



Republic of the Philippines  
*Sandiganbayan*  
Quezon City  
\*\*\*

SEVENTH DIVISION

*MINUTES of the proceedings held on October 5, 2017.*

*Present:*

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson  
ZALDY V. TRESPESES ----- Associate Justice  
LORIFEL L. PAHIMNA\* ----- Associate Justice

The following resolution was adopted:

**Criminal Case Nos. SB-17-CRM-1498 to 1505 – People v. Thomas De Lara Dumpit, Jr., et al.**

This resolves the following:

1. Accused Thomas De Lara Dumpit, Jr.'s "OMNIBUS MOTION: FOR JUDICIAL DETERMINATION OF PROBABLE CAUSE; FOR BILL OF PARTICULARS; URGENTLY, FOR DEFERMENT OF ISSUANCE OF WARRANT OF ARREST AND SUSPENSION OF FURTHER PROCEEDINGS"<sup>1</sup> dated August 5, 2017;

2. Prosecution's "COMMENT/OPPOSITION (ON THE OMNIBUS MOTION OF ACCUSED DUMPIT, JR. DATED AUGUST 5, 2017)"<sup>2</sup> dated August 24, 2017;

3. Accused Thomas De Lara Dumpit, Jr.'s "REPLY TO PROSECUTION'S COMMENT/OPPOSITION (ON THE OMNIBUS MOTION OF ACCUSED DUMPIT, JR. DATE [sic] AUGUST 5, 2017) WITH MOTION FOR PRODUCTION OF MATERIAL DOCUMENTS/EVIDENCE – THE APPROPRIATION LAW AND IMPLEMENTING RULES COMMONLY ALLEGED IN ALL THE INFORMATION FILED IN THE ABOVE-ENTITLED CASES"<sup>3</sup> dated August 28, 2017; and

4. Prosecution's "REJOINDER/COMMENT (ON THE REPLY WITH MOTION OF ACCUSED DUMPIT, JR., DATED AUGUST 28, 2017)"<sup>4</sup> dated September 7, 2017.

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\* Per Administrative Order No. 339-2017 dated October 3, 2017

<sup>1</sup> Records, Vol. 1, pp. 381-397

<sup>2</sup> Records, Vol. 2, pp. 81-87

<sup>3</sup> *Id.* at 126-130

<sup>4</sup> *Id.* at 229-232

*ij.*

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A report by the Commission on Audit (COA) that the Priority Development Assistance Fund (PDAF) funded projects of accused Thomas De Lara Dumpit, Jr. [**“accused”**] turned out to be inexistent or “ghost projects” set in motion the filing of eight (8) Informations against him and several others for violation of Section 3 (e) of *Republic Act No. 3019 (R.A. 3019)*, Malversation, and Malversation through Falsification. However, before a warrant of arrest could be issued against him, accused filed an *Omnibus Motion: For Judicial Determination of Probable Cause; For Bill of Particulars; Urgently, For Deferment of Issuance of Warrant of Arrest and Suspension of Further Proceedings*.

### THE OMNIBUS MOTION OF THE ACCUSED

Accused’s stance is threefold:

- (1) Accused moves for a *judicial determination of probable cause*. An information filed is the “bible of the case.” Upon comparing the Informations, accused found that there is a specific allegation that was made in the cases for Malversation (docketed as Criminal Case Nos. SB-17-CRM-1504 to 1505), but which was not found in the cases for Malversation through Falsification (docketed as Criminal Case Nos. SB-17-CRM-1502-1503). Accused advances that he has a right to be fully informed of the nature and cause of the accusation against him. As such, the charges must be more specific instead of leaving him in a state of speculation as to why he is being prosecuted.
- (2) In relation to the foregoing, accused seeks a *bill of particulars* on the following particular data which the prosecution failed to indicate: (a) regarding his PDAF allotment, the *specific fiscal year* of the *appropriation law* concerned, including the specific provisions of its corresponding *implementing rules*; and (b) the *specific item or provision* in said appropriation law indicating the *amount of accused’s PDAF allocation* covered by the two Special Allotment Release Orders (SAROs) Nos. ROCS-09-04848 and D-08-01442.

