



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**SB-17-CRM-0778 to 0781**  
For: Violations of Section 3(e),  
R.A. No. 3019

- versus -

**DATU SAJID ISLAM UY AMPATUAN,**  
**ET AL.,**  
*Accused.*

**SB-17-CRM-0782 to 0785**  
For: Violations of Article 217,  
Revised Penal Code

**SB-17-CRM-0786 to 0922**  
For: Violations of Article 171,  
Revised Penal Code

*Present:*

**FERNANDEZ, SJ, J.**  
*Chairperson*  
**MIRANDA, J. and**  
**VIVERO, J.**

*Promulgated:*

**OCT 01 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Leave to File Demurrer to Evidence*<sup>1</sup> filed by accused Datu Sajid Islam Uy Ampatuan, together with the *Opposition*<sup>2</sup> filed by the prosecution.

Accused Ampatuan contends that the evidence adduced by the prosecution is insufficient to establish his guilt beyond reasonable doubt of the crimes charged.<sup>3</sup> Accused Ampatuan

<sup>1</sup> (For Datu Sajid Islam Uy Ampatuan) dated July 13, 2018; received through mail by the Court on July 21, 2018.

<sup>2</sup> (Re: Accused Ampatuan's Motion for Leave to File Demurrer to Evidence dated 13 July 2018) dated July 26, 2018; filed on July 27, 2018.

<sup>3</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, p. 2.

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argues that the following negate his guilt for violation of Section 3(e) of Republic Act No. 3019, Articles 217 (Malversation of Public Funds) and 171 (Falsification of Public Document) of the Revised Penal Code:

- a. The prosecution failed to prove that he had a hand in the preparation and issuance of the subject Disbursement Vouchers, Purchase Orders, Purchase Requests, and Bid Documents. There is likewise no evidence that he knew that the documents were illegal or spurious. The signatures on the documents appear to have been stamped or printed out of a computer template. Moreover, there was no signature above his name on Exhibits D-37 and series to D-45 and series. Hence, he could not be held guilty of knowingly making untruthful statements in a narration of facts.<sup>4</sup>
- b. There is no convincing evidence that he knew that the alleged suppliers are fictitious and/or non-existent. He has no obligation to determine that the suppliers, which have been selected by the Bids and Awards Committee, are fictitious or not.

There was no evidence that he had foreknowledge of any irregularity, if any, committed by his co-accused.

Under the Arias doctrine, all heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations. There has to be some added reason for the head of office to examine each of the documents he is supposed to sign.<sup>5</sup>

It was not his inherent function to take custody of and exercise proper management of the local government funds.<sup>6</sup>

- c. There was also no evidence that he failed to account for the shortage after he was demanded to do so and that he converted the missing funds to his personal use. The disbursement vouchers show that the amounts were properly received and that official receipts were issued by the recipient of the payment.<sup>7</sup>
- d. The prosecution did not offer any evidence to discredit the official receipts issued by the supplier-lumberyards in favor of the provincial government. The prosecution did not present any representative from the Bureau of Internal Revenue to establish that the official receipts were falsified and issued by non-existent entities.<sup>8</sup>

<sup>4</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, pp. 2 & 8-9.

<sup>5</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, pp. 2-3.

<sup>6</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, p. 10.

<sup>7</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, p. 9.

<sup>8</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, p. 3.

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- e. He was not informed that that a special audit was conducted covering the transactions during his tenure as Acting Provincial Governor/Officer-in-Charge of the Province of Maguindanao. He was not informed that Notices of Disallowance had been issued, nor was he given copies of the same. The prosecution admitted that there was no proof of receipt by accused Ampatuan on the face of SAO Notice of Disallowance (ND) No. MAG-11-140-100 & 101 (08 & 09), SAO ND No. MAG-11-159-100 (09), and SAO ND No. MAG-11-139-100 (09), all dated December 28, 2011.<sup>9</sup> This is a clear violation of his constitutionally-guaranteed right to be informed of the charges against him.<sup>10</sup>
- f. The Information charge him for alleged purchase and disbursement anomalies from July 31, 2009 to August 31, 2009. The Information were filed only on January 31, 2017, or a delay of almost eight (8) years from the time of the alleged occurrence of the acts complained of. His right to a speedy disposition of his cases has been violated as there were no viable reasons asserted by the Ombudsman for the delay in its resolution.<sup>11</sup>

On the other hand, the prosecution claims that its testimonial and documentary evidence overwhelmingly prove the offenses charged and the guilt of the accused beyond reasonable doubt.<sup>12</sup>

The prosecution argues:

- a. The counsel for accused Ampatuan stipulated on the matters to be testified on by Atty. Noor Hafizullah Abdullah, which includes the identification of documents pertinent to assumption of Datu Sajid Islam Uy Ampatuan as Provincial Governor of Maguindanao. The Disbursement Vouchers and supporting documents also indicated the position of accused Ampatuan as Provincial Governor at that time.
- b. The Supreme Court has clarified that the Arias doctrine is not an absolute rule. It is not a magic cloak that can be used as a cover by a public officer to conceal himself in the shadows of his subordinates and necessarily escape liability.<sup>13</sup>

### Violation of Section 3(e), R.A. No. 3019

- a. The second element. The testimonies of the prosecution witnesses and the various disbursement vouchers and

<sup>9</sup> Exhibits N, O, P, and Q, respectively.

<sup>10</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, p. 3.

<sup>11</sup> Motion for Leave to File Demurrer to Evidence dated July 13, 2018, p. 3.

<sup>12</sup> Opposition dated July 26, 2018, p. 1.

<sup>13</sup> Opposition dated July 26, 2018, pp. 3-4.

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supporting documents bearing the signatures of the accused prove that the accused acted with evident bad faith when he, in his capacity as Provincial Governor of Maguindanao, approved the payments to the four suppliers, namely: Andong Lumberyard and Construction Supply (Andong), Ismael Lumberyard and Construction Supply (Ismael), Nasser Lumberyard and Construction Supply (Nasser) and Usman Lumberyard and Construction Supply (Usman), in the total amount of P77.131 million, which companies turned out to be fictitious.

- b. The third element. Accused' participation in facilitating the payment of fictitious transactions resulted to losses in the amount of P77.131 million on the part of the government.<sup>14</sup>

### Falsification of Documents

- a. The accused made it appear that the four suppliers for construction and lumber materials, namely, Andong, Ismael, Nasser and Usman, all according to the Official Receipts and Charge Invoices were located in Poblacion Parang, Maguindanao, are legitimate and existing business entities. Prosecution witness Raga G. Mamalimping, Al Hadja, Municipal Treasurer of Parang, Maguindanao for ten (10) years, testified that said lumberyard and construction suppliers have no record on file, while Special Audit Team (SAT) member Mila M. Lopez testified that when they validated the existence of the said suppliers, it appears that the suppliers were non-existent. The letter dated 11 August 2010 of the Municipal Mayor of Parang, Maguindanao confirmed that no business permits were issued to the four suppliers for the CYs 2008 to 2010.<sup>15</sup>

### Malversation of Public Funds

- a. The second element. Accused is an accountable officer over the subject funds by virtue of Section 340 of the Local Government Code. Any disbursement and release of funds require the prior approval of the provincial governor and provincial accountant. The disbursement voucher must contain their signatures. Accused, being the Provincial Governor of Maguindanao, was primarily responsible for all government funds and property pertaining to his office.
- b. The third element. The funds involved are various cash advances granted to accused Osmeña M. Bandila (Bandila) out of the Internal Revenue Allotment (IRA) of the Province of Maguindanao. The funds belong to the province and were under the collective custody of the provincial officials.

<sup>14</sup> Opposition dated July 26, 2018, p. 3.

<sup>15</sup> Opposition dated July 26, 2018, p. 3.

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- c. The SAO Report No. 2010-02, including the Notices of Disallowance issued by the COA, duly established the fourth element. The participation of the accused in the cover up of the illegal disbursement of public funds is illustrated in the said documents.<sup>16</sup>

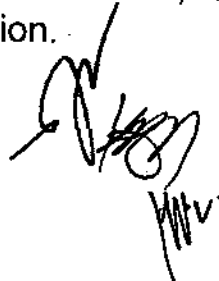
## RULING

After a review of the documentary and testimonial evidence presented by the prosecution, the Court **GRANTS** the *Motion for Leave to File Demurrer to Evidence* filed by accused Datu Sajid Islam Uy Ampatuan with respect to SB-17-CRM-0898 to 0906.

The Court, however, **DENIES** the *Motion for Leave to File Demurrer to Evidence* filed by accused Ampatuan with respect to SB-17-CRM-0778 to 0897, and, SB-17-CRM-0907 to 0922. The Court finds that, if unrebutted, the prosecution evidence is sufficient to support a verdict of guilt for violations of Section 3(e) of R.A. No. 3019, and, Articles 171 (Falsification of Public Document) and 217 (Malversation of Public Funds) of the Revised Penal Code. This is without prejudice to the filing by accused Ampatuan of a *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, he shall waive his right to present evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

Accused Ampatuan is given a non-extendible period of five (5) days from receipt of this Resolution within which to file, by personal filing and service, or through courier, his Manifestation, to inform this Court whether he will file a *Demurrer to Evidence*, without leave of court, with respect to SB-17-CRM-0778 to 0897, and, SB-17-CRM-0907 to 0922.

Accused Ampatuan is given a non-extendible period of ten (10) days from receipt of this Resolution within which to file his *Demurrer to Evidence* with respect to SB-17-CRM-0898 to 0906. The prosecution is given a non-extendible period of ten (10) days from receipt thereof within which to file its comment thereto. Upon expiration of the period to file the comment, the *Demurrer to Evidence* will be submitted for resolution.



<sup>16</sup> Opposition dated July 26, 2018, p. 4.

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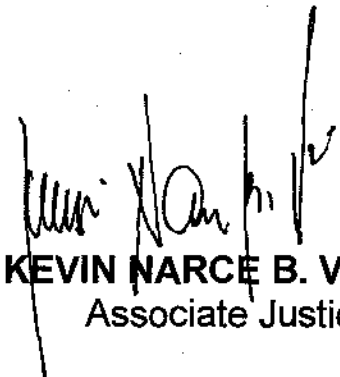
The hearings set for the accused to present their respective evidence on October 11 and 18, 2018, both at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled, as to accused Ampatuan, upon receipt by the Court of his *Demurrer to Evidence* in SB-17-CRM-0778 to 0897, and, SB-17-CRM-0907 to 0922.<sup>17</sup>

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

<sup>17</sup> Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases