

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

People of the Philippines,

Plaintiff,

Crim. Case No. SB-17-CR M-0170 &
SB-17-CR M-0171

For: Violation of Section 1()
Presidential Decree No. 1829

-versus-

Present:
Herrera, Jr., J. *Chairperson*
Musngi, J. &
Pahimna, J.

Romeo M. Estrella, et al.,
Accused.

Promulgated:

June 15, 2017

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R E S O L U T I O N

HERRERA, JR., J.:

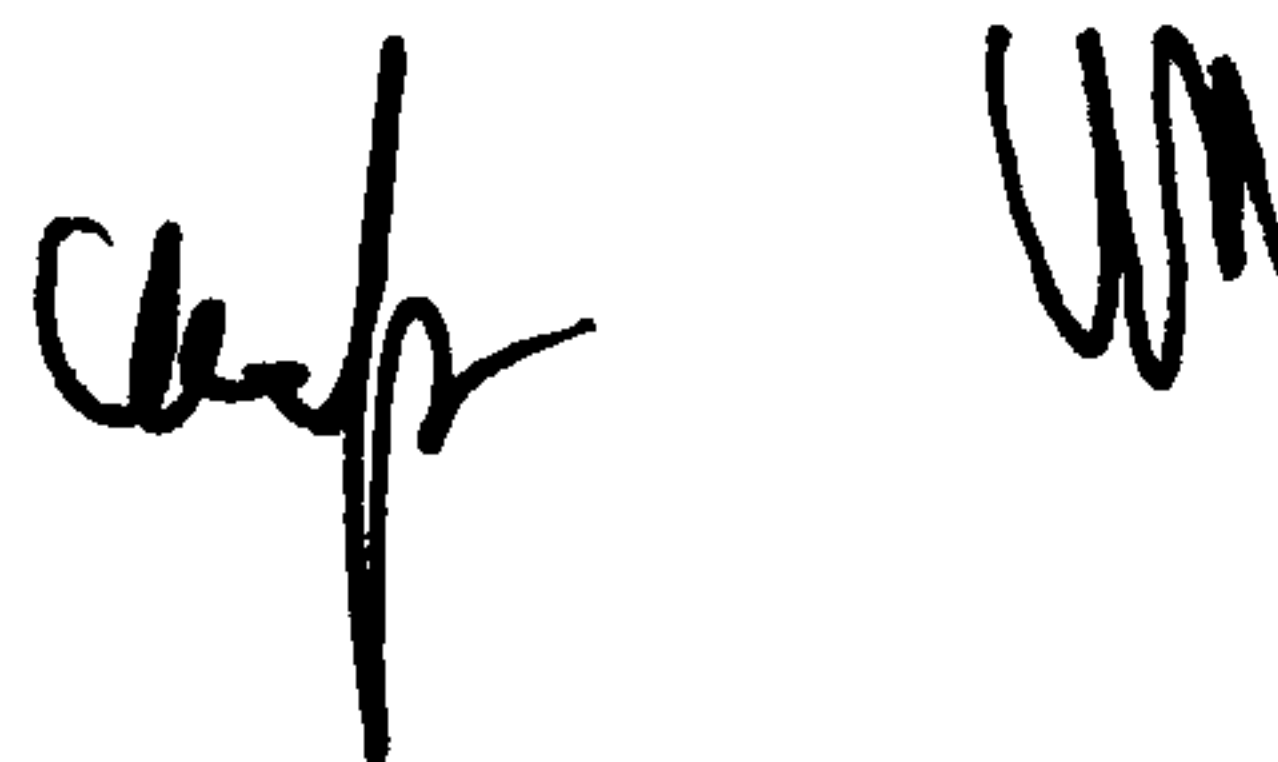
For resolution of the Court is a ***Motion For Reinvestigation (Or Judicial Determination Of Probable Cause With Leave Of Court And With Prayer For Deferment Of Arraignment And For Recall Of Warrants Of Arrest)***¹ dated March 17, 2016, filed by accused Romeo M. Estrella, Sonia V. Estrella and Renita V. Domingo (The Movants for short, through counsel, to which the plaintiff filed an ***Opposition (Re: Motion For Reinvestigation dated March 17, 2017 filed by the accused-movants)***² dated March 30, 2017. The movants, through counsel, filed a ***Reply To The March 30, 2017 Opposition***³ dated April 8, 2017.

