

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

People of the Philippines,
Plaintiff,

Crim. Cases Nos. SB-17-CRM-1507 &
SB-17-CRM-1508

*For: Violation of Section 3(e) of
R.A. 3019, as amended*

-versus-

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

Gregorio B. Honasan II, et al.,
Accused.

Promulgated:

October 27, 2017

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RESOLUTION

HERRERA, JR., J:

This resolves the ***Motion For Reconsideration***¹ dated September 27, 2017, filed by accused Gregorio B. Honasan II (Movant for short), through counsel, praying for reconsideration of the Court's ***Resolution***² issued on September 22, 2017, denying movant's ***Omnibus Motion to Quash Warrants of Arrest, to Dismiss the Case and to Defer Arraignment***³ dated September 15, 2017. The plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Comment/Opposition [Re: Motion for Reconsideration dated September 27, 2017 filed by Gregorio Honasan II (accused movant)]***⁴ dated October 6, 2017.

On August 7, 2017, the Court issued two (2) separate ***Resolutions***⁵ in Criminal Cases Nos. SB-17-CRM-1507 and 1508 finding probable cause to hold the movant, et al. for trial and thereby directing the issuance of warrants of arrest against them. Said ***Resolutions*** uniformly read, insofar as pertinent:

¹ Record, Vol. 2, pp. 145-150

² Id, pp. 151-153

³ Id, pp. 36-84

⁴ Id, pp. 174-179

⁵ Record, Vol. 1, pp. 352-353

Carph *M*

[Signature]

“After perusing the **Information** and carefully evaluating the **Joint Resolution** dated August 9, 2016 and **Joint Order** dated April 12, 2017, both of the Office of the Ombudsman, as well as the supporting evidence, conformably with **Section 5(a), Rule 112 of the Rules of Court**, the Court finds that there is sufficient probable cause to hold the accused in this case for trial and issue a warrant of arrest against them.

WHEREFORE, let a warrant of arrest be issued against the following accused: **1) Gregorio Ballesteros Honasan II;**
2) Michael L. Benjamin; xxx.”

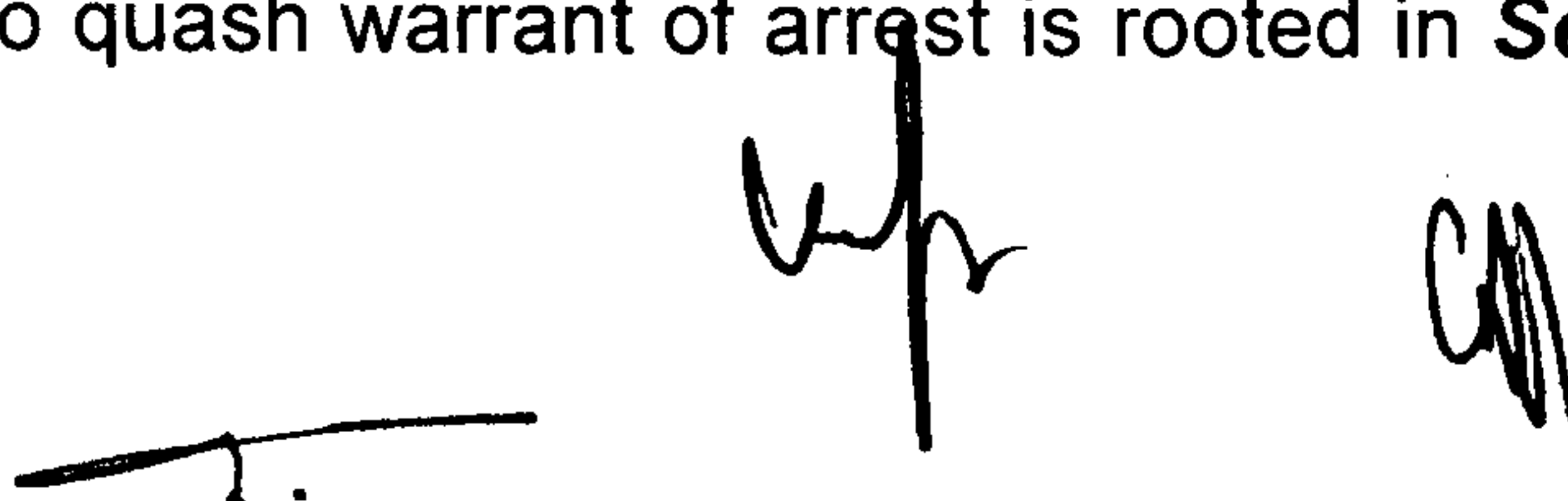
In the **Resolution** of September 22, 2017, given in open court, the Court ruled, *inter alia*:

