



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-18-CRM-0697

For: Violation of Section 3 (e) of
Republic Act (R.A.) No. 3019

-versus-

**CHARLITA ANDALES
ESCAÑO,**

Accused,

PRESENT:

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

Promulgated:

October 26, 2022 *[Signature]*

X-----X

DECISION

MIRANDA, J.:

May public officers extend the benefits granted to a government employee to family members who are not government employees?

In an Information dated July 11, 2018, the Office of the Ombudsman charged Charlita Andales Escañó (C. Escañó) with Violation of Section 3(e) of R.A. No. 3019, or the Anti-Graft and Corrupt Practices Act, as follows:

“That from 16 March 2015 to 20 March 2015, or sometime prior or subsequent thereto, in Davao City, Philippines, and within the jurisdiction of this Honorable Court, accused **CHARLITA ANDALES ESCAÑO**, a high-ranking public officer, being then the Director III, Office of Finance and Administrative Services, Mindanao Development Authority (MinDA), while in the performance of her administrative and/or official functions, committing the crime in relation to

[Signatures]

office, taking advantage of her official position, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give unwarranted benefits, advantage or preference to Engr. Alan S. Escaño, accused's spouse, who was not an employee of MinDA, by causing his inclusion in the seminar on "BASIC OCCUPATIONAL SAFETY AND HEALTH COURSE FOR CONSTRUCTION SITE OFFICERS" at the Ritz Hotel at Garden Oases, Davao City, in lieu of Engr. Renato Buhat, Jr., which allowed Engr. Escaño to benefit from the registration fee paid by MinDA and was intended for its officers and employees, thereby causing undue injury to the government in the amount of Php 6,000.00, representing the registration fee paid for every participant in the said seminar.

CONTRARY TO LAW."¹

On December 7, 2018, the Court issued a warrant of arrest² and a Hold Departure Order³ against C. Escaño.

On December 12, 2018, the Court approved C. Escaño's application for bail.⁴

On January 11, 2019, C. Escaño was arraigned and pleaded "Not Guilty" to the offense charged against her.⁵

In the Pre-trial Order dated February 1, 2019,⁶ the parties stipulated on the following facts:

- 1) C. Escaño is the same person named and charged in the Information;
- 2) At the time material to the allegations in the Information, C. Escaño was a public officer holding the position of Director III (SG 27) and was the Officer-In-Charge (OIC) of the Office of Finance and Administrative Services (OFAS) of the Mindanao Development Authority (MinDA);
- 3) C. Escaño is married to Engr. Alan S. Escaño (A. Escaño);
- 4) A. Escaño is not an employee of MinDA;
- 5) On March 16 to 20, 2015, the Philippine Institute of Civil Engineers Davao City Chapter, Inc. (PICE-Davao) conducted a seminar on Basic Occupational Safety and Health (BOSH) Course for Construction Site Officer at the Ritz Hotel, Garden Oases, Porras St., Davao City;
- 6) In a letter dated February 25, 2015 addressed to MinDA Secretary Luwalhati R. Antonino (Antonino), PICE-Davao invited civil engineers or safety officers from MinDA to attend the five-day seminar;
- 7) MinDA paid PICE-Davao a total of Thirty Thousand Pesos (Php 30,000.00) for the registration fees of the five MinDA engineers chosen to participate in the seminar at the rate of Six Thousand Pesos (Php 6,000.00) per person.
- 8) The engineers who were recommended by MinDA Director Reyzaudy Tan (Tan) and approved by Executive Director Janet M. Lopez (Lopez) to

¹ Information dated July 11, 2018, Records, vol. 1, pp. 1-3.

² Records, vol. 1, pp. 210.

³ Id, p. 209.

⁴ Id, p. 212.

⁵ Certificate of Arraignment, Records, vol. 1, p. 222.

⁶ Pre-trial Order, Records, vol. 1, pp. 239-249.

participate in the seminar were C. Escaño, Engr. Renato Buhat, Jr. (Engr. Buhat), Engr. Luwella Joy G. Cisneros (Engr. Cisneros), Engr. Makmod S. Pasawilan (Engr. Pasawilan), and Engr. Abubakar Sedik Amino (Engr. Amino); and

- 9) Engr. Buhat was not able to attend the seminar on March 16-20, 2015 in view of his Travel Order dated March 13, 2015 to Cagayan de Oro City, Iligan City, Camiguin Island and other areas in Misamis Oriental to provide assistance to MinDA Secretary Antonino.

Trial, thereafter, ensued.

EVIDENCE FOR THE PROSECUTION

Engr. Buhat

Engr. Buhat is a civil engineer and has been a Development Management Officer (DMO) III at the MinDA since 2015.⁷ He testified that:

- 1) In 2015, he was the team leader of the Infrastructure Team of MinDA;⁸
- 2) He, Engr. Pasawilan, Engr. Amino, Engr. Cisneros, and C. Escaño were authorized to attend a 5-day seminar on the BOSH Course for Construction Site Officer on March 16-20, 2015 at the Ritz Hotel, Garden Oases, Porras St., Davao City;⁹
- 3) He was not able to attend the seminar because he had to accompany and provide technical assistance to then MinDA Secretary Antonino for an area visit around Northern Mindanao. The travel coincided with the seminar dates;¹⁰
- 4) Two weeks before the seminar, he informed C. Escaño that he will not be able to attend the seminar. He also suggested that Engr. April Rose Reyes (Engr. Reyes), another member of the Infrastructure Team, attend the seminar in his place. C. Escaño told him that Engr. Reyes was not qualified to attend as she was only a job order at that time;¹¹ and
- 5) In a Memorandum dated October 10, 2016 to Executive Director Lopez, he explained his reason for not being able to attend the seminar. At that time, there was already a brewing controversy between Executive Director Lopez and C. Escaño. There was an anonymous letter sent to Malacañan asking to investigate the actions of Executive Director Lopez in MinDA;¹²



⁷ Judicial Affidavit of Engr. Buhat, Records, vol. 1, p. 261.


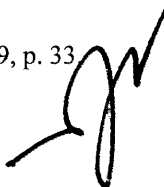
⁸ Id.

⁹ Id, p. 263.

