Braza v. Sandiganbayan*, the Supreme Court held that:

Indeed, the delay can hardly be considered as “vexatious, capricious and oppressive.” **The complexity of the factual and legal issues, the number of persons charged, the various pleadings filed, and the volume of documents submitted, prevent this Court from yielding to the petitioner’s claim of violation of his right to a speedy disposition of his case.** Rather, it appears that Braza and the other accused were merely afforded sufficient opportunities to ventilate their respective defenses in the interest of justice, due process and fair investigation. The re-investigation may have inadvertently contributed to the further delay of the proceedings but this process cannot be dispensed with because it was

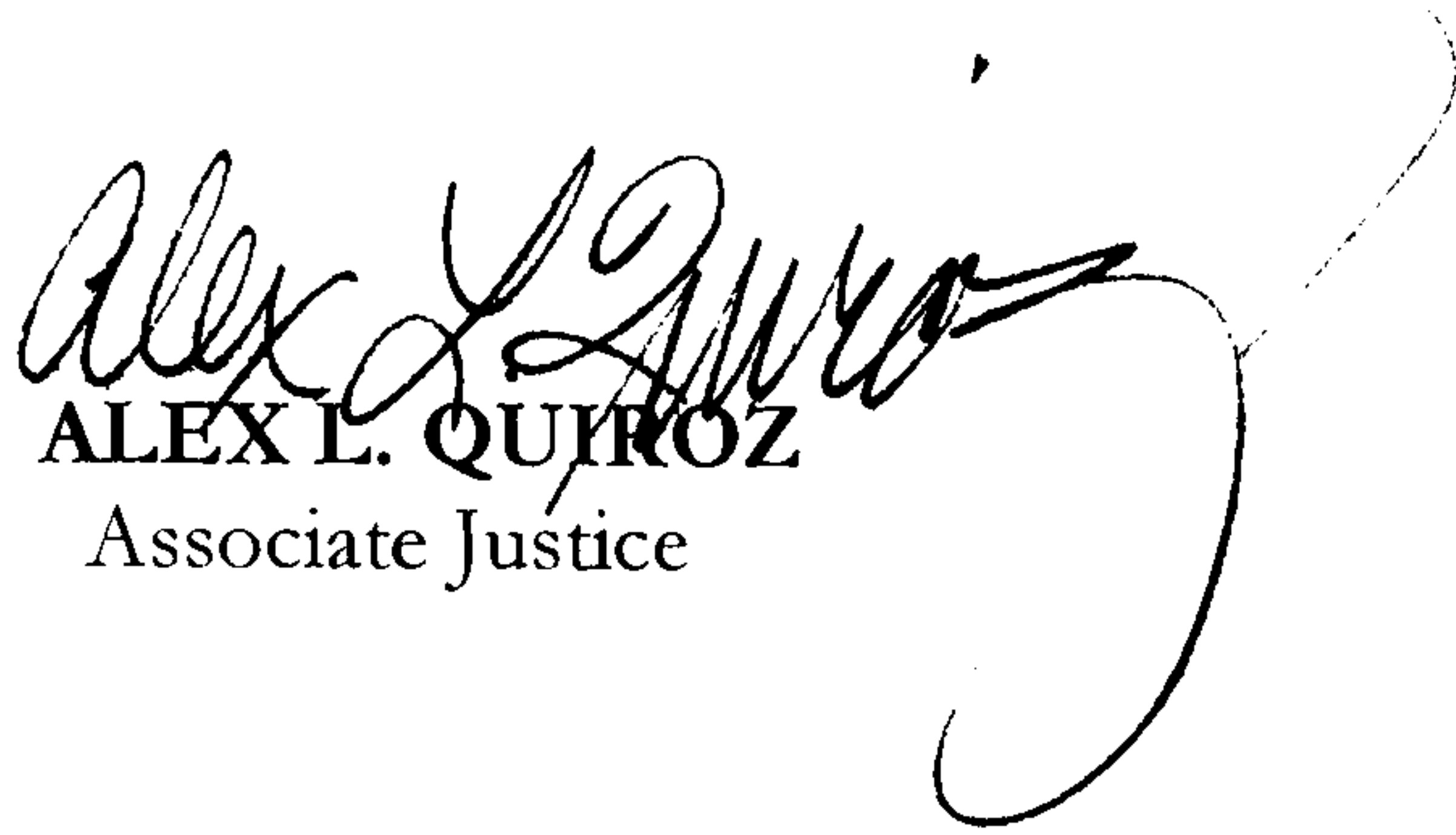
<sup>6</sup> G.R. Nos. 146368-69, October 18, 2004, 440 SCRA 423, 425-426.