The movants are jointly charged before this Court with ***Violation of Sections 3(e) and 3(h) of Republic Act (R.A.) No. 3019***, also known as the ***Anti-Graft And Corrupt Practices Act***, under two (2) ***Informations***, both dated November 29, 2016, filed by the Office of the Ombudsman.

¹ Record of Crim. Case No. SB-17-CRM-0170, 238-338

² Id, pp. 350-358

³ Id, pp. 359-372



In Criminal Case No. SB-17-CRM-0170, where the movants are charged with *Violation of Section 3(e) of R.A. 3019*, the accusatory portion of the *Information*⁴ reads:

“That from February 18, 2013 to March 15, 2013, or sometime prior or subsequent thereto, in the Municipality of Baliuag, Bulacan, and within the jurisdiction of this Honorable Court, above named accused, **ROMEO MANIEGO ESTRELLA**, a high ranking public official, being then the Municipal Mayor (SG-27) of Baliuag, Bulacan, committing the offense in relation to office, taking advantage of his official position, conspiring and confederating with co-accused **SONIA VICEO ESTRELLA** and **RENITA VICEO DOMINGO**, his wife and sister-in-law, respectively, acting with evident bad faith or manifest partiality, did then and there wilfully, unlawfully, and criminally give unwarranted benefits, advantage or preference to said Renita Viceo Domingo and Sonia Viceo Estrella, who are relatives by affinity within the third civil degree, by signing and approving three (3) Contracts of Lease for Market Stalls No. 1, 2 and 3 at Block 3 of the Baliuag Shopping Complex in favor of Renita Viceo Domingo, who in turn subleased, and/or allowed the use of, Stalls 1 and 2 to accused Sonia Viceo Estrella, despite the following prohibitions: i) Section 19, Chapter VIII (Restrictions) of the Baliuag Market Code, which provides that no person shall be allowed to lease more than two (2) stalls; ii) Section 4, paragraph (c) of R.A. 6713 which provides that public officials and employees shall not dispense or extend undue favors on account of their office to relatives whether by consanguinity or affinity; and Section 7(a) of R.A. 6713, which prohibits public officers from directly or indirectly having financial or material interest in any transaction requiring the approval of their office, to the damage and prejudice of the public service and interest.

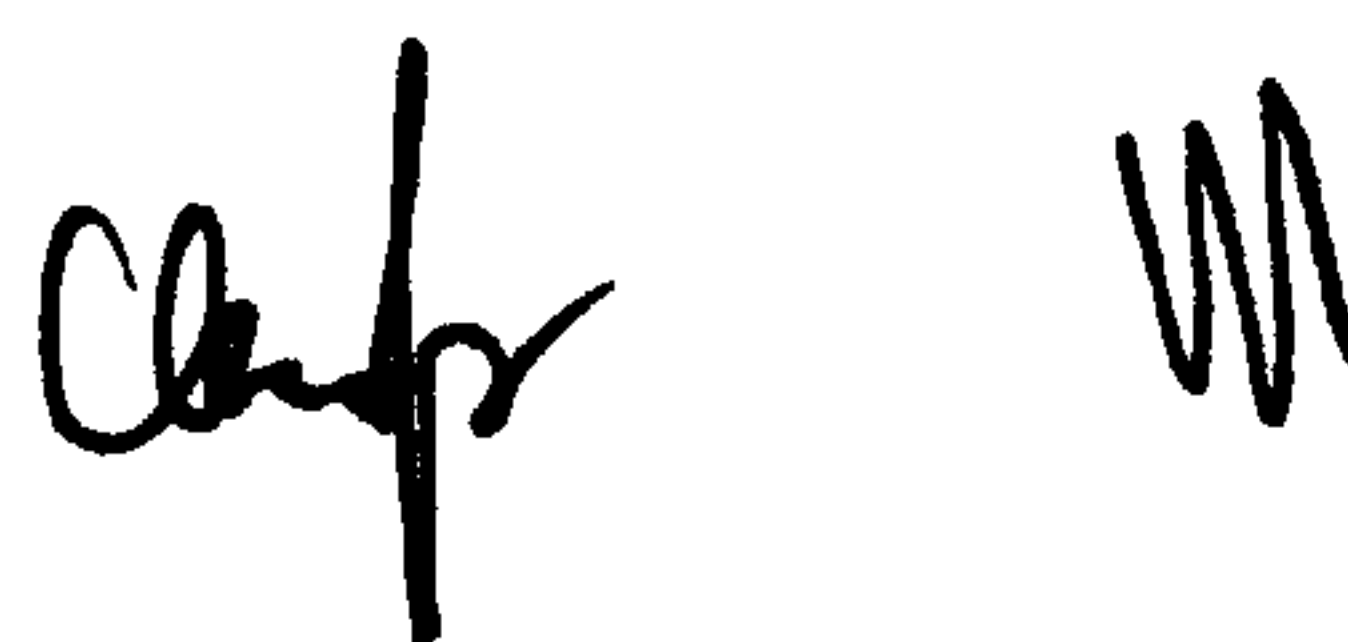
CONTRARY TO LAW.”