¹⁰ Id.

¹¹ Id, p. 264.

¹² Id, p. 265; TSN dated May 8, 2019, p. 33



- 6) On March 2, 2015, he was already informed that he would accompany MinDA Secretary Antonino for an area visit. By then, he was already certain that he will not be able to attend the seminar;¹³
- 7) His travel authority to accompany MinDA Secretary Antonino was dated March 13, 2015;¹⁴ and
- 8) He received a Notice of Disallowance (ND) from the Commission on Audit (COA) for not being able to liquidate his registration fee of Php 6,000.00 for the seminar.¹⁵

Loyzel P. Losaria (Losaria)

Losaria has been an Administrative Staff at the PICE-Davao since February 2015.¹⁶ She testified that:

- 1) On March 16-20, 2015, she assisted participants during the seminar on BOSH Course for Construction Site Officers;¹⁷
- 2) During the seminar, she was assigned at the registration area;¹⁸
- 3) Registration fees for seminars conducted by the PICE-Davao may be paid before or during the scheduled seminar. Sometimes, when there are slots available, walk-in participants are welcomed and they can just pay the registration fee at the venue of the seminar;¹⁹
- 4) Three days before the seminar, C. Escaño called their office informing them that Engr. Buhat would not be able to attend the seminar because of urgent work. C. Escaño also asked if it is possible to send a replacement instead. She confirmed that it is possible to send a replacement for Engr. Buhat since the registration fee is already paid;²⁰
- 5) The participants from MinDA paid their registration fees on March 10, 2015;²¹
- 6) A. Escaño was the replacement for Engr. Buhat during the seminar. He did not pay any registration fee and merely signed the attendance sheet;²²
- 7) MinDA did not ask for a refund of Engr. Buhat's registration fee;²³ and
- 8) On October 14, 2016, PICE-Davao received a letter²⁴ from Executive Director Lopez seeking clarification on the non-inclusion of Engr. Buhat in the list of participants of the seminar. Then PICE-Davao President Engr. Anacleto Calamba, Jr. (Engr. Calamba) wrote a letter-reply²⁵ stating that



¹³ TSN dated May 8, 2019, pp. 23-24.

¹⁴ Id, p. 28.

¹⁵ Id, p. 39.

¹⁶ Judicial Affidavit of Losaria, Records, vol. 1, p. 314.

¹⁷ Id.

¹⁸ Id, p. 315.

¹⁹ Id, p. 316.

²⁰ Id, p. 317, TSN dated June 25, 2019.

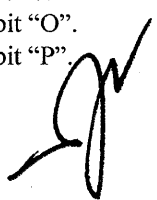
²¹ Judicial Affidavit of Losaria, Records, vol. 1, p. 318.

²² Id, p. 319.

²³ Id, p. 320.

²⁴ Exhibit "O".

²⁵ Exhibit "P".



the Php 30,000 registration fee paid by MinDA covered C. Escaño, A. Escaño, Engr. Cisneros, Engr. Pasawilan, and Engr. Amino.²⁶

On cross-examination, Losaria said that:

- 1) In a letter dated November 6, 2018²⁷, then PICE-Davao President Engr. Hilario Fernandez (Engr. Fernandez) demanded A. Escaño to pay his registration fee upon discovery of the misapplication of payments made by MinDA. A. Escaño, thereafter, paid the registration fee;²⁸ and
- 2) When C. Escaño called her by phone, it was never mentioned that A. Escaño would take Engr. Buhat's place during the seminar.²⁹

On redirect-examination, Losaria stated that she drafted the demand letter dated November 6, 2018³⁰ after being instructed by Engr. Fernandez to do so.

Engr. Reyes

Engr. Reyes is a Development Management Officer II at the MinDA. She testified that:

- 1) She was a job order personnel at MinDA from August 2013 until she was appointed to her current position on August 2016;³¹
- 2) She was a member of MinDA's Infrastructure Team from 2014-2016;³² and
- 3) She was asked by Engr. Buhat to attend the seminar as his substitute, but she declined because she was a mere job order personnel at that time. It was MinDA's office policy not to pay registration fees for trainings and seminars of job order personnel.³³

Engr. Pasawilan

Engr. Pasawilan is a Development Management Officer IV at the MinDA and a civil engineer by profession.³⁴ He testified that:

- 1) He was a member of MinDA's Infrastructure Team in 2015;³⁵



²⁶ Judicial Affidavit of Losaria, Records, vol. 1, p. 320.

²⁷ Exhibit "11".

²⁸ TSN dated June 25, 2019, pp. 40-42, 45.

²⁹ TSN dated August 28, 2019, p. 6.

³⁰ Exhibit "11".

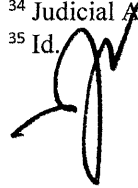
³¹ Judicial Affidavit of Engr. Reyes, Records, vol. 1, p. 286.

³² Id.

³³ Id, p. 289.

³⁴ Judicial Affidavit of Engr. Pasawilan, Records, vol. 1, p. 334.

³⁵ Id.



- 2) He submitted a Memorandum dated October 10, 2016 to Executive Director Lopez when he and Engr. Amino were directed by the Executive Director to explain what happened during the seminar on March 16-20, 2015;³⁶ and
- 3) After submitting the Memorandum dated October 10, 2016, he was called by Executive Director Lopez to her office. She asked him to put the name of A. Escaño in the Memorandum.³⁷

Lopez

Lopez has been the Executive Director of MinDA since 2010.³⁸ She testified that:

- 1) She filed an Affidavit-Complaint dated January 24, 2017 against C. Escaño for violation of Section 3(e) of R.A. No. 3019 and Malversation of Public Funds;³⁹
- 2) No post-activity reports, certificates of completion or participation were submitted to MinDA after the March 16-20, 2015 seminar. There was also no record of refund of registration fee even if Engr. Buhat did not attend the seminar;⁴⁰
- 3) C. Escaño, as Director of OFAS, has the responsibility to ask for a refund of Engr. Buhat's registration fees;⁴¹ and
- 4) She also filed an online libel case against C. Escaño in connection with an anonymous letter to President Duterte that circulated in August – September 2016.⁴²

On November 21, 2019, the Prosecution formally offered the following exhibits in evidence:⁴³

Exhibit	Description
"A"	Photocopy of C. Escaño's Personal Data Sheet dated January 4, 2018
"B"	Photocopy of C. Escaño's Service Record dated January 18, 2019
"C"	Original letter dated January 18, 2019 of MinDA Chief Administrative Officer Cecilia D. Triño to Assistant Special Prosecutor I Gian Carla V. Hernal
"D"	Certified true copy of Activity Design for the March 16-20, 2015 seminar signed by unnamed MinDA Infrastructure Team, C.

