

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

People of the Philippines,
Plaintiff,

Crim. Case No. SB-17-CRM-0478 to
SB-17-CRM-0479

For: Violation of Section 3(e)
of R.A. No. 3019 and Falsification
of Public Documents

-versus-

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

Enrico R. Echiverri, et al.,
Accused.

Promulgated:

September 6, 2017

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RESOLUTION

HERRERA, JR., J:

This resolves the following:

- a) ***Motion To Quash***¹ dated April 20, 2017, filed by accused Enrico R. Echiverri (Echiverri) (collectively referred to as movants), Edna V. Centeno (Centeno) and Jesusa C. Garcia (Garcia), through counsel, praying that the ***Informations*** in these cases be quashed, on the ground that the facts alleged therein do not constitute the offenses charged;
- b) ***Urgent Manifestation and Supplemental Motion To Quash***² dated June 27, 2017, filed by the movants, through counsel; and
- c) ***Motion For Reconsideration***³ dated April 23, 2017 filed by the movants, through counsel, seeking reconsideration of the ***Order*** dated April 7, 2017 denying their ***Motion For Judicial Determination Of Probable Cause***.

¹ Record of Criminal Case No. SB-17-CRM-0478, pp. 334-354

² Id, pp. 409-431

³ Id, pp. 355-367

In connection with the above-mentioned motions of the accused, the prosecution, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a **Consolidated Comment/Opposition (Re: Accused Echiverri, Centeno and Garcia's "Motion for Reconsideration" dated April 23, 2017 and "Motion to Quash" April 2017)**⁴ dated May 17, 2017, to which the accused filed a **Reply**^{4-a} dated May 29, 2017.

In Criminal Case No. SB-17-CRM-0478, the movants are charged with **Violation of Section 3(e) of Republic Act (R.A.) No. 3019**, also known as the **Anti-Graft and Corrupt Practices Act**, under an **Information**⁵ dated April 14, 2016.

In Criminal Case No. SB-17-CRM-0479, movants Centeno and Garcia are charged with **Falsification of Public Documents**, defined and penalized under **Article 171, paragraph 4, of the Revised Penal Code, RPC**, under an **Information**⁶ also dated April 14, 2016.

The Court will first tackle the movants' **Motion To Quash**.

It is settled that a motion to quash on the ground that the facts alleged in the information do not constitute an offense should be resolved on the basis alone of said allegations whose truth and veracity are hypothetically admitted.⁷ The fundamental test is whether or not the facts alleged in the information, if hypothetically admitted, would establish the essential elements of the offense charged as defined by law.⁸

Section 3(e) of R.A. 3019, provides:

"Sec. 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

XXX.

