

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASE NOS. SB-16-CRIM-
0242 TO 0244
*For: Violation of Section 3 (e) of
Republic Act No. 3019*

CRIM. CASE NOS. SB-16-CRIM-
0245 TO 0247
*For: Violation of Article 217 of the
Revised Penal Code
(Malversation)*

- versus -

CRIM. CASE NO. SB-16-CRIM-0248
*For: Violation of Article 210 of the
Revised Penal Code (Direct
Bribery)*

ARREL REYES OLAÑO, ET AL.,
Accused.

Present:
HERRERA, Jr., J., Chairperson
MUSNGI, J., Associate Justice
PAHIMNA, J., Associate Justice

August 17, 2017

Promulgated

RESOLUTION

MUSNGI, J.:

The Court resolves the following:

- (1) *Motion for Reconsideration [of the Resolution dated 5 June 21017(sic)]* filed by accused Arrel R. Olaño ("Olaño") on 04 July 2017; and
- (2) *Opposition (To Accused Arrel R. Olaño's undated MOTION FOR RECONSIDERATION [of the Resolution dated 05 June 2017])* filed by the prosecution on 12 July 2017.

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In a *Resolution*¹ dated 05 June 2017, the Court denied the *Motions to Quash* filed by accused Olaño for lack of merit. The dispositive part thereof reads, thus:

“WHEREFORE, in light of the foregoing, the *Motions to Quash* filed by Olaño on 25 May 2016 in Crim. Case Nos. SB-16-CRM-0242 to 0248 are hereby **DENIED** for lack of merit.”

Accused Olaño moves for the reconsideration of the said *Resolution* based on the following grounds: (1) The facts alleged in the *Informations* do not constitute an offense; (2) There is no malversation of public funds because he is not an accountable officer; and (3) The offenses of Direct/Indirect Bribery and Malversation of Public Funds cannot be committed at the same time by a person who is having custody of public funds.

Accused Olaño reiterates that in the absence of a law penalizing the indorsement of non-governmental organizations (NGOs), or one obliging the House of Representatives to conduct a public bidding for the selection thereof with respect to the allocation of the Priority Development Assistance Fund (PDAF), there is no crime committed. He emphasizes that he cannot be found guilty of conspiracy to commit the alleged violation of Sec. 3(e), Republic Act No. 3019 (“**R.A. No. 3019**”) for simply performing his duty to endorse an NGO to implement his PDAF project.

He also points out that the prosecution is unsure of the modality by which the alleged offense of a violation of Sec. 3(e), R.A. No. 3019 was committed. He asks the Court, at the very least, to require the prosecution to amend the *Informations* on this aspect.

Again, the accused asserts that he never had the custody of the subject PDAF. Hence, he is not an accountable officer. Moreover, he opines that the charge of malversation is premature because the Commission on Audit has yet to find if the same has actually been committed.

Lastly, he submits that the crimes of bribery and malversation involving the same set of facts and the same public funds are contradictory with each other. According to accused Olaño, assuming that he was indeed in custody of the PDAF, he cannot bribe himself if

¹ Sandiganbayan Records Vol. 5, pp. 272-285.

M *Conf.*

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he is the accountable officer therefor. He claims that he cannot be held liable for the crime of bribery when it is his duty to perform the act complained of, which is indorsing or nominating an NGO.

The prosecution vehemently opposes the instant motion based on the following grounds:

1. All the facts charged as stated in the *Informations* constitute an offense;
2. Being the 1st District Representative of Davao del Norte at the time material to these cases, accused Olaño was definitely an accountable officer for his PDAF allocation; and
3. There is no conflict on the alleged commission of both crimes of malversation and bribery by the same person because there is no standing tenet that the commission of one bars the commission of the other.