done for the protection of the rights of the accused. Albeit the conduct of investigation may hold back the progress of the case, the same was essential so that **the rights of the accused will not be compromised or sacrificed at the altar of expediency.** x x x (emphasis supplied)

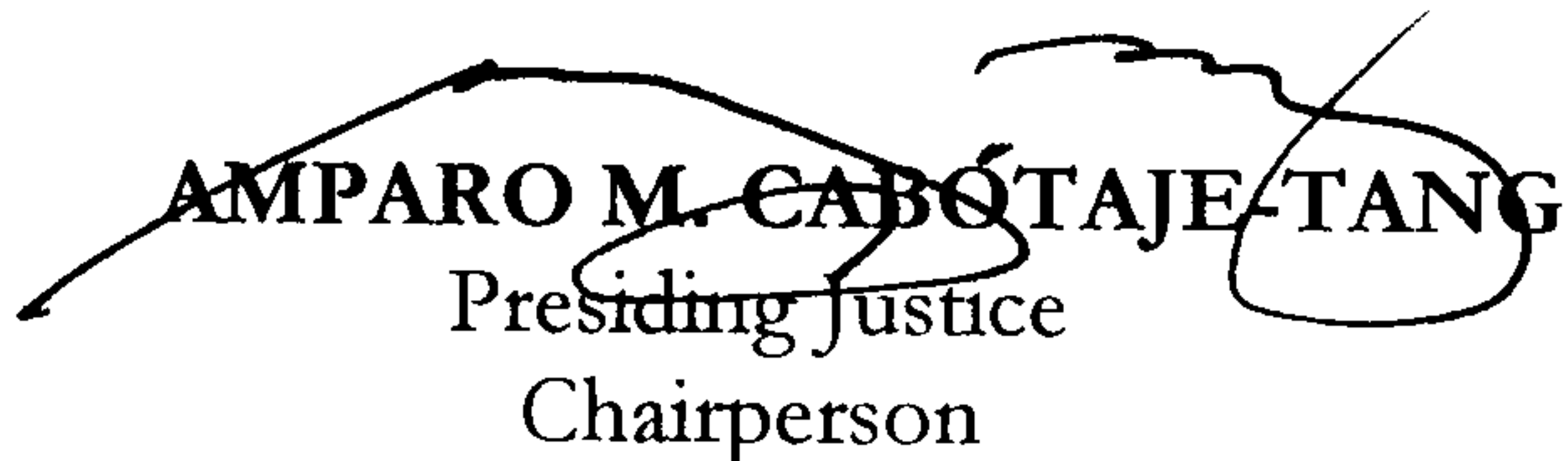
**WHEREFORE**, in view of the foregoing, the Motion for Reconsideration is **DENIED**. Let a Warrant of Arrest be **ISSUED** against him.