⁴ Id, pp. 389-395

^{4-a} Id, pp. 396-408

⁵ Id, pp. 1-3

⁶ Record of Criminal Case No. SB-17-CRM-0479, pp. 1-3

⁷ People v. Ferrer, 101 Phil. 234

⁸ Lazarte v. Sandiganbayan, 581 SCRA 432

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

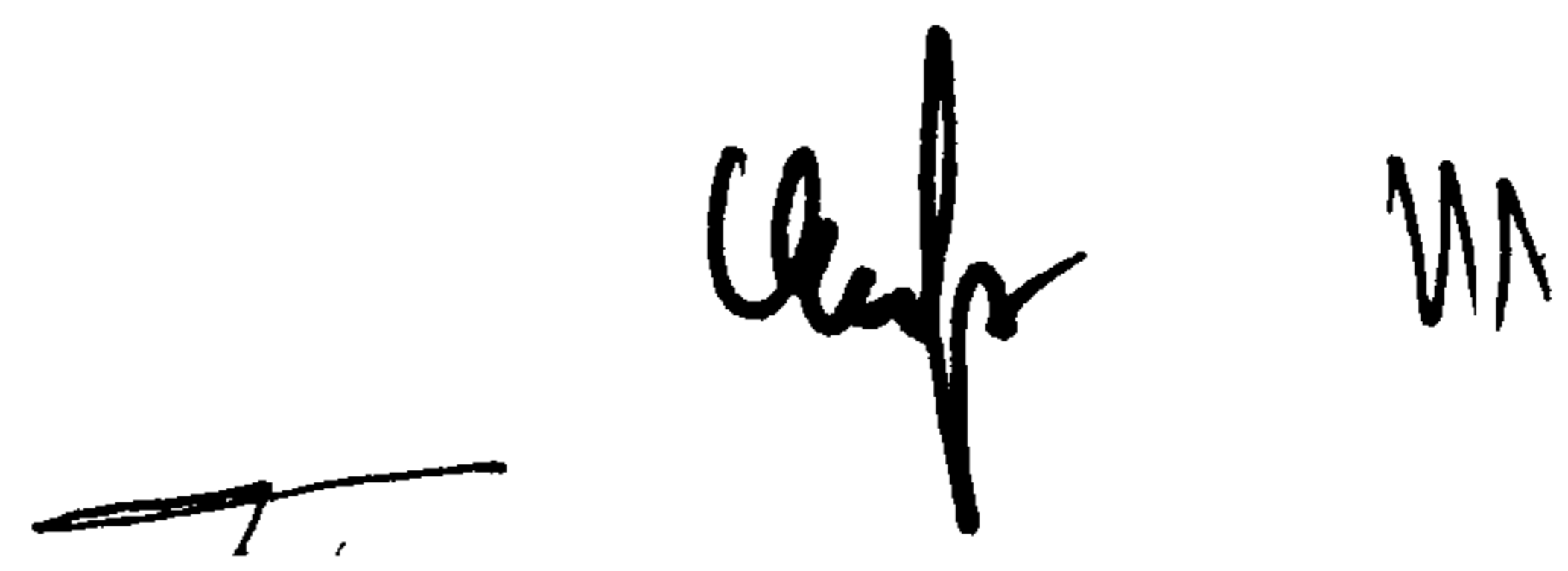
The elements⁹ of the offense of **Violation of Section 3(ə) of R.A. 3019** are as follows:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence, and
3. His action caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.

The accusatory portion of the **Information** in Criminal Case No. SB-17-CRM-0478 reads:

“That from the period May 19, 2011 up to December 22, 2011, or sometime prior or subsequent thereto, in the City of Caloocan, Philippines, and within this Honorable Court’s jurisdiction, then City Mayor **ENRICO REANTILLO ECHIVERRI**, City Accountant **EDNA V. CENTENO**, and City Budget Officer **JESUSA C. GARCIA**, all public officers of the local government of Caloocan City, while in the performance of their administrative and/or official functions, conspiring with one another, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits and advantage to E.V. & E. Construction (EVEC), represented by its Proprietor, Eugenio Leopoldo G. Garcia, in the amount of at least **TWO MILLION SEVEN HUNDRED FIFTY ONE THOUSAND THREE HUNDRED SEVENTY TWO and 83/100 PESOS (Php2,751,372,82)** by awarding to EVEC the contract for the Improvement of Molave St. Drainage System (Phase 1) at Pleasant View Subd., Kaybiga, Brgy, 165 Caloocan City, without prior authorization from the Sangguniang Panlungsod of Caloocan City, to the damage and prejudice of the government.

⁹ Collantes v. Marcelo, 531 SCRA 142



CONTRARY TO LAW.”

Perusal of the aforementioned averments in the *Information* yields that it avers facts and circumstances necessary to constitute the offense charged. It contains all the elements constituting a *Violation of Section 3(e) of R.A. No. 3019*.

With respect to the crime of *Falsification of Public Documents, Article 171, paragraph 4 of the RPC* reads:

“Art. 171. The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

xxx.

4. Making untruthful statements in a narration of facts.”

The elements ¹⁰ of the aforementioned offense are as follows:

1. That the offender is a public officer, employee or notary public;
2. That he takes advantage of his official position;
3. That he falsifies a document by-

xxx.