In Criminal Case No. SB-17-CRM-0171, where the movants are charged with *Violation of Section 3(h) of R.A. 3019*, the accusatory portion of the *Information*⁵ reads:

“That from February 18, 2013 to March 15, 2013, or sometime prior or subsequent thereto, in the Municipality of Baliuag, Bulacan, and within the jurisdiction of this Honorable Court, above named accused, **ROMEO MANIEGO ESTRELLA**, a high ranking public official, being then the Municipal Mayor (SG-27) of Baliuag, Bulacan,

⁴ Id, pp. 1-3

⁵ Record of Crim. Case No. SB-17-CRM-0171, pp. 1-3

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committing the offense in relation to office, taking advantage of his official position, conspiring and confederating with co-accused **SONIA VICEO ESTRELLA** and **RENITA VICEO DOMINGO**, his wife and sister-in-law, respectively, did then and there wilfully, unlawfully and criminally possess, own, or have indirect financial, pecuniary or material interest in two (2) Contracts of Lease by signing and approving, in his official capacity as then Municipal Mayor of Baliuag, Bulacan, three (3) Contracts of Lease for Market Stalls No. 1, 2 and 3 at Block 3 of the Baliuag Shopping Complex in favor of Renita Viceo Domingo who in turn subleased and/or allowed the use of Stalls 1 and 2 to accused Sonia Viceo Estrella for the operation of *R & S Estrella Pawnshop*, despite Section 19, Chapter VIII (Restrictions) of the Baliuag Market Code proscribing that no person shall be allowed to lease more than two (2) stalls, and Section 4, paragraph (c) of R.A. 6713 which provides that public officials and employees shall not dispense or extend undue favors on account of their office to relatives whether by consanguinity or affinity, to the damage and prejudice of the public service and interest.

CONTRARY TO LAW.”

Record shows that the two (2) aforementioned *Informations* were filed with this Court on February 3, 2017.⁶ The filing was pursuant to a *Consolidated Resolution*⁷ dated June 18, 2015, issued by the Office of the Ombudsman after preliminary investigation in OMB-L-C-14-0120, 0121, 0125, 0126, 0136 and 0138.

In their instant *Motion, etc.*, the movants, who are praying the Court to order a reinvestigation by the Office of the Ombudsman, did not state when they received a copy of the *Consolidated Resolution* dated June 18, 2015. The plaintiff, however, in its *Opposition, etc.*, avers that the movants received the *Consolidated Resolution* on July 31, 2015, as purportedly reflected in the registry return card issued by the Post Office. The averment was not disputed by the movants in their *Reply, etc.*, but they clarified that they are also praying for a judicial determination of probable cause as an alternative to a reinvestigation.

Section 7(a), Rule II of Administrative Order No. 07, or the Rules Of Procedure Of The Office Of The Ombudsman, provides:

⁶ see p. 1 of Record of Crim. Case No. SB-17-CRM-0170 and p. 1 of Record of Crim. Case No. SB-17-CRM-0171

⁷ Record of Crim. Case No. SB-17-CRM-0170, pp. 6-26



“Section 7. xxx –

“a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filled **within five (5) days from notice thereof** with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court;

Under the above-provision, the following are the requirements in connection with a motion for reconsideration or reinvestigation of an approved resolution of the Office of the Ombudsman:

- 1) The motion for reconsideration or reinvestigation shall be filed with the Office of the Ombudsman, or proper deputy Ombudsman as the case may be;
- 2) It must be filed within five (5) days from notice of the resolution; and
- 3) There must be a corresponding application or motion for leave of court in cases where the information has already been filed in court.

Here, the movants filed with the Court, not with the Office of the Ombudsman, their ***Motion For Reinvestigation, etc.*** They filed it on March 17, 2017, or more than one (1) and ½ years from the time they received on July 31, 2015 a copy of the Ombudsman’s ***Consolidated Resolution*** dated June 18, 2015. It was therefore filed way beyond the five (5) day period from notice prescribed in ***Section 7(a), Rule II of Administrative Order No. 07.***

Under the circumstances, the movants’ plea for reinvestigation must necessarily be denied.

Anent the movants’ prayer for judicial determination of probable cause, deferment of arraignment and recall of the warrant of arrest, the same must also be denied.

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Clerk M

The Court has already determined the existence of probable cause to hold the movants for trial, as shown by the fact that **Warrants of Arrest**⁸ both dated February 14, 2017 were issued against them, signed by Hon. Samuel R. Martires, then Chairperson of the Court's Second Division. This was after the filing of the **Informations** on February 3, 2017.

Section 5(a), Rule 112 of the Rules of Criminal Procedure, which applies to the Court, provides:



"Sec. 5. When warrant of arrest may issue -- (a) By the Regional Trial Court. -- Within ten (10) days from the filing of the complaint or Information, the judge shall personally **evaluate the resolution of the prosecutor and its supporting evidence**. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order when the complaint or information was filed pursuant to Section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information."

In **Leviste v. Alameda**,⁹ the Supreme Court held that a motion for judicial determination of probable cause is a superfluity, for with or without such motion, the judge is duty-bound to personally evaluate the resolution of the prosecutor and the supporting evidence. Here, perusal of the **Informations** filed and careful evaluation of **Consolidated Resolution** dated June 18, 2015 of the Office of the Ombudsman, as well as the supporting evidence, yields that there is sufficient probable cause to hold the movants for trial.

In claiming that there is no probable cause for **Violation of Section 3(e) and 3(h) of R.A. 3019**, the movants, in their **Motion, etc.**, essentially contend as follows:

⁸ Id, pp. 181 and 182
⁹ 626 SCRA 575, 584



"On Crim. Case No. SB-17-CRM-0170 [Sec. 3(d)]

Accused Romeo Maniego Estrella has not signed a Contract of Lease in favor of Sonia Viceo Estrella on Market Stalls Nos. 1, 2 and 3, Block 3, Baliuag Shopping Complex. He signed Stall Contracts without evident bad faith or manifest partiality and gave no unwarranted benefit, advantage or preference and had no direct or indirect financial or material interest in signing those Contracts. There is no damage and prejudice to public service nor to public interest.

On Crim. Case No. SB-17-CRM-0171 [Sec. 3(h)]


Accused Romeo Maniego Estrella has not signed a Contract of Lease in favour of Sonia Viceo Estrella on Market Stalls Nos. 1, 2, and 3, Block 3, Baliuag Shopping Complex. He signed Stall Contracts without evident bad faith or manifest partiality and gave no unwarranted benefit, advantage or preference and had no direct or indirect financial or material interest in signing those Contracts, much less in the operation of the *R & S Estrella Pawnshop*. There is no damage and prejudice to public service nor to public interest."¹⁰

The Court rules that the contentions of the movants pertain to matters of defense which are evidentiary in character and must be proved during the trial of the case.