³⁶ Id, p. 337.

³⁷ TSN dated July 23, 2019, p. 17.

³⁸ Judicial Affidavit of Executive Director Lopez, Records, vol. 1, p. 363.

³⁹ Id, p. 364.

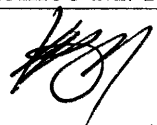
⁴⁰ Id, p. 371.

⁴¹ Id, p. 372.

⁴² TSN dated October 14, 2019, p. 14.

⁴³ Prosecution's Formal Offer of Evidence dated November 19, 2019; Records, vol. 1, pp. 440-453.

	Escaño, MinDA Director Tan, and MinDA Executive Director Lopez
“E”	Certified true copy of Invitation to attend the BOSH Course for Construction Site Officer dated February 25, 2015 to MinDA Secretary Antonino of PICE-Davao President Angel T. Torrejon
“F”	Certified true copy of Purchase Request No. 2015-02-235 dated February 24, 2015 signed by MinDA Director Tan, MinDA Office of Finance Services Chief Rommel S. Castillo, and MinDA Executive Director Lopez
“G”	Certified true copy of Obligation Request No. MOOE 1503-000469 dated March 2015 signed by MinDA Director Tan and MinDA Budget Officer Sharon K. Santiago
“H”	Certified true copy of Disbursement Voucher No. 1503-DV000531 dated March 5, 2015 signed by MinDA Accounting Clerk II Remedios A. Cebal and MinDA Acting Accountant II Aurora J. Cuello
“I”	Certified true copy of Landback Check No. 0000331758 dated March 5, 2015 paid to the order of PICE-Davao amounting to Php 30,000.00
“J”	Certified true copy of PICE-Davao Official Receipt No. 4578 dated March 10, 2015 issued to MinDA amounting to Php 30,000.00
“L”	Photocopy of Local Travel Order dated March 13, 2015 signed by Executive Director Lopez
“M”	Photocopy of Memorandum dated October 10, 2016 of Engr. Buhat to Executive Director Lopez
“N”	Photocopy of Memorandum dated October 10, 2016 of Engr. Amino and Engr. Pasawilan to Executive Director Lopez
“O”	Original letter dated October 14, 2016 of Executive Director Lopez to PICE-Davao President Engr. Calamba
“P”	Original letter dated October 17, 2016 of PICE-Davao President Engr. Calamba to Executive Director Lopez
“R”	Photocopy of attendance sheets for the seminar on March 16-20, 2015 entitled Construction Safety and Health Course for Site Safety Officers
“S”	Original Affidavit-Complaint dated January 24, 2017 of Executive Director Lopez
“U”	Certified true copy of COA Supplement Notice of Disallowance (SND) No. 17-03-101-(15)-A dated August 28, 2018 signed by COA State Auditor III Meloriza P. Candelaria and COA State Auditor IV Rita Angelyn T. Torino
“V”	Photocopy of the Terms of Reference of MinDA’s OFAS
“W”	Photocopy of C. Escaño’s Individual Terms of Reference
“X”	Photocopy of Memorandum dated December 7, 2016 of Executive Director Lopez to MinDA Human Resource Unit Acting Director Romeo M. Montenegro





"Y"	Photocopy of Memorandum dated December 20, 2016 of C. Escaño to MinDA Human Resource Unit Acting Director Romeo M. Montenegro
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The Court admitted all the exhibits offered by the Prosecution.⁴⁴

On March 10, 2020, the Court denied C. Escaño's motion for leave to file demurrer to evidence.⁴⁵ Thereafter, the Defense proceeded with the presentation of its evidence.

EVIDENCE FOR THE DEFENSE

Engr. Cisneros

Engr. Cisneros is presently the Assistant Manager of her family's construction business. She previously worked at MinDA as Development Management Officer III and a member of the Infrastructure Team until she resigned on December 31, 2015.⁴⁶ She testified that:

- 1) The invitation letter dated February 25, 2015⁴⁷ from the PICE-Davao pertaining to the seminar was referred to the Infrastructure Team for consideration;⁴⁸
- 2) Engr. Buhat instructed her and the other members of the Infrastructure team to prepare an Activity Design to justify their participation in the seminar. Engr. Buhat personally wrote to Executive Director Lopez to signify the intention of the Infrastructure Team to attend the seminar and his personal intention to forego his upcoming travels to give way for the said training;⁴⁹
- 3) The Infrastructure Team asked C. Escaño to sign the Activity Design because she was also recommended to attend the seminar being the remaining civil engineer of MinDA;⁵⁰
- 4) MinDA Director Tan, the Director for Policy Planning and Project Development Office, recommended the participation of the MinDA engineers named in the Activity Design in the seminar;⁵¹
- 5) Executive Director Lopez approved the participation of the MinDA engineers in the seminar;⁵²



⁴⁴ Minutes of the Proceedings dated January 3, 2020, Records, vol. 1, pp. 527A-527B.

⁴⁵ Records, vol. 2, pp. 51-53.

⁴⁶ Judicial Affidavit of Engr. Cisneros, Records, vol. 2, p. 186.

⁴⁷ Exhibit "16".

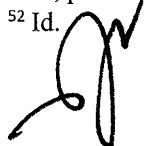
⁴⁸ Judicial Affidavit of Engr. Cisneros, Records, vol. 2, p. 187.

⁴⁹ Id, p. 188.

⁵⁰ Id, p. 189.

⁵¹ Id, p. 190.

⁵² Id.



- 6) On March 10, 2015, Engr. Amino went to the PICE-Davao office to pay the registration fees of MinDA engineers. The payment was made through a check dated March 5, 2015 amounting to Php 30,000.00;⁵³
- 7) After payment, Engr. Buhat casually informed the Infrastructure Team that he may not be able to attend the seminar because he might have to accompany MinDA Secretary Antonino in her travel to Northern Mindanao. Engr. Buhat, however, said that the travel was still uncertain because MinDA Secretary Antonino's schedule was unpredictable;⁵⁴
- 8) In the morning of March 16, 2015, she was with Engr. Pasawilan, Engr. Amino, and C. Escaño at the training venue. Neither Engr. Buhat nor his alleged replacement, Engr. Reyes, came when the seminar started. They then asked the people at the registration area if the registration fee of Engr. Buhat may be refunded, but the registration personnel answered that the registration fee will already be forfeited;⁵⁵
- 9) Upon returning to the training venue, the MinDA engineers saw plenty of vacant seats. She accompanied C. Escaño back to the registration area as the accused inquired if she could invite anyone to attend the seminar. The persons assigned at the registration area answered positively as there were excess slots and food;⁵⁶
- 10) C. Escaño informed the registration personnel that she would invite her husband. She, however, made it clear that A. Escaño is not connected with MinDA and that he is not the replacement of Engr. Buhat;⁵⁷
- 11) Engr. Buhat did not inform the team that his travel with MinDA Secretary Antonino pushed through;⁵⁸
- 12) The registration personnel allowed C. Escaño to invite her husband. They said that they would just send a bill to A. Escaño if the PICE-Davao President will allow such walk-in participation;⁵⁹ and
- 13) At about 10:00am on March 16, 2015, while the morning session of the seminar was ongoing, A. Escaño arrived at the venue and participated in the seminar.⁶⁰

A. Escaño

A. Escaño is a practicing civil engineer and the husband of the accused. He testified that:

1. In the morning of March 16, 2015, he dropped C. Escaño at the seminar venue. Then after a while, he received a call from the accused inviting him to attend the seminar because he can still be accommodated by PICE-Davao;⁶¹

⁵³ Id, p. 192.

⁵⁴ Id, p. 194.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id, p. 195.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Judicial Affidavit of A. Escaño, Records, vol. 2, p. 228.

2. He arrived at the training venue at around 10 am and signed the attendance sheets. He did not present himself as an employee of MinDA at the registration area. Instead, he attended the seminar in his personal capacity and wrote the that he was a private engineer in the attendance sheets;⁶²
3. He was able to complete the entire seminar course;⁶³
4. His registration fee for the seminar remained unpaid until he was sent a demand letter dated November 6, 2018 by the PICE-Davao;⁶⁴
5. He paid his registration fees on November 13, 2018;⁶⁵
6. He was a walk-in participant in the seminar. He was not aware about it until her wife called her to inform him of the available slots. He was also not aware that the seminar was for a fee. Neither his wife nor the organizers asked him to pay the registration fee so he assumed that his wife paid for it;⁶⁶
7. When he received a demand letter to pay the registration fee from the PICE, there was a pending complaint for graft against his wife before the Office of the Ombudsman;⁶⁷ and
8. He did not use the credit he obtained from the seminar to renew his license as an engineer.⁶⁸

Engr. Calamba

Engr. Calamba is a Project Engineer at the Department of Public Works and Highways (DPWH) Regional Office XI.⁶⁹ He testified that:

1. He was the 1st Vice President of PICE-Davao at the time when the seminar was conducted in March 2015. On October 17, 2016, when he was already the President of the chapter, he wrote a letter-reply to Executive Director Lopez pertaining to the seminar;⁷⁰
2. He disowned his electronic signature attached to Exhibit P of the Prosecution;⁷¹
3. The registration fee of pre-registered participants who did not show during the seminar are forfeited;⁷² and
4. PICE did not impose any penalty for A. Escaño's late payment of registration fee.⁷³



⁶² Id, p. 229.

⁶³ Id.

⁶⁴ Id, pp. 228-229

⁶⁵ Id, p. 230.

⁶⁶ TSN dated May 24, 2021, pp. 21-22, 25, 40.

⁶⁷ Id, p. 34

⁶⁸ Id, pp. 50-51.

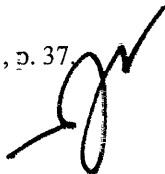
⁶⁹ Judicial Affidavit of Engr. Calamba, Records, vol. 2, p. 251

⁷⁰ Judicial Affidavit of Engr. Calamba, Records, vol. 2, p. 252.

⁷¹ Id.

⁷² Id, p. 256.

⁷³ TSN dated May 31, 2021, p. 37.



C. Escaño

C. Escaño is currently a Director IV at the MinDA. During the time material to these cases, she was the designated OIC of the OFAS of the MinDA.⁷⁴ She testified that:

1. MinDA Cashier Maria Cristina S. Camagong issued and signed Check No. 0000331758 dated March 5, 2015. She countersigned the same because it was a requirement that government issued checks should bear two signatures. The check was payable to PICE-Davao and was delivered on March 10, 2015 at 3:46 PM by Engr. Amino to pre-register the 5 MinDA civil engineers;⁷⁵
2. The participation of MinDA engineers in the seminar and the payment of fees were duly approved by Executive Director Lopez;⁷⁶
3. Two weeks before the training, Engr. Buhat was still actively working in the preparations for his participation in the seminar. His local Travel Order dated March 13, 2015 (Friday) was released on March 14, 2015 (Saturday). He was uncertain, up to the final minute, whether he would go on travel with MinDA Secretary Antonino;⁷⁷
4. The COA found that Engr. Buhat failed to produce a certificate of appearance, barge tickets, or any other document showing that he went on a trip to Northern Mindanao with MinDA Secretary Antonino;⁷⁸
5. She and Executive Director Lopez were not in good terms since August 2016. She was suspected by Executive Director Lopez to be the person behind an anonymous letter to President Duterte dated July 26, 2016 stating the alleged corruption inside MinDA;⁷⁹
6. PICE-Davao issued a demand letter dated November 6, 2018 to A. Escaño demanding him to pay Php 6,000.00 as registration fee for the seminar. A. Escaño paid after receiving the letter;⁸⁰
7. She asked the organizers of the seminar whether walk-in participants may fill-in the vacant seats, to which they answered in the affirmative;⁸¹
8. She does not have the authority to recommend which MinDA employee or personnel should attend trainings and seminars;⁸² and
9. She did not ask A. Escaño if he paid for the seminar fee because she believed that it was the duty of the organizer's secretariat to do so.⁸³

On July 16, 2021, C. Escaño electronically filed her formal offer of documentary exhibits:⁸⁴



⁷⁴ Judicial Affidavit of C. Escaño, Records, vol. 2, p. 452.

⁷⁵ Id, pp. 459-460.

⁷⁶ Id.

⁷⁷ Id, pp. 463-464.

⁷⁸ Id, p. 464.

⁷⁹ Id, p. 467.

⁸⁰ Id, p. 472.

⁸¹ TSN dated June 21, 2021, p. 20.

⁸² TSN dated July 1, 2021, p. 21.

⁸³ Id, p. 26,

⁸⁴ Formal Offer of Documentary Exhibits dated July 16, 2021, Records, vol. 3, pp. 44-58


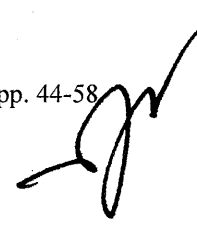


Exhibit	Description
"1"	Original Sworn Statement dated June 13, 2017 of Engr. Cisneros
"2"	Certified true copy of Pass Slip dated March 10, 2015 for Executive Director Lopez from Engr. Amino
"3"	Certified true copy of Local Travel Order dated March 13, 2015 signed by Executive Director Lopez
"4"	Photocopy of anonymous letter dated July 26, 2016
"4-A"	Photocopy of Information for Cyberlibel dated May 8, 2018 against C. Escaño
"5"	Photocopy of Memorandum dated December 15, 2016 of MinDA Human Resource Unit Acting Director Romeo M. Montenegro to C. Escaño
"6"	Photocopy of Memorandum dated December 20, 2016 of C. Escaño to MinDA Human Resource Unit Acting Director Romeo M. Montenegro
"7"	Certified true copy of COA ND dated May 22, 2017 signed by COA State Auditor III Janet Pito and COA State Auditor V Gloria Cañete
"7-A"	Certified true copy of COA Notice of Suspension (NS) dated November 17, 2016 signed by COA State Auditor III Janet Pito and COA State Auditor V Gloria Cañete
"7-B"	Certified true copy of COA Notice of settlement suspension, disallowances and charges dated June 6, 2017 signed by COA State Auditor III Janet Pito and COA State Auditor V Gloria Cañete
"8"	Photocopy of MinDA Office Order No. AD-2014-03-041 dated March 26, 2014 with subject "Signing authorities for various documents"
"9"	Certified true copy of COA Notice of Finality of Decision dated January 12, 2018 signed by COA State Auditor III Meloriza P. Candelaria and COA State Auditor IV Rita Angelyn Torino
"10"	Certified true copy of Ombudsman Decision dated January 23, 2018
"11"	Photocopy of PICE Demand Letter dated November 6, 2018 of PICE President Hilario Fernandez to A. Escaño
"12"	Photocopy of PICE Statement of Account dated November 6, 2018 to A. Escaño signed by PICE President Hilario Fernandez
"13"	Photocopy of PICE Official Receipt dated November 13, 2018 issued to A. Escaño amounting to Php 6,000
"14"	Certified true copy of Activity Design for the March 16-20, 2015 seminar signed by unnamed MinDA Infrastructure

DECISION

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	Team, C. Escaño, MinDA Director Tan, and Executive Director Lopez
"15"	Certified true copy of PICE-Davao brochure with attached note of Engr. Buhat to Executive Director Lopez
"16"	Certified true copy of Invitation to attend the BOSH Course for Construction Site Officer dated February 25, 2015 to MinDA Secretary Antonino of PICE-Davao President Angel T. Torrejon
"17"	Photocopy of Landback Check No. 0000331758 dated March 5, 2015 paid to the order of PICE-Davao amounting to Php 30,000.00
"18"	Certified true copy of Purchase Request No. 2015-02-235 dated February 24, 2015 signed by MinDA Director Tan, MinDA Office of Finance Services Chief Rommel S. Castillo, and Executive Director Lopez
"19"	Certified true copy of Obligation Request No. MOOE 1503-000469 dated March 2015 signed by MinDA Director Tan and MinDA Budget Officer Sharon K. Santiago
"20"	Certified true copy of Disbursement Voucher No. 1503-DV000531 dated March 5, 2015 signed by MinDA Accounting Clerk II Remedios A. Cebal and MinDA Acting Accountant II Aurora J. Cuello
"22"	Certified true copy of PICE-Davao Official Receipt No. 4578 dated March 10, 2015 issued to MinDA amounting to Php 30,000.00
"23"	Photocopy of attendance sheets for the seminar on March 16, 2015 entitled Construction Safety and Health Course for Site Safety Officers
"24"	Photocopy of attendance sheets for the seminar on March 17, 2015 entitled Construction Safety and Health Course for Site Safety Officers
"25"	Photocopy of attendance sheets for the seminar on March 18, 2015 entitled Construction Safety and Health Course for Site Safety Officers
"26"	Photocopy of attendance sheets for the seminar on March 19, 2015 entitled Construction Safety and Health Course for Site Safety Officers
"27"	Photocopy of attendance sheets for the seminar on March 20, 2015 entitled Construction Safety and Health Course for Site Safety Officers
"28"	Photocopy of MinDA Office Order No. 2012-0828-21 dated August 28, 2012 to C. Escaño signed by MinDA Secretary Antonino
"28-A"	Photocopy of MinDA Office Order No. AD-026C-08-13 dated August 28, 2013 to C. Escaño signed by MinDA Secretary Antonino

“28-B”	Photocopy of MinDA Office Order No. AD-2014-08-058 dated August 26, 2014 to C. Escaño signed by MinDA Secretary Antonino
“29”	Photocopy of COA RO XI Decision No. 2019-04 dated February 22, 2019
“30”	Photocopy of letter dated October 17, 2016 of PICE Davao-President Engr. Calamba to Executive Director Lopez
“31”	Original MinDA Certification dated September 25, 2019 signed by MinDA Chief Administrative Officer Cecilia Triño
“32”	Original letter dated January 14, 2018 of C. Escaño to PICE Past President Engr. Calamba
“33”	Original letter dated June 1, 2021 of Atty. William Tiu to PICE President Atty. Joseph Dominic Felizarta
“34”	Original letter dated June 6, 2021 of PICE President Atty. Joseph Dominic Felizarta to Atty. William Tiu

The Court admitted all her exhibits.⁸⁵

PROSECUTION’S REBUTTAL EVIDENCE

Abdulkhakim D. Ameen (Ameen)

Ameen is currently a State Auditor III at the COA.⁸⁶ He testified that:

1. He is the OIC Audit Team Leader of Audit Team R11-03, Other NGS and CGS Stand-Alone Agencies since 2020. His duties include conducting audit activities and acting as official custodian of documents. He also issues certified true copies of records and documents on file in their office;⁸⁷
2. He was not the auditor assigned in MinDA during the time material to this case;⁸⁸
3. He issued certified true copies of the following documents: 1) Notice of Finality of Decision dated January 12, 2018; 2) Supplemental Notice of Disallowance (SND) No. 17-03-101-(15)-A dated August 28, 2018 with Annex A (ND No.17-01-101-(15); and 3) COA RO XI Decision No. 2019-08 dated June 17, 2019;⁸⁹
4. C. Escaño appealed SND No. 17-03-101-(15)-A dated August 28, 2018 to the COA RO XI on February 19, 2019;⁹⁰ and
5. COA RO XI Decision No. 2019-08 dated June 17, 2019 affirmed SND No. 17-03-101-(15)-A dated August 28, 2018. C. Escaño and A. Escaño were

⁸⁵ Records, vol. 3, p. 35.

⁸⁶ Judicial Affidavit of Ameen, Records, vol. 3, p. 138.

⁸⁷ Id, Records, vol. 3, p. 137.

⁸⁸ TSN dated November 15, 2021, p. 20.

⁸⁹ Exhibit “AA-Rebuttal”; Judicial Affidavit of Ameen, Records, vol. 3, p. 140.

⁹⁰ Judicial Affidavit of Ameen, Records, vol. 3, p. 143.

made liable for the amount of Php 6,000.00 representing the registration fee of A. Escaño in the seminar.⁹¹

On March 12, 2022, the Prosecution electronically offered the following exhibits on rebuttal:⁹²

Exhibit	Description
“Z-Rebuttal”	Photocopy of letter dated October 17, 2016 of PICE-Davao President Engr. Calamba to Executive Director Lopez
“AA-Rebuttal”	Certified True Copy from the Original of COA RO XI Decision No. 2019-08 dated June 17, 2019, Re: Appeal of C. Escaño from SND No. 17-03-101(15)-A dated August 28, 2018 in the amount of P6,000.00
“AA-1-Rebuttal”	First paragraph on page four (4) of COA RO XI Decision No. 2019-08 which states. <i>“In view of the foregoing developments, the NFD was held in abeyance and the Audit Team issued the SND subject of this case where the following were held as persons additionally liable for transaction xxx”</i>
“AA-2-Rebuttal”	Dispositive portion of COA RO XI Decision No. 2019-08 on page 10 thereof, <i>“WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. Accordingly, Supplemental Notice of Disallowance No. 17-03-101(15)-A dated August 28, 2018 in the amount of P6,000.00 is hereby AFFIRMED.”</i>
“AA-3-Rebuttal”	Name and signature of Atty. Roy L. Ursal, Regional Director

The Court admitted all the exhibits for rebuttal.⁹³

DEFENSE’S SUR-REBUTTAL EVIDENCE

C. Escaño

C. Escaño testified on sur-rebuttal that:

1. She requested Ameen to send her a copy of the Notice of Finality of Decision dated January 12, 2018;⁹⁴
2. Ameen issued the Notice of Finality of Decision dated January 12, 2018 with an attached handwritten note by Lopez which reads “Ma’am

⁹¹ Id, Records, vol. 3, pp. 142-143.

⁹² Records, vol. 3, pp. 167-172.

⁹³ Records, vol. 3, pp. 185-186.

⁹⁴ Judicial Affidavit of C. Escano, Records, vol. 3, p. 204.

Melon, May I ask for your time to discuss this matter? I will advise Engr. Buhat to be around either tomorrow p.m. or wed. For your consideration”;⁹⁵

3. Ma’am Melon was Auditor Meloriza P. Candelaria who prepared the Notice of Finality of Decision finding Executive Director Lopez, Aurora J. Cuello, and Engr. Buhat liable for the disallowed P6,000.00;⁹⁶ and
4. The Decision dated June 17, 2019 in COA RO-XI No. 2019-08 on the SND No. 17-03-101-(15)-A dated August 28, 2018 is still pending with the COA Commission Proper.⁹⁷

On March 12, 2022, C. Escaño offered the following sur-rebuttal exhibits:⁹⁸

Exhibit	Description
“36-Sur-Rebuttal”	Original printed electronic mail thread dated January 24, 2022
“37-Sur-Rebuttal”	Original Request letter dated January 24, 2022 of C. Escaño to COA State Auditor IV Arleen S. Betonio
“38-Sur-Rebuttal”	Original COA Request Form dated January 24, 2022
“39-Sur-Rebuttal”	Certified true copy of the Notice of Finality of Decision dated January 12, 2018
“40-Sur-Rebuttal”	Original Urgent Motion to Resolve/Decide dated December 20, 2021
“41-Sur-Rebuttal”	Certified true copy of COA Decision No. 2021-475 dated December 21, 2021

The Court admitted all the exhibits for sur-rebuttal.⁹⁹

The Court’s Ruling

After a thorough review of the evidence on record, as well as the stipulations of the parties, **the evidence presented failed to prove beyond reasonable doubt the guilt of C. Escaño** for Violation of Section 3(e) of R.A. No. 3019, or the Anti-Graft and Corrupt Practices Act.