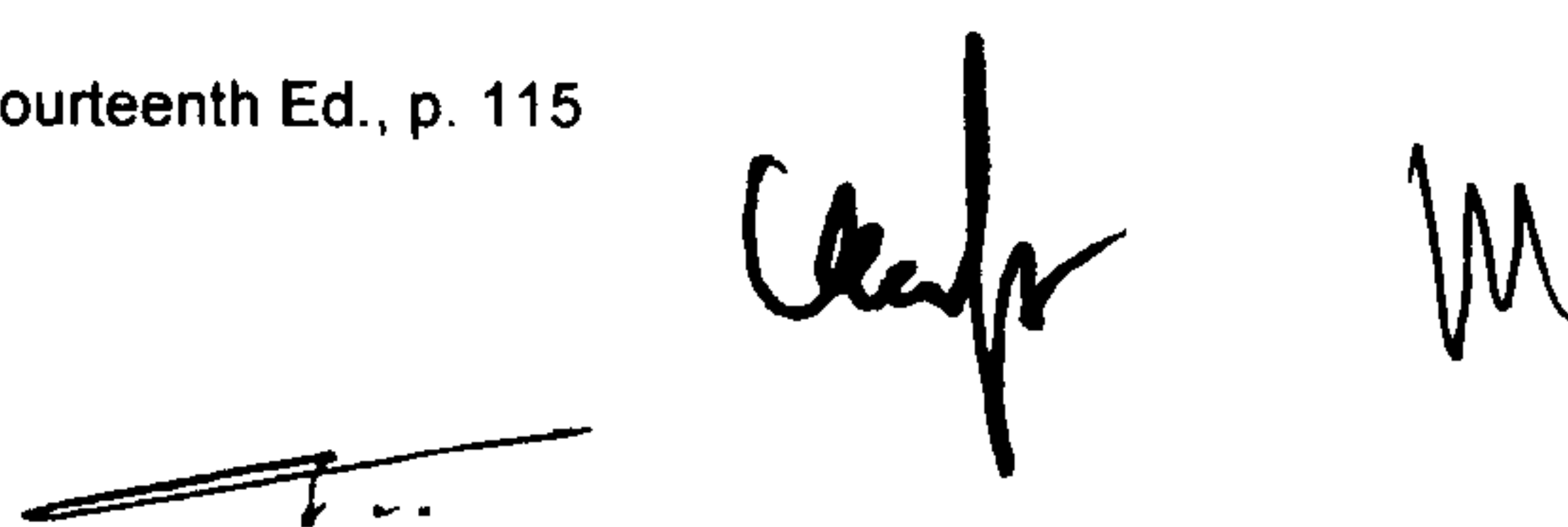
(d) Making untruthful statements in a narration of facts.

To be liable under sub-paragraph (d) above, the following requisites ¹¹ must be present:

1. That the offender makes in a document statements in a narration of facts;
2. That he has a legal obligation to disclose the truth of the facts narrated by him;

¹⁰ Luis B. Reyes, *The Revised Penal Code*, Book Two, Fourteenth Ed., p. 115

¹¹ *Id.*, p. 116

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3. That the facts narrated by the offender are absolutely false; and
4. That the perversion of truth in the narration of facts was made with the wrongful intent of injuring a third person.




The accusatory portion of the **Information** in Criminal Case No. SB-17-CRM-0479 reads:

“That on May 19, 2011, or sometime prior or subsequent thereto, in the City of Caloocan, Philippines, and within this Honorable Court’s jurisdiction, City Accountant **EDNA V. CENTENO**, Salary Grade (SG) 27, and Budget Officer **JESUSA C. GARCIA**, Salary Grade (SG) 26, both of the local government of Caloocan City, public officers and while in the performance of their administrative and/or official functions, conspiring with one another, and taking advantage of their official positions, did then and there willfully, unlawfully and feloniously make false statements in a narration of facts, the truth of which they are legally bound to disclose, by certifying in the Allotment and Obligation Slip (AL OBS) No. 100-11-05-2503 dated May 19, 2011 on the existence of appropriation for, and obligation of allotment, for the Improvement of Molave St. Drainage System (Phase 1) at Pleasant View Subd., Kaybiga, Brgy. 165 Caloocan City in the amount of **TWO MILLION NINE HUNDRED SEVENTY FOUR THOUSAND THREE HUNDRED PESOS (Php2,974,300.00)** more or less, when in truth and in fact, as the accused very well knew, there was no appropriation for the said project, to the prejudice of public interest.

CONTRARY TO LAW.”

Clearly, the above-quoted averments are sufficient to constitute the crime of **Falsification of Public Documents under Article 171, paragraph 4 of the RPC**. All the elements of the offense are contained therein.

In their **Motion To Quash**, the movants essentially contend that there is no evidence of any irregularity, corruption or wrongdoing in the utilization and application of funds in the project for the improvement of the drainage system in question. They further cited ordinances and resolutions of the Sangguniang Panlungsod of Caloocan City that purportedly either authorized or ratified and confirmed the transactions entered into by the

accused regarding development projects like the improvement of the drainage system.

The aforesaid contentions are not tenable.

As earlier pointed out, settled in our jurisprudence is that the fundamental test to resolve a motion to quash on the ground that the facts charged do not constitute an offense is whether the facts alleged in the information, if hypothetically admitted, would establish the essential elements of the offense charged as defined by law.¹² Evidence *aliunde* or matters extrinsic of the **Informations** are not to be considered. Facts which constitute the defense of the accused against the charge in the information must be established during the trial. Such facts and circumstances do not constitute proper grounds for a motion to quash the information.¹³

In **Soriano v. People**,¹⁴ the Supreme Court stressed:

“The trial court may not consider a situation contrary to that set forth in the criminal complaint or information. Facts that constitute the defense of the petitioners against the charge under the information must be proved by them during the trial. Such facts or circumstances do not constitute proper grounds for a motion to quash on the ground that the material averments do not constitute an offense.”

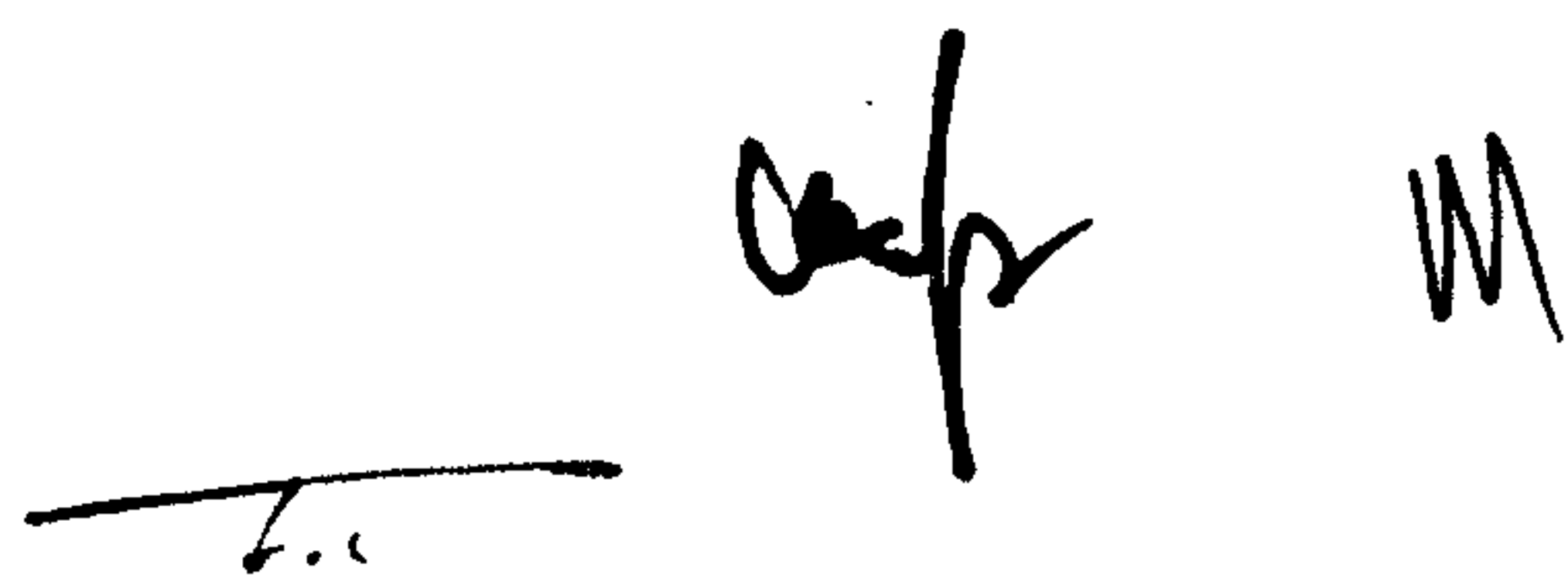
Anent the **Motion For Reconsideration** praying for reconsideration of the **Order** dated April 7, 2017 which denied the movants' **Motion for Judicial Determination of Probable Cause**, the Court finds the same devoid of merit.

The Court has already made a judicial determination of probable cause in these cases in its **Resolution** dated March 16, 2017. The Court found probable cause to hold the accused for trial, after perusing the **Informations** and carefully assessing the **Resolution** of the Office of the

¹² Lazarte v. Sandiganbayan, 581 SCRA 432

¹³ Cabrera v. Sandiganbayan, 441 SCRA 377, 385

¹⁴ 591 SCRA 257-258

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Ombudsman and its supporting evidence, conformably with **Section 5(a), Rule 112 of the Rules of Criminal Procedure.**

WHEREFORE, premises considered, the Court resolves as follows:

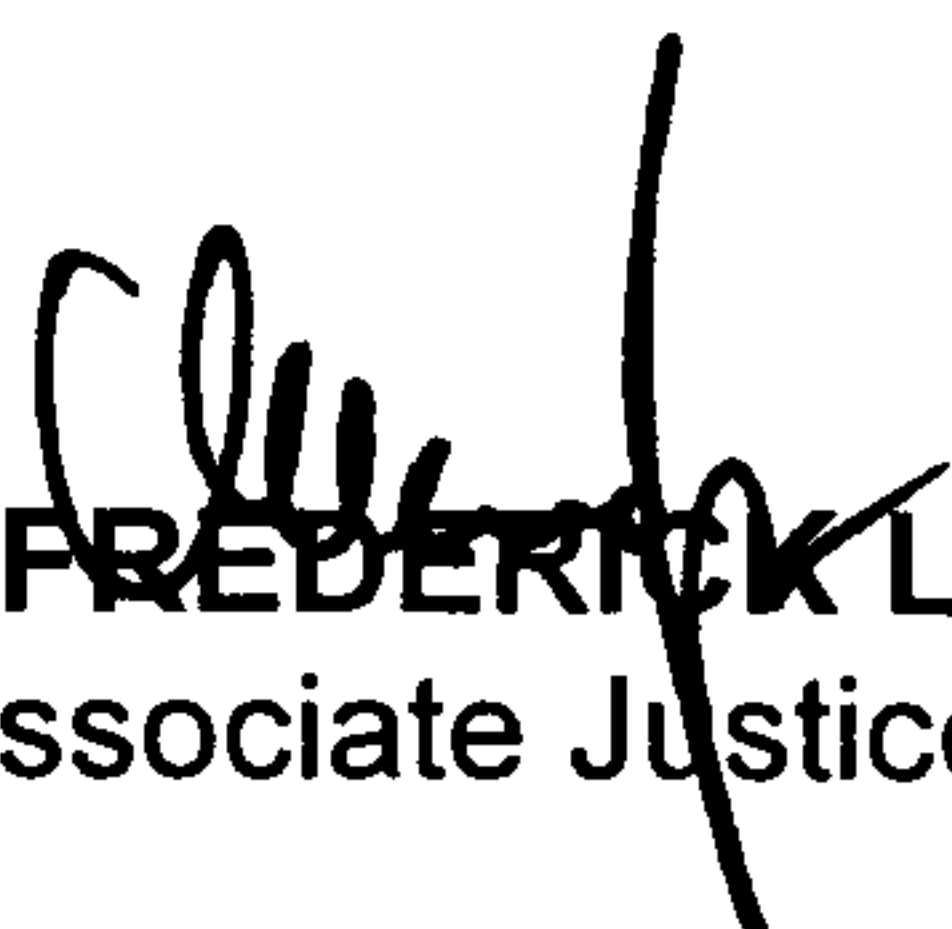
1) To deny the **Motion To Quash** dated April 20, 2017 and **Urgent Manifestation and Supplemental Motion To Quash** dated June 27, 2017, both filed by accused Enrico R. Echiverri, Edna V. Centeno and Jesusa C. Garcia, through counsel;

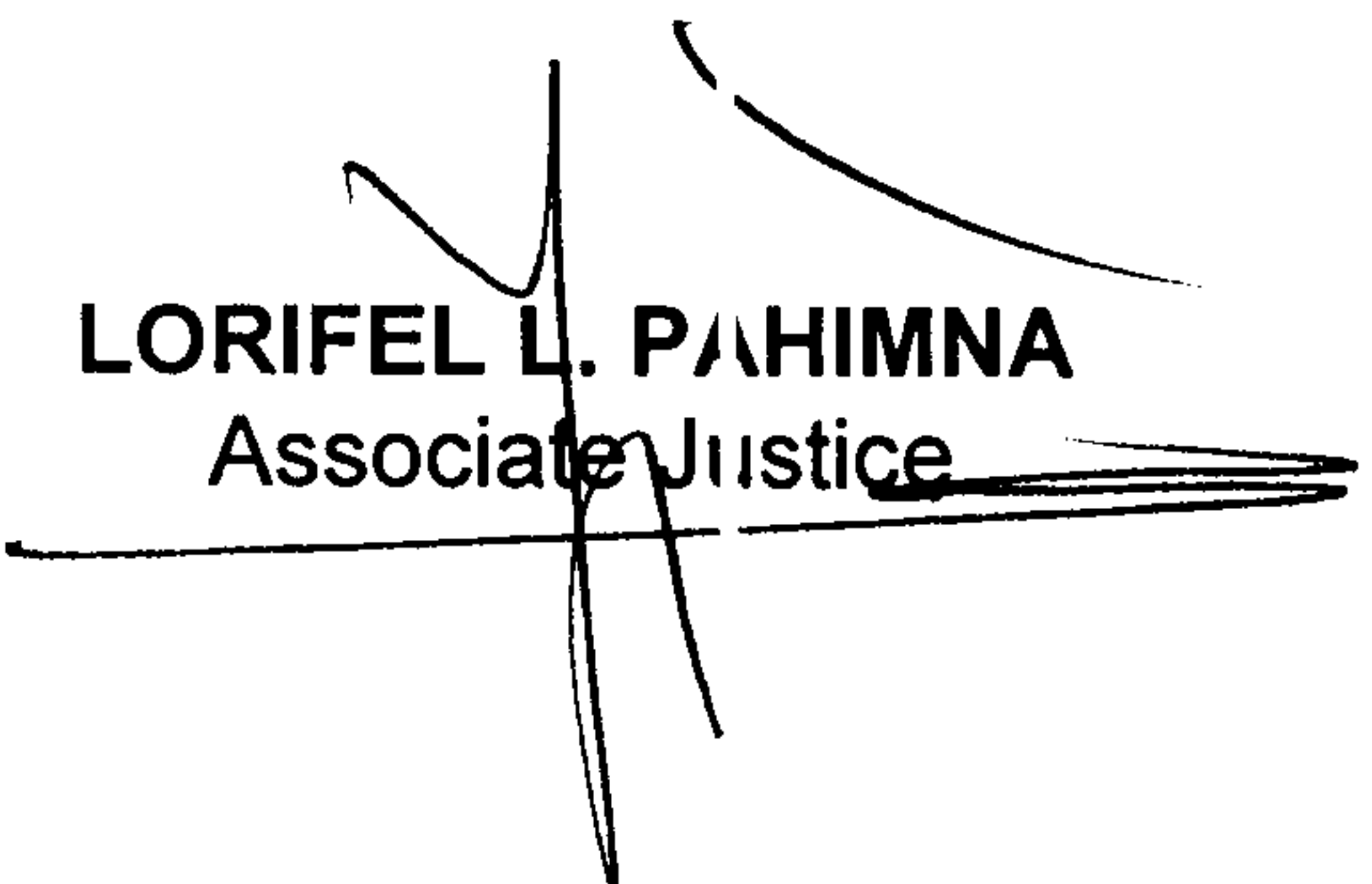
-and-

2) To deny the **Motion For Reconsideration** dated April 23 2017, filed by the aforesaid accused, through counsel.


OSCAR C. HERRERA, JR.
Chairperson

We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


LORIFEL L. PAHIMNA
Associate Justice