“With respect to accused Gregorio B. Honasan, said accused, through counsel Atty. Dennis P. Manalo, moved for the deferment of the arraignment, on the ground that he filed on September 18, 2017 an **Omnibus Motion to Quash Warrant of Arrest, To Dismiss The Case Or To Order Its Reinvestigation, and to Defer Arraignment.**

The Court denied the **Omnibus Motion, etc.**, it being a prohibited motion under the **Guidelines For Continuous Trial of Criminal Cases** for the following reasons: First, although entitled **Motion To Quash Warrant of Arrest, To Dismiss The Case**, it is actually a motion for judicial determination or re-determination of probable cause, as may be gleaned from the allegations therein and in the prayer for relief. Second, the **Motion for Reinvestigation** was filed without prior leave of Court and beyond the five (5) day period from notice of the resolution of the Office of the Ombudsman, as required in **Administrative Order no. 7 on the Rules Of Procedure Of The Office Of The Ombudsman.**”⁶

In his instant **Motion For Reconsideration**, movant contends that the Court misinterpreted his **Motion To Quash Warrant Of Arrest** as a prohibited motion for judicial determination of probable cause. Movant claims that a motion for judicial determination of probable cause, which is prohibited, is filed prior to the issuance of a warrant of arrest; while a motion to quash warrant of arrest is filed after the warrant has been issued. He asserts that a motion to quash warrant of arrest is rooted in **Section 2,**

⁶ Record, Vol. 2, pp. 151-152



Article III – Bill of Rights of the 1987 Constitution ordaining that “no warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce.”⁷

After a careful study, the Court finds that movant’s **Motion For Reconsideration** is devoid of merit. The Court correctly read and interpreted movant’s motion as one for judicial determination or re-determination of probable cause, although entitled **Omnibus Motion To Quash Warrant Of Arrest, To Dismiss The Case, etc.**

In his aforementioned **Omnibus Motion To Quash Warrant Of Arrest, etc.**, movant avers, *inter alia*:

“10. Honasan implores the Honorable Court to review and reconsider its Resolution dated 07 August 2017 finding probable cause in issuing the warrants of arrest against him. This is in the light of quite exceptional circumstances and events that prove an unauthorized extremely prejudicial and politically motivated disposition of the captioned cases at the level of the Ombudsman.”⁸

In the prayer for relief, movant pleads:

“WHEREFORE, premises considered, it is more respectfully prayed that:

1. The arraignment on 22 September 2017 at 8:30 a.m. be DEFERRED pending resolution of this Omnibus Motion; and
2. **After due proceedings, the Warrants of Arrest against accused GREGORIO B. HONASAN II be QUASHED and the cases be DISMISSED as against him for LACK OF PROBABLE CAUSE and/or LACK OR ABUSE OF AUTHORITY OF THE OMBUDSMAN in filing the Informations in the captioned cases. In the alternative, let these cases be referred to the Office of the Special Prosecutor for reinvestigation to afford said accused a full, fair and impartial preliminary investigation.”⁹**

⁷ Id, pp. 147-148

⁸ Id, pp. 40-41

⁹ Id, pp. 50-51



In the same ***Omnibus Motion To Quash Warrants Of Arrest, etc.***,
movant alleges:

“II. THERE ARE MANIFEST ERRORS IN THE DETERMINATION OF PROBABLE CAUSE FOR THE ISSUANCE OF THE WARRANTS OF ARREST AGAINST HONASAN.”¹⁰

From there, movant argues that:

“ – HONASAN DID NOT COMMIT ANY ACT THAT COULD HAVE CAUSED ANY UNDUE INJURY TO THE GOVERNMENT OR GIVEN ANY PRIVATE PARTY UNWARRANTED BENEFITS, ADVANTAGE OR PREFERENCE IN THE DISCHARGE OF HIS FUNCTIONS.

xxx.

- HONASAN MERELY COMPLIED WITH NCMF PRACTICES/REGULATIONS IN NAMING FOCUS AS THE NGO FOR THE LIVELIHOOD PROJECTS:

xxx.

- THE ALLEGED LETTER OF HONASAN WAS RECOMMENDATORY AT MOST. AT ANY RATE, IT WAS THE NCMF THAT SELECTED FOCUS.

xxx.