Ruling

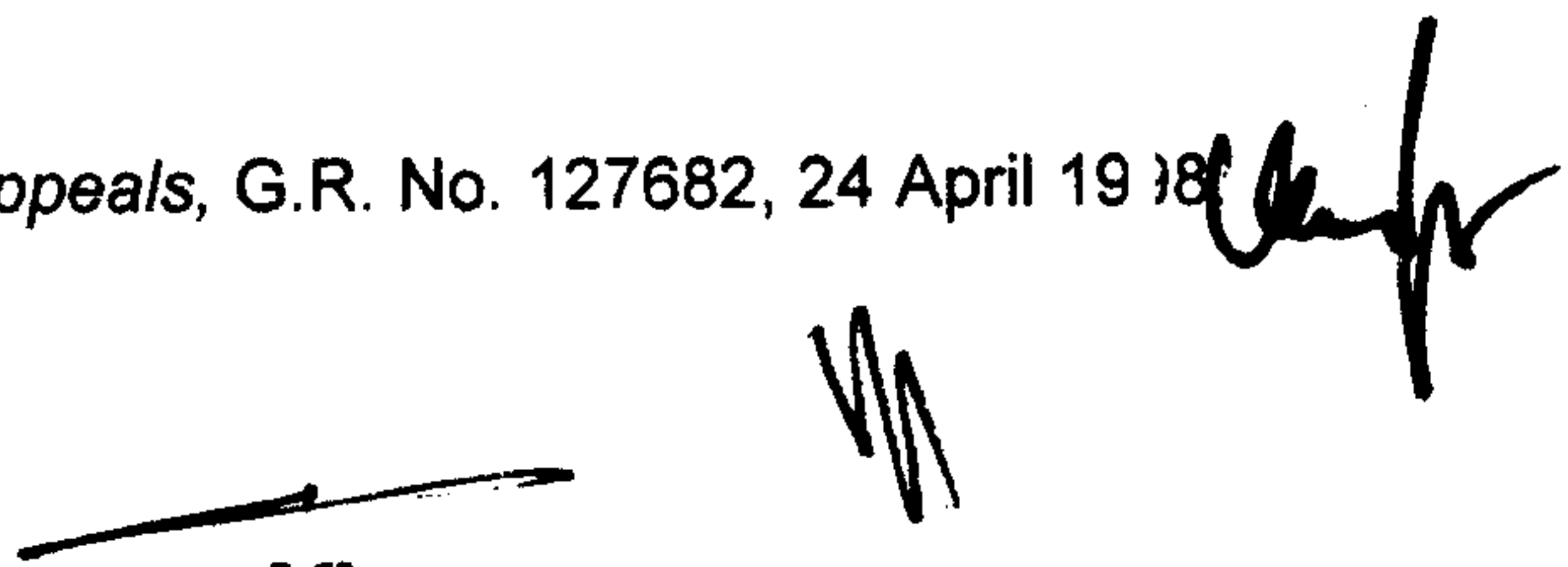
The instant motion is denied for lack of merit.

A careful perusal of the instant motion and the records of the case reveals that there are no cogent reasons which warrant the reconsideration of the assailed *Resolution* dated 05 June 2017.

Accused Olaño's motion essentially contains a rehash or reiteration of his previous arguments in his *Motions to Quash* which have already been passed upon and properly considered by the Court in its assailed *Resolution*.

It has been established in a long line of cases that a Motion for Reconsideration should be denied when the same only rehashes issues previously put forward.²

² *Komatsu Industries (Phils.), Inc. v. Court of Appeals*, G.R. No. 127682, 24 April 1988

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Criminal Case Nos. SB -16-CRM-0242 to 0248

People vs. Olaño, et al.

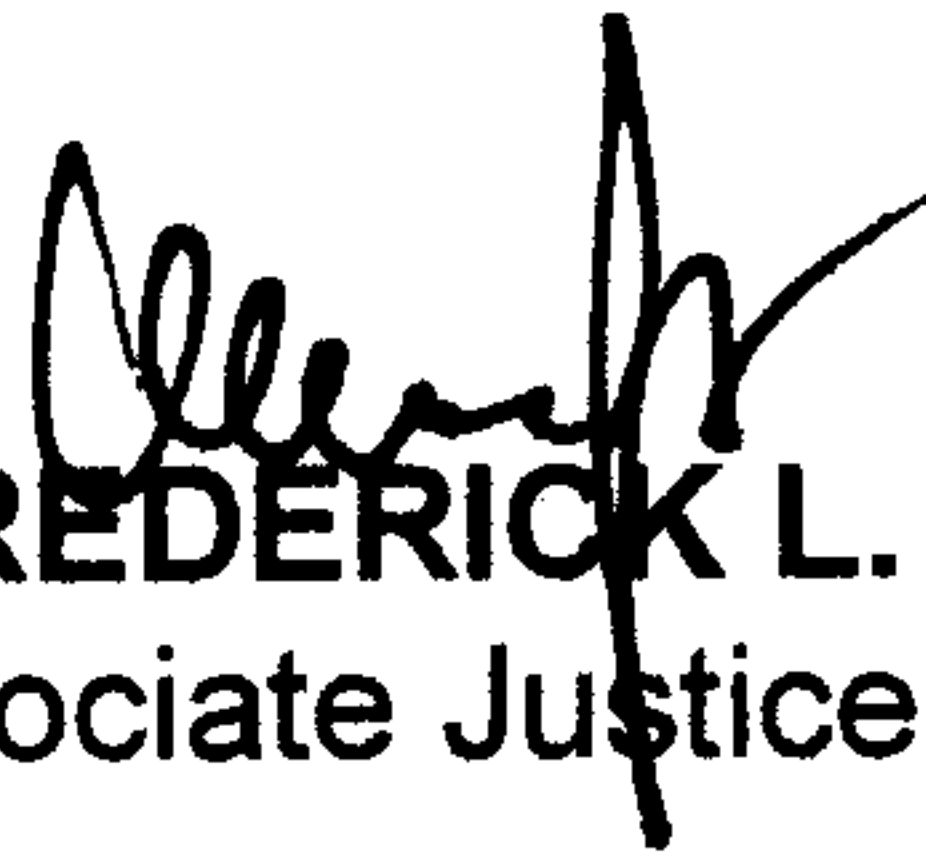
RESOLUTION

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WHEREFORE, in light of the foregoing, the *Motion for Reconsideration [of the Resolution dated 5 June 21017(sic)]* filed by accused Arrel R. Olaño in Crim. Cases Nos. SB-16-CRM-0242 to 0248 is hereby **DENIED** for lack of merit.

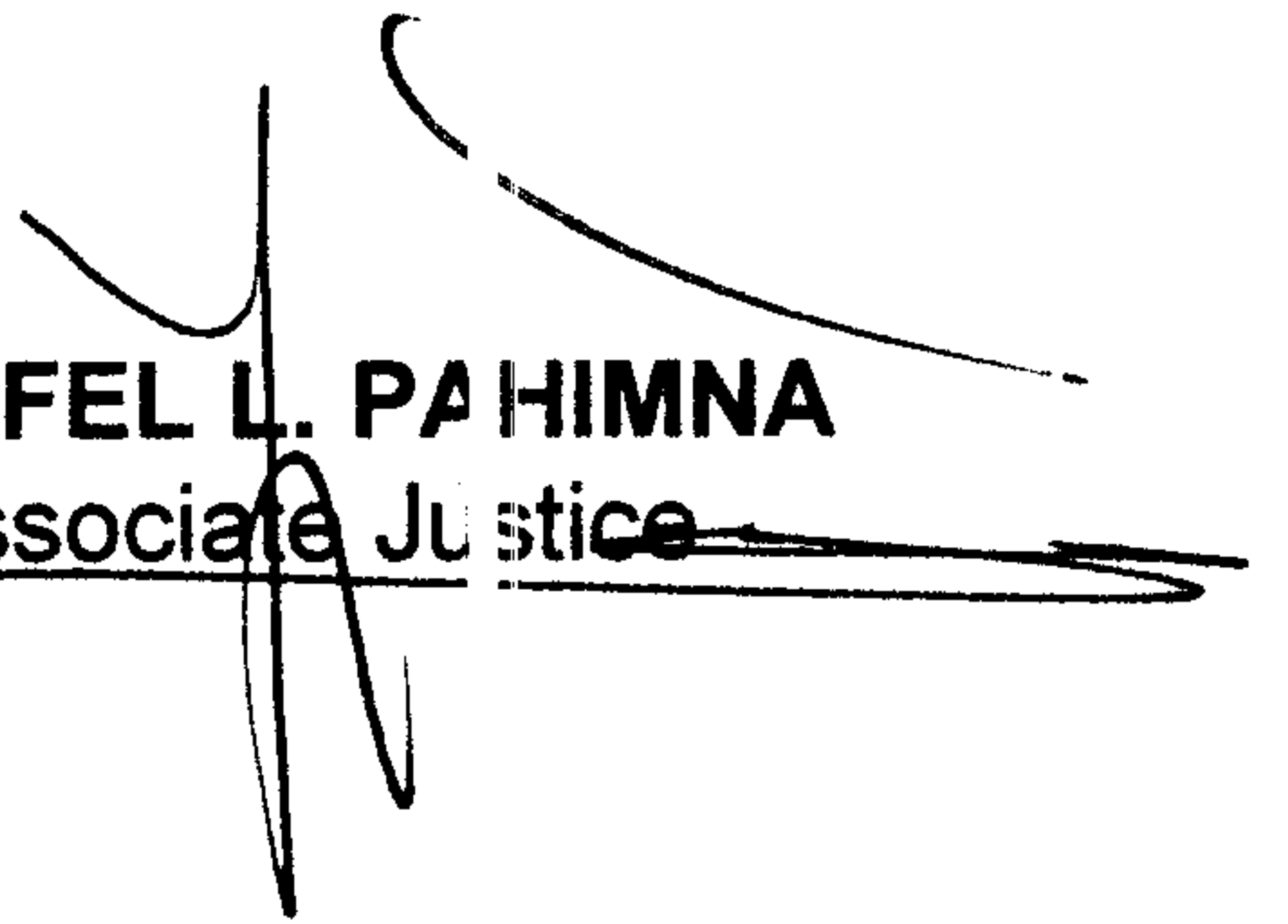
SO ORDERED.



MICHAEL FREDERICK L. MUSNGI
Associate Justice



OSCAR C. HERRERA, JR.
Associate Justice
Chairperson



LORIFEL L. PAHIMNA
Associate Justice