Accused further assails the factual basis of the allegations against him. He raises additional questions which should be clarified by the prosecution, such as: who authorized the creation of PDAF; who determines the allocations of PDAF; can a congressman, such as accused, demand the release of a PDAF allocation as a matter of right from the Department of Budget and Management, among others.

- (3) Accused *denies having committed falsification of public documents*. While his signature appears on various documents, this fact alone is insufficient to convict because a charge of falsification must be supported with independent corroborative evidence. As a former congressman, accused’s role was merely to request the Speaker of the House and the Chairman of the Committee on Appropriations to allocate an amount from the appropriations law which was then treated as the PDAF for his district. Accused points out that it was the Technology Resource Center (TRC) which had the full



responsibility in the implementation of the livelihood projects subject of the complaints.

Thus, accused prays that his Omnibus Motion be granted.

#### THE COMMENT/OPPOSITION OF THE PROSECUTION

As to the motion for judicial determination of probable cause, the prosecution asserts that the same is a mere superfluity for with or without such motion, the judge is duty-bound to personally evaluate the prosecutor's resolution and the supporting evidence.

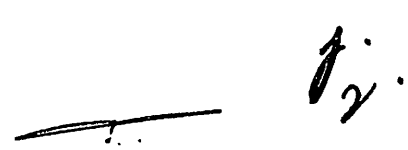
As to a bill of particulars and the right to be informed of the nature and cause of the accusations, the eight Informations set forth the ultimate facts necessary to support the charges against accused. It has already been alleged that the acts complained of took place "in 2008, or sometime prior or subsequent thereto." Appropriation laws are enacted every year, each of which contains portions allocated to congressmen for their respective PDAF, which is commonly known as "pork barrel." In any case, the specific appropriation law from which accused's PDAF was derived and used to fund "ghost projects" is not the fact in issue.

Moreover, the prosecution points out that accused's demands essentially direct it to move forward and present its evidence, which is not proper given the preliminary stage of the case. The data sought by accused can be found in the COA's audit of the allocation and utilization of the PDAF for the years 2007 to 2009. This audit led to the discovery that accused was responsible for identifying projects and the corresponding implementing agency, which is the TRC. Accused authored certain endorsement letters specifying the non-governmental organizations (NGOs), namely Aaron Foundation Philippines, Inc. (AFPI) and Kabuhayan at Kalusugang Alay sa Masa Foundation (KKAMFI), which would handle the projects, without the benefit of bidding as required by law. Then TRC released funds to them. However, the total amount of Six Million Five Hundred Thousand Pesos (P6,500,000.00) was never used for the intended purposes. Accused, by reason of his office as a legislator, exercised control and custody of the PDAF allocated to him. As such, he must be accountable for the same under existing law and jurisprudence.

Hence, the prosecution prays that the Omnibus Motion be denied.

#### ACCUSED'S REPLY WITH MOTION FOR PRODUCTION OF MATERIAL DOCUMENTS/EVIDENCE

Accused maintained his position that he has the right to be informed of the accusations against him, and reiterates that the allegations against him are too general. Since the prosecution refused to indicate the data sought, accused



now moves to be furnished the *specific* material documents, specifically the “appropriation law and its implementing rules” as alleged in the Informations.

### PROSECUTION’S REJOINDER

The prosecution counters that it is unnecessary to provide accused with the appropriation law sought by him. Section 1, Rule 129 of the *Rules on Evidence* dispenses with the need to prove official acts of the legislative, such as the appropriations laws it enacts on an annual basis. As such, it is not valid for accused to claim that he was denied of his right to be informed of the nature and cause of the accusations against him.

### OUR RULING

A judicious evaluation of the positions presented, and a careful examination of the records in detail reveal that accused’s Motions must be denied.

A MOTION FOR JUDICIAL  
DETERMINATION OF PROBABLE  
CAUSE IS NOW A PROHIBITED  
PLEADING AND MUST BE DENIED  
OUTRIGHT.

*A.M. No. 15-06-10-SC* otherwise known as the *Revised Guidelines for Continuous Trial of Criminal Cases*, which took recent effect on September 1, 2017, provides:

2. Motions

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(b) *Prohibited Motions.* - Prohibited motions shall be **denied outright** before the scheduled arraignment without need of comment and/ or opposition.

The following motions are prohibited:

- i. **Motion for judicial determination of probable cause.**  
(Emphasis supplied)

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The abovesited provision is clear: a motion for judicial determination of probable cause is an expressly prohibited motion. Conformably therewith, this Court is mandated to deny outright such motion filed by accused.

A BILL OF PARTICULARS, OR THE  
PRODUCTION OF MATERIAL

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DOCUMENTS, SOUGHT BY THE ACCUSED IS NOT WARRANTED UNDER THE CIRCUMSTANCES.

Considering that accused's motion for bill of particulars is closely intertwined with his motion for production of material documents, the same shall be discussed jointly.

When the allegations in an information are vague, the remedy of the accused is to file a motion for a bill of particulars. The function of a bill of particulars is to give information not contained in the pleading to the opposite party and the court as to the precise nature, character, scope, and extent of the cause of action or defense relied on by the pleader, and apprise the opposite party of the case which he or she has to meet, to the end that the proof at the trial may be limited to the matters specified, and in order that surprise at, and needless preparation for, the trial may be avoided, and that the opposite party may be aided in framing his or her answering pleading and preparing for trial.<sup>5</sup>

Jurisprudence holds, as a rule, that an information need only state the *ultimate facts* constituting the offense and not the finer details of why and how the crime was committed.<sup>6</sup> Evidentiary matters and other details can be provided during the trial.<sup>7</sup>

The following matrix illustrates the elements of the pertinent crimes vis-à-vis the facts as alleged in the Informations:

<i>Criminal Case Nos. SB-17-CRM-1498 to 1501</i>	
<b>Elements of violation of Section 3 (e) of R.A. 3019<sup>8</sup></b>	<b>Salient portions as alleged in one of the Informations<sup>9</sup></b>
(1) the offender must be a public officer discharging administrative, judicial, or official functions;	"In 2008 or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction; accused THOMAS DUMPIT, JR., the then Congressman of the 2 <sup>nd</sup> District of La Union . . . all public officers and while in the performance of their administrative and/or official functions"
(2) he must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and	"acting with manifest partiality, and/or evident bad faith;"
(3) his action caused undue injury to any party, including the government, or gave any private party unwarranted benefits,	"did then and there willfully, unlawfully, and criminally cause undue injury to the government and give unwarranted benefits"

<sup>5</sup> *Virata v. Sandiganbayan*, G.R. No. 106527, April 6, 1993

<sup>6</sup> *People v. Sandiganbayan*, G.R. No. 160619, September 9, 2015

<sup>7</sup> *People v. Romualdez*, G.R. No. 166510, July 23, 2008

<sup>8</sup> *Lim v. Deputy Ombudsman for the Military and Other Law Enforcement Officers*, G.R. No. 201320, September 14, 2016

<sup>9</sup> Criminal Case No. SB-17-CRM-1498

advantage or preference in the discharge of his functions.

and advantage to said private individuals in the amount of FOUR HUNDRED THOUSAND PESOS (P400,000.00), more or less, through a scheme described as follows:

- a) Dumpit unilaterally chose and endorsed in writing, the Kabuhayan at Kalusugang Alay sa Masa Foundation (KKAMFI), a non-government organization (NGO) operated and/or controlled by the aforementioned private individuals, as "project partner" in implementing livelihood development projects involving the procurement of Livelihood Technology Kits of farmers in his legislative district, which were funded by Dumpit's Priority Development Assistance Fund (PDAF) allocation covered by Special Allotment Release Order No. ROCS-0804848 in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with KKAMFI being unqualified to undertake the projects;

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- e) The above acts by the accused public officials caused undue injury to the government as the livelihood projects turned out to be non-existent, thus giving KKAMFI unwarranted benefits and preferences, allowing it to unduly profit from the fictitious transaction."

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<i>Criminal Case Nos. SB-17-CRM-1502 to 1503</i>	
<b>Elements of Malversation<sup>10</sup></b>	<b>Salient portions as alleged in one of the Informations<sup>11</sup></b>
(1) that the offender is a public officer;	“In 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court’s jurisdiction; accused THOMAS DUMPIT, JR., the then Congressman of the 2 <sup>nd</sup> District of La Union . . . all public officers and while in the performance of their administrative and/or official functions;”
(2) that he had the custody or control of funds or property by reason of the duties of his office;	“Dumpit, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law”
(3) that the funds or property were public funds or property for which he was accountable; and	Same
(4) that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.	<p>“did then and there willfully, unlawfully, and criminally allow private individuals to take public funds amounting to at least FOUR HUNDRED THOUSAND PESOS (P400,000.00), more or less, through a scheme described as follows:</p> <p>a) Dumpit a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law, unilaterally chose and requested the Kabuhayan at Kalusugang Alay sa Masa Foundation (KKAMFI), a non-government organization (NGO) operated and/or controlled by the aforementioned private individuals, as “project partner” in implementing livelihood development projects involving the procurement of Livelihood Technology Kits for farmers in his legislative district, which were funded by Dumpit’s Priority Development Assistance Fund (PDAF) allocation covered by Special Allotment Release Order No. ROCS-08-04848 in disregard of the appropriation law and its</p>

<sup>10</sup> *Mesina v. People*, G.R. No. 162489, June 17, 2015

<sup>11</sup> Criminal Case No. SB-17-CRM-1502

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	<p>implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with KKAMFI being unqualified to undertake the projects;</p> <p style="text-align: center;">xxx</p> <p>e) The above acts by the accused public officials allowed KKAMFI to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, thus allowing it to unduly profit from the fictitious transaction.”</p>
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<i>Criminal Case Nos. SB-17-CRM-1504 to 1505</i>	
<p><b>Elements of Malversation through Falsification under Article 171 (4) of the Revised Penal Code <sup>12</sup></b></p>	<p><b>Salient portions as alleged in one of the Informations<sup>13</sup></b></p>
<p>(1) the offender makes in a public document untruthful statements in a narration of facts;</p>	<p>“accused THOMAS DUMPIT, JR. . . . conspiring with one another and with private individuals . . . did then and there willfully, unlawfully, and criminally allow private individuals to take public funds amounting to at least FIFTY THOUSAND PESOS (P50,000.00), more or less, through a scheme described as follows:</p> <p>a) Dumpit . . . unilaterally chose and requested the Kabuhayan at Kalusugang Alay sa Masa Foundation (KKAMFI) . . . as “project partner” in implementing livelihood development projects involving the procurement of Livelihood Technology Kits for farmers in his legislative district</p> <p style="text-align: center;">xxx</p> <p>b) Dumpit and TRC’s Ortiz, then entered into a Memorandum of Agreement (MOA) with KKAMFI on the purported implementation of Dumpit’s PDAF-funded projects;</p>

<sup>12</sup> Corpuz, Jr. v. People, G.R. Nos. 212656-57, November 23, 2016

<sup>13</sup> Criminal Case No. SB-17-CRM-1504

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	<p>c) Ortiz also facilitated, processed, and approved the disbursement of the subject PDAF release by signing Disbursement Voucher No. 012008092034 along with Cunanan, Lacsamana, Espiritu, Jover, who certified that the expenses were necessary and lawful and incurred under their direct supervision, and that supporting documents were complete; as well as causing the issuance of LBP Check No. 0889963 in the amount of P50,000.00 to KKAMFI which was signed by Ortiz and Figura, without accused TRC officers having carefully examined and verified the accreditation and qualifications of KKAMFI as well as the transaction's supporting documents;</p> <p>d) Antonio, acting for and in behalf of KKAMFI, acknowledged receipt of the above-described check issued by KKAMFI; she also prepared and signed the Project Proposal, and Work and Financial Plan for the projects as well as other liquidation documents showing that the project was implemented but in fact was not. Said proposals and plans were concurred in by Dumpit and noted by Ferrer as KKAMFI corporate secretary”</p> <p style="text-align: center;">xxx</p>
<p>(2) the offender has a legal obligation to disclose the truth of the facts narrated by him or her; and</p>	<p style="text-align: center;">Same</p>
<p>(3) the facts narrated by the offender are absolutely false.</p>	<p>e) “The above acts by the accused public officials allowed KKAMFI to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, while both public officers and private individuals, in concert, facilitated the preparation and submission of falsified reports and documents to facilitate the</p>

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	release of the amount of, P50,000.00, thus allowing it to unduly profit from the fictitious transaction.”
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After judiciously examining the Informations filed, We find that the prosecution sufficiently averred the ultimate facts comprising the elements of the crimes for which accused was charged.

Nonetheless, accused is insistent that the allegations in the Informations lack certain material data (such as: the specific year of the appropriations law, its implementing rules, and the specific item thereof indicating the amount of accused’s PDAF allocation) and demands that the prosecution furnish him the same. The prosecution should provide the factual bases for its allegations, and further, answer certain queries he raised, for instance: who authorized the creation of PDAF; who determines the allocations of PDAF; and can a congressman, such as accused, demand the release of a PDAF allocation as a matter of right from the Department of Budget and Management, among others.

Accused is mistaken.

It must be emphasized that it is not the function of the bill of particulars to furnish the accused with the evidence of the prosecution.<sup>14</sup> The prosecutor is not even required to include in the bill of particulars matters of evidence relating to how the people intend to prove the elements of the offense charged or how the people intend to prove any item of factual information included in the bill of particulars.<sup>15</sup> The questions accused raised in an effort to assail his indictment are essentially matters of defense or evidentiary in nature, which need not be stated in the Informations.<sup>16</sup> They are thus best left for now, to be resolved only after a full-blown trial on the merits.

Moreover, Section 1, Rule 129 of the *Revised Rules on Evidence* provides that official acts of the legislative, executive, and judicial departments of the Philippines are part of the matters which need not be proved because courts are compelled to take mandatory judicial notice thereof. As pointed out by the prosecution, the annual appropriations laws enacted by Congress, including the items contained therein and its implementing rules, are official acts which dispense with the need of proof as this Court is mandated to take judicial notice thereof. Ergo, there is no need for the prosecution to furnish accused the “specific material documents” sought by the latter.

It may even be said that accused appears to understand the nature and the cause of his indictment being that, at this stage of the proceedings, he was

<sup>14</sup> *Enrile v. People*, G.R. No. 213455, August 11, 2015

<sup>15</sup> *Ibid.*

<sup>16</sup> *People v. Sandiganbayan*, G.R. No. 160619, September 9, 2015

already able to craft matters of defense. Interestingly, while he wishes to be informed of specific details of the appropriation laws subject of the charges, he became spontaneous enough to acknowledge the “existence of the duly approved GAA” before a PDAF allocation is released.<sup>17</sup> Verily, there is no ambiguity in this instance.

In fine, the prosecution sufficiently alleged the ultimate facts constituting the offenses in the eight (8) Informations it filed. As accused was not able to show that there was vagueness or ambiguity impairing the averments in the said Informations, his motion for production of documents, much less a bill of particulars, does not prosper.

THE DEFERMENT OF THE  
ISSUANCE OF A WARRANT OF  
ARREST AND THE SUSPENSION OF  
THE PROCEEDINGS ARE NOT  
PROPER.

After a meticulous consideration of the separate positions presented and an independent examination of the records at length, it is evident that probable cause exists for the issuance of a warrant of arrest not only against accused, but also for the other co-accused in connection with the charges filed. Documents forming part of the records suggest that accused, with the participation of the other co-accused, appears to have perpetuated a scheme involving the use of his PDAF allotment to fund livelihood projects intended to benefit his constituents, farmers of the 2<sup>nd</sup> District of La Union, but in reality, said projects turned out to be inexistent or ghost projects.

While accused vehemently denies falsifying any documents and passes the blame for such acts to others, it is apparent that this contention is essentially a matter of defense which can be properly appreciated and determined only after a trial on the merits. As a rule, forgery is not presumed and it must be proved by clear, positive and convincing evidence by the party alleging it.<sup>18</sup> It is thus premature to ask for a dismissal of the charge considering the preliminary evidence set before this Court at this stage of the proceedings.

Moreover, the concomitant prayer of accused to defer the issuance of a warrant of arrest against him encroaches upon the exclusive prerogative of this Court and should be denied outright. The salient portion in the case of *Viudez II v. Court of Appeals*<sup>19</sup> is quoted hereunder:

The function of the judge to issue a warrant of arrest upon the determination of probable cause is exclusive; thus, the consequent implementation of a warrant of arrest cannot be deferred pending the resolution of a petition for review by the Secretary of Justice as to the finding of probable cause, a function that is executive in nature. To defer

<sup>17</sup> *Vide*: Accused's Omnibus Motion dated August 5, 2017 (Records, Vol. 1, p. 391)

<sup>18</sup> *Philippine Trust Company v. Gabinete*, G.R. No. 216120, March 29, 2017

<sup>19</sup> G.R. No. 152889, June 5, 2009



the implementation of the warrant of arrest would be an encroachment on the exclusive prerogative of the judge. xxx

**Therefore, the discretion of the court whether or not to suspend the proceedings or the implementation of the warrant of arrest, upon the motion of the appellant or the trial prosecutor, remains unhindered.** This is in consonance with the earlier ruling of this Court that once a complaint or information is filed in court, any disposition of the case as to its dismissal, or the conviction or acquittal of the accused, rests on the sound discretion of the said court, as it is the best and sole judge of what to do with the case before it. In the instant case, the judge of the trial court merely exercised his judicial discretion when he denied petitioner's motion to suspend the implementation of the warrant of arrest. Consequently, the CA was correct when it found no whimsicality or oppressiveness in the exercise of the trial judge's discretion in issuing the challenged orders. (Emphasis supplied)

**WHEREFORE**, in view of the foregoing:

1. The *Omnibus Motion: For Judicial Determination of Probable Cause; For Bill of Particulars; Urgently, For Deferment of Issuance of Warrant of Arrest and Suspension of Further Proceedings* filed by accused Thomas De Lara Dumpit, Jr. is **DENIED**; and
2. The *Motion for Production of Material Documents/Evidence – The Appropriation Law and Implementing Rules Commonly Alleged in all the Informations Filed in the Above-Entitled Cases* is **DENIED**.

Finding the existence of probable cause, let a warrant of arrest **ISSUE** against accused Thomas De Lara Dumpit, Jr. in these cases.

Having noted that this Court already issued warrants of arrest against all of the co-accused<sup>20</sup> as per Order dated September 20, 2017,<sup>21</sup> let the arraignment and pre-trial of accused Maria Rosalinda Masongsong Lacsamana, Fe M. Magtira (or Magtira), Dennis Lacson Cunanan, and Pio Ablaza Ronquillo, Jr. proceed, as scheduled, on October 6, 2017 at 8:30 in the morning at the Fourth Division Courtroom, 4<sup>th</sup> Floor, Sandiganbayan Building, Quezon City.

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<sup>20</sup> Save for those who have already posted bail for their provisional liberty


<sup>21</sup> Records, Vol. 2, p. 267

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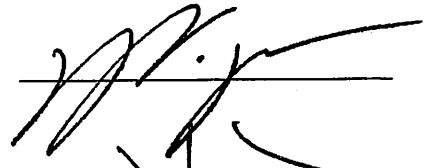
**SO ORDERED.**

**GOMEZ-ESTOESTA, J., Chairperson**



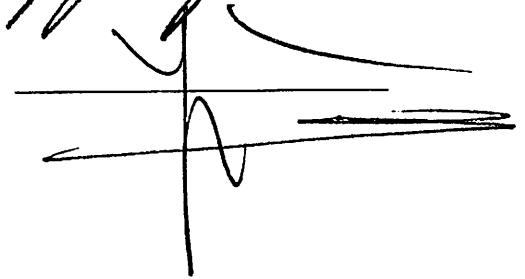
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**TRESPESES, J.**



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**PAHIMNA, J.**



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