- HONASAN COULD NOT HAVE ACTED WITH MANIFEST PARTIALITY, EVIDENT BAD FAITH OR INEXCUSABLE NEGLIGENCE.

xxx.

- THERE IS NO PROBABLE CAUSE TO ESTABLISH A CONSPIRACY OR THE INVOLVEMENT HONASAN IN THE SELECTION OF FOCUS.”¹¹

The aforementioned arguments are exactly the same ones that movant raised in an ***Opposition (To the Issuance of Warrant of Arrest)***¹² dated August 3, 2017 which he filed on August 4, 2017, prior to the Court's judicial determination of probable cause on August 7, 2017, and where he prayed as follows:

¹⁰ Id, p. 44

¹¹ Id, pp. 45-46

¹² Record, Vol. 1, pp. 291-311



“WHEREFORE, premises considered, it is most respectfully prayed that the case be dismissed as against accused GREGORIO B. HONASAN II for lack of probable cause.”¹³

Very clearly, the aforesaid ***Opposition, etc.*** was actually a motion for judicial determination of probable. But since such motion is prohibited, it was entitled ***Opposition, etc.***

Very clearly too, movant is now actually asking the Court to again make a judicial determination or re-determination of probable cause and nothing more.

Contrary to movant’s assertion, his instant motion is not a ***Motion To Quash Warrant Of Arrest*** rooted in ***Section 2, Article III of the Bill of Rights*** which reads, insofar as pertinent:

“Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and **no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.**”

Here, the Court issued the warrants of arrest after having judicially determined the existence of probable cause, pursuant to the above provisions of the ***Bill of Rights*** and conformably with ***Section 5(a), Rule 112 of the Rules of Court.***

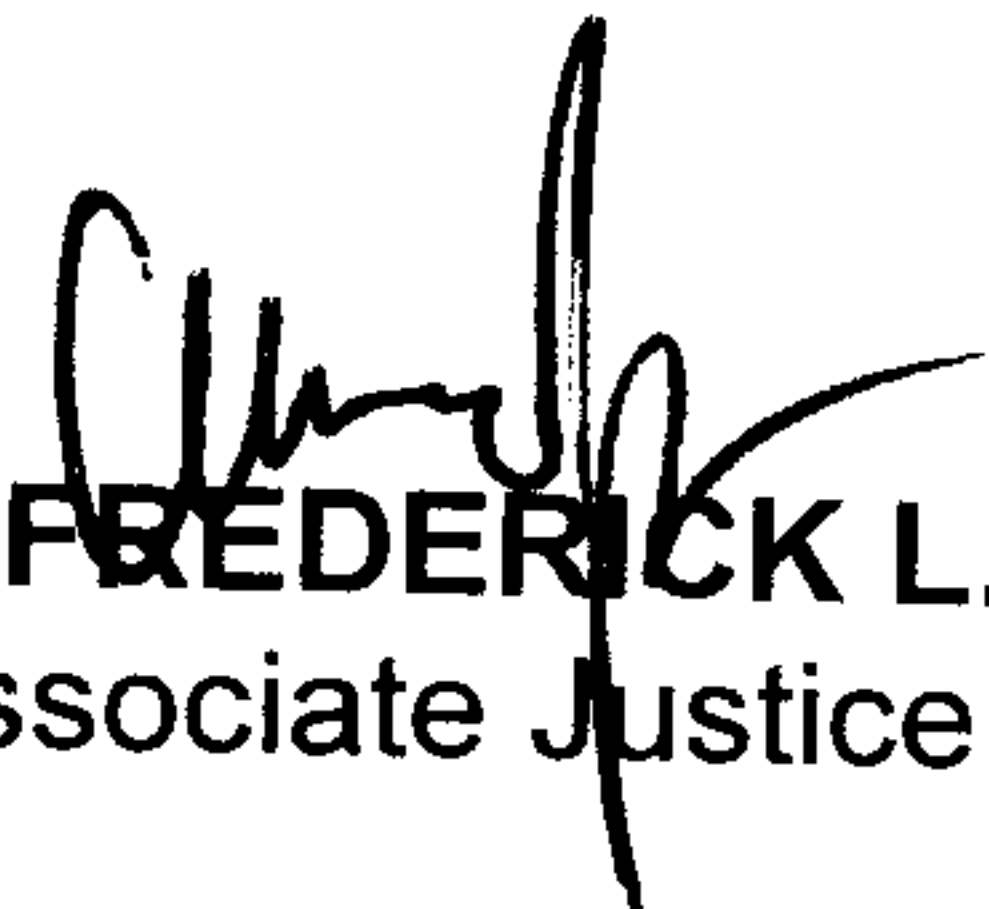
WHEREFORE, the ***Motion For Reconsideration*** dated September 27, 2017, filed by accused Gregorio B. Honasan II, through counsel, is hereby denied.

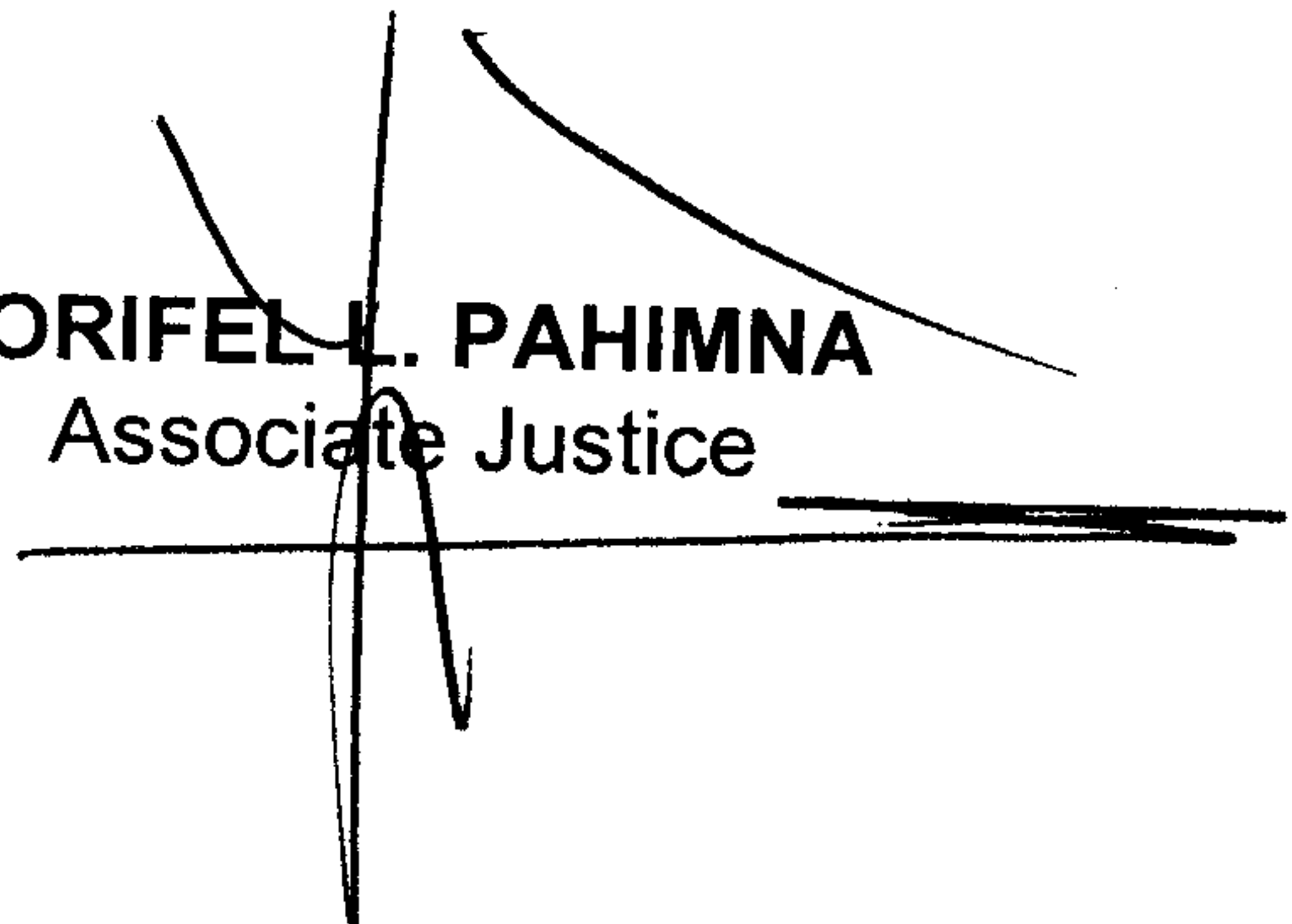
¹³ Id, p. 311




OSCAR C. HERRERA, JR.
Chairperson

We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


LORIFEL L. PAHIMNA
Associate Justice