**SO ORDERED.**

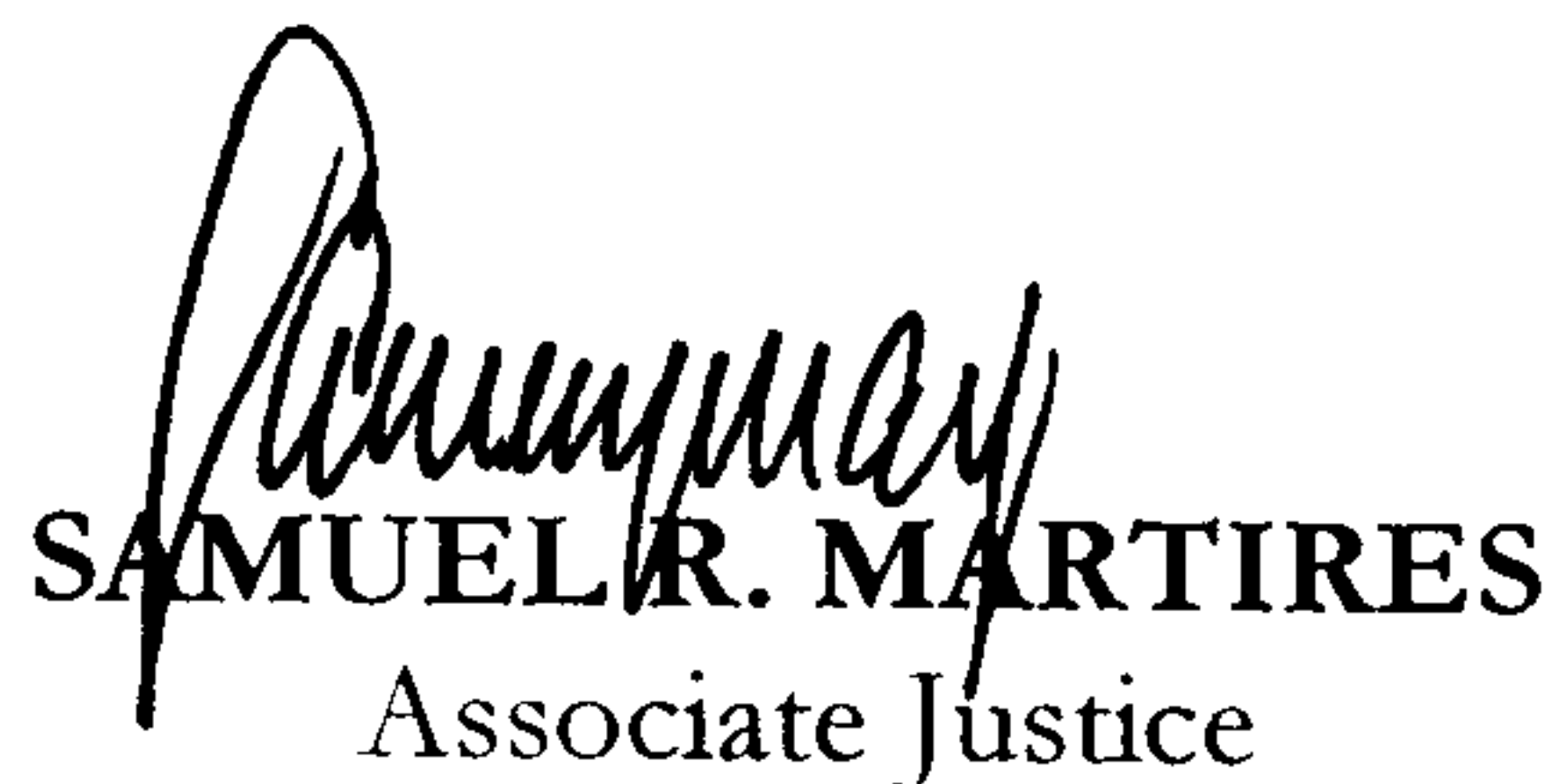


ALEX L. QUIROZ  
Associate Justice

**WE CONCUR:**



AMPARO M. CABOTAJE-TANG  
Presiding Justice  
Chairperson



SAMUEL R. MARTIRES  
Associate Justice