This case stemmed from a seminar conducted by the PICE-Davao on March 16 to 20, 2015 at the Ritz Hotel, Garden Oases, Porras St., Davao City. The seminar was for a fee of Php 6,000 for each participant. Five civil engineers of MinDA pre-registered and paid for the same using MinDA funds. A controversy arose when A.

⁹⁵ Id, p. 205.

⁹⁶ Id, p. 206.

⁹⁷ Id, pp. 206-207.

⁹⁸ Records, vol. 3, pp. 222-225.

⁹⁹ Id, p. 284.

Escaño, the accused's husband and a non-MinDA employee, attended the seminar while Engr. Buhat, one of the pre-registered MinDA engineer, was not able to attend thereby making it appear that A. Escaño benefitted from MinDA's funds.

The Prosecution claims that weeks before the seminar, C. Escaño already knew that Engr. Buhat will not be able to attend it due to a travel coinciding with the dates of the seminar.¹⁰⁰ The Prosecution asserts that C. Escano's intention was to make her husband substitute for Engr. Buhat in the seminar whose registration fee was already paid by MinDA.

In her defense, C. Escaño argues that it was not her intention to make her husband a substitute for Engr. Buhat. She explains that until the last minute, she was not aware that Engr. Buhat would not be able to attend the seminar.¹⁰¹ She merely invited her husband to attend the seminar when she saw that there were a lot of vacant seats in the venue and only after confirming from the organizers that she may invite walk-in participants.¹⁰² She further claims to have stressed to the PICE-Davao registration personnel that her husband was not an employee of the MinDA and was not the substitute for Engr. Buhat.¹⁰³

Section 3(e) of R.A. No. 3019, or the Anti-Graft and Corrupt Practices Act, provides:

Section 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:

X X X

(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 elements of Violation of Section 3(e) of R.A. No. 3019 are:

- 1) The accused must be a public officer discharging administrative, judicial, or official functions, or a private person charged in conspiracy with the public officer;
- 2) The accused must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and

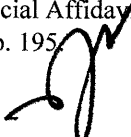


¹⁰⁰ Memorandum for the Prosecution, Records, vol. 3, p. 289.

¹⁰¹ Judicial Affidavit of C. Escaño, Records, vol. 2, pp. 463-464.

¹⁰² Judicial Affidavit of Engr. Cisneros, Records, vol. 2, p. 194.

¹⁰³ Id, p. 195.



- 3) The act caused undue injury to any party, including the government, or gave a private party unwarranted benefits, advantage, or preference in the discharge of his functions.¹⁰⁴

First element: C. Escaño was a public officer discharging official and administrative functions at the time of the alleged crime.

As borne by the records of this case, and as specifically stipulated by the parties per Pre-Trial Order dated February 1, 2019,¹⁰⁵ C. Escaño was the Director III and is the OIC of the OFAS of the MinDA at the time material to this case. She was a public officer discharging administrative and official functions when she asked her husband to attend the seminar as a walk-in participant.

Second Element: The Prosecution failed to prove that C. Escaño acted with evident bad faith, manifest partiality or gross inexcusable negligence.

A Violation of Section 3(e) of R.A. No. 3019 may be committed through: 1) manifest partiality; 2) evident bad faith; or 3) gross inexcusable negligence.¹⁰⁶

The law does not punish partiality, bad faith or negligence *per se*. These should meet the gravity required by law. The second element of Violation of Section 3 (e) of R.A. No. 3019 is present when it is shown that bad faith or partiality is evident or manifest, or that the negligent act or omission is gross and inexcusable.¹⁰⁷ Proof of any of the three is sufficient to convict.¹⁰⁸

In *People v. Atienza*,¹⁰⁹ the Supreme Court stated:

“There is manifest partiality when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. Evident bad faith connotes not only bad judgment but also a palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. Evident bad faith contemplates a state of mind affirmatively operating with a furtive design or with some motive of self-interest or ill-will or for ulterior purposes. Gross inexcusable negligence refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequence insofar as other persons may be affected.”

No evident bad faith

“Evident bad faith” connotes not only bad judgment but also a palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious

¹⁰⁴ *Consigna v. People*, G.R. Nos. 175750-51, April 2, 2014.

¹⁰⁵ Pre-trial Order, Records, vol. 1, pp. 239-249.

¹⁰⁶ *Alvarez v. People*, G.R. No. 192591, June 29, 2011.

¹⁰⁷ *Jaca v. People*, G.R. Nos. 166967, 166974, and 167167, January 28, 2013.

¹⁰⁸ *Sison v. People*, G.R. Nos. 170339, 170398-403, March 9, 2010.

¹⁰⁹ *People v. Atienza*, G.R. No. 171671, June 18, 2012.

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wrongdoing for some perverse motive or ill-will.¹¹⁰ It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill-will or for ulterior purposes.¹¹¹

The Prosecution imputes evident bad faith to C. Escaño for causing the inclusion of her husband in the BOSH seminar and allowing him to benefit from the registration fee paid by MinDA for the absent Engr. Buhat.¹¹² It insists that the accused already knew beforehand that Engr. Buhat cannot attend the seminar so she made a way for her husband to benefit from Engr. Buhat's absence.

The Court disagrees.

C. Escaño never intended for her husband to take the place of Engr. Buhat. Evidence show that on March 10, 2015,¹¹³ Engr. Amino went to PICE-Davao to pay for the registration fee of five MinDA engineers. Also, the Travel Order¹¹⁴ of Engr. Buhat was issued only on March 13, 2015, a Friday, and a weekend before the scheduled seminar on March 16, 2015. Even Engr. Buhat's co-members in the Infrastructure Team were not sure up until the last minute on whether Engr. Buhat will be able to attend the seminar.¹¹⁵

Defense witness Engr. Cisneros testified:

Q45: What happened after payment was made to PICE?

A45: Engr. Renato Buhat, Jr. informed the Infra Team members of his possible inability to attend the upcoming training as he might accompany MinDA Chair Luwalhati R. Antonino in Northern Mindanao from March 16-20, 2015. **But he informed us that this travel was yet uncertain as no travel order had been issued yet** and that the schedule of Chair Antonino was really unpredictable. xxx

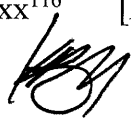
Q46: How did Engr. Renato Buhat, Jr. inform you?