WHEREFORE, premises considered, the ***Motion For Reinvestigation (On Judicial Determination Of Probable Cause With Leave Of Court And With Prayer For Deferment Of Warrant Of Arrest)*** dated March 17, 2016, filed by accused Romeo M. Estrella, Sonia V. Estrella and Renita V. Domingo, through counsel, is hereby denied.

The arraignment of the accused in these cases is hereby set on August 2, 2017 at 1:30 in the afternoon.

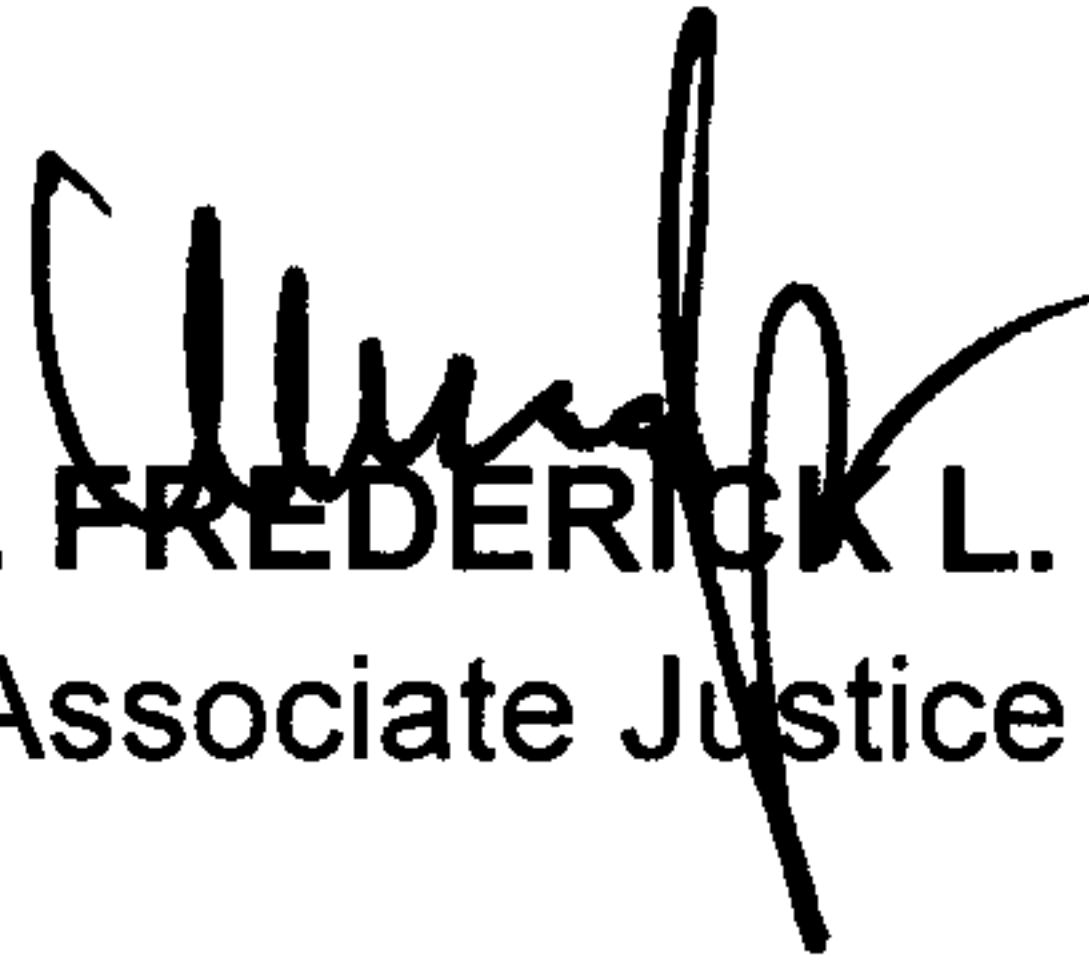
SO ORDERED.

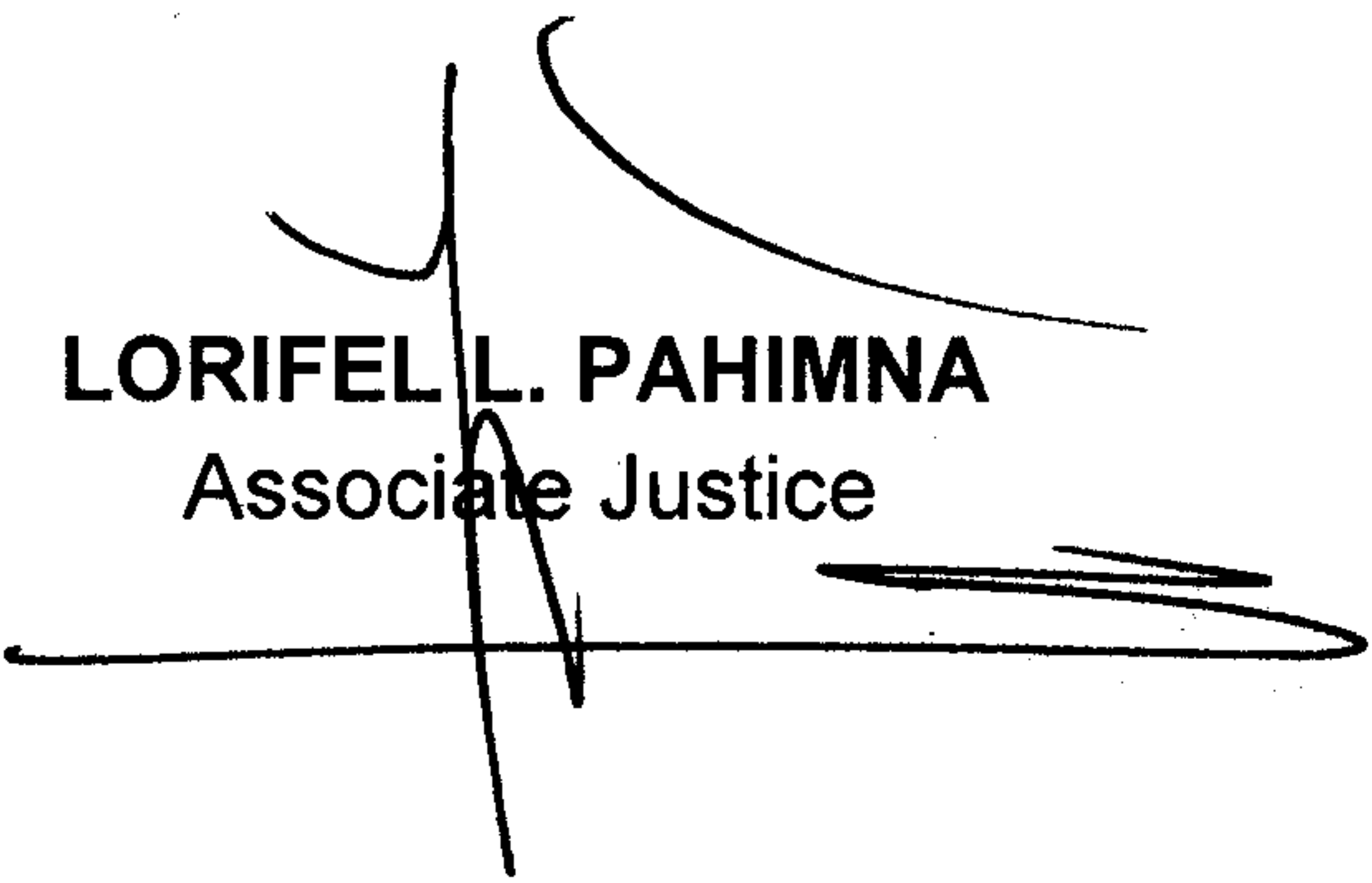

OSCAR C. HERRERA, JR.
Chairperson

¹⁰ Record of Crim. Case No. SB-17-CRM-0170, p. 308

We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


LORIFEL L. PAHIMNA
Associate Justice

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