A46: It was just very casual, just telling us of his possible trip that would coincide with the training dates.

xxx xxx xxx

Q49: What happened in the morning of March 16, 2015, the first day of the BOSH training?

A49: I was already at the training venue even before it started. I was with Engr. Charlita Escaño, Engr. Makmod Pasawilan, and Engr. Abubakar Sedik Amino. **While we were waiting for the training to start, we were naturally waiting for Engr. Buhat to arrive. He did not arrive even when the training already started.** We thought that his travel with Chair Antonino pushed through. xxx¹¹⁶ [Emphasis supplied]



¹¹⁰ *Fuentes v. People*, G.R. No. 186421, April 17, 2017.

¹¹¹ *Sanchez v. People*, G.R. No. 187340, August 14, 2013.

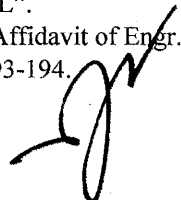
¹¹² Memorandum for the Prosecution, Records, vol. 3, p. 302.

¹¹³ Exhibit "2".

¹¹⁴ Exhibit "L".

¹¹⁵ Judicial Affidavit of Engr. Cisneros, Records, vol. 2, p. 194.

¹¹⁶ Id, pp. 193-194.



The Court finds that the foregoing circumstances negate any furtive design, self-interest, or ill-will on the part of C. Escaño. She did not take advantage of Engr. Buhat's absence to allow her husband to attend the seminar using the fees paid for by MinDA. A. Escaño attended the seminar after being informed that there were vacant seats in the seminar venue and only after PICE-Davao personnel in the registration area confirmed that they may accept walk-in participants. She had made it clear from the PICE-Davao registration personnel that her husband was not an employee of MinDA and, therefore, not a replacement of Engr. Buhat.

Again, Engr. Cisneros testified:

Q51: What happened next?

A51: We went inside the training room. And upon seeing that there were plenty of vacant seats, Charlita Escaño asked me to accompany her to the registration area to talk to the officers seated there.

Q52: What happened next?

A52: Charlita Escaño informed those seated there that she would be asking for a personal request and accommodation considering that there were still plenty of vacant seats inside. She asked whether or not she could ask just anyone to attend.

Q53: What was the response of the officers?

A53: They answered in the positive because anyway there were really excess slots and excess food already contracted with the hotel. They said that late participants could still catch up even if they arrive late that morning.

Q54: What was the response of Charlita Escaño?

A54: She said that she would just invite her husband, Engr. Alan Escaño because he is also an engineer **but she made it clear to them that he was not in any way connected with MinDA and that the request was personal in nature and not in any way as a replacement of Renato Buhat because at that time, we were still hoping for Engr. Buhat to catch up as he did not inform any of us in the Infra Team even that same morning that his supposed travel was pursued.**

Q55: What was the response of those whom she spoke to?

A55: **They said it was just fine because anyway, they would just bill him if it would not be allowed by their president.**¹¹⁷ [emphasis supplied]

As can be seen also in the attendance sheet shown below,¹¹⁸ A. Escaño never represented himself as an employee of MinDA. Neither did he claim that he was a replacement for Engr. Buhat. He did not indicate that he was an employee of any company.



¹¹⁷ Id, pp. 194-195.

¹¹⁸ Exhibits "R", "23" to "27"

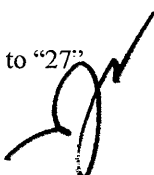


EXHIBIT " R "

Attendance of Participants 2/1/19

Subscribed by: Engr. Jesus L. Motomull
Name and Signature of Authorized Official: [Signature]
Date: [Blank]

STO Name: Construction Manpower Development Foundation
Address: G/F Trade and Industry Bldg., Sen. Gil Puyat Ave., Makati City

STO Accreditation No.: 1090-092003-0026
Validity: [Blank]
Contact Person/ Position: Engr. Joji C. Valenciano
Safety Consultant
Telephone: 02-8901037 Fax: 02-8901610
Email: dli.gov.ph

May we inform you that the conduct of OSH trainings specified below was attended by the following participants:

Title of Training: Construction Safety and Health Course for Site Safety Officers Venue: RITZ HOTEL, PARKS ST., LAYAO
Inclusive Dates: MARCH 16-20, 2016 Total No. of Participants: 27 (Male 27 Female 0)

Day	Dates: MARCH 16-20, 2016	Name of Participants	Signature	Time	Company
1.		Anatol S. Argonilla	[Signature]	8:00 - 5:00	AA - MARA (CONSTR. SUPERVISOR)
2.		Mary Grace O. Chaves	[Signature]	8:00 - 5:00	AA - MARA (CONSTR. SUPERVISOR)
3.		Madelon E. Olayon	[Signature]	8:00 - 5:00	J-MAC
4.		Jeffrey B. Factor	[Signature]	8:00 - 5:00	ATI
5.		Jeffrey James N. Monrealcon	[Signature]	8:00 - 5:00	DPWH - C-DEED II
6.		Marino Faith Aileen P. Panatiera	[Signature]	8:00 - 5:00	DPWH - C-DEED II
7.		Mandel Mae D. Ancheta	[Signature]	8:00 - 5:00	DPWH - C-DEED II
8.		Ernest William C. Aguilera	[Signature]	8:00 - 5:00	DPWH - C-DEED II
9.		Mark A. Hernandez	[Signature]	8:00 - 5:00	DPWH - C-DEED II
10.		James M. Pudia	[Signature]	8:00 - 5:00	DPWH - C-DEED II
11.		Teodoro P. Mantilla	[Signature]	8:00 - 5:00	DPWH - C-DEED II
12.		Ron Macho A. Bustamante	[Signature]	8:00 - 5:00	DPWH - C-DEED II
13.		Joseph C. Maginosa	[Signature]	8:00 - 5:00	DPWH - C-DEED II
14.		Abraham Sotik M. Amara	[Signature]	8:00 - 5:00	DPWH - C-DEED II
15.		Marked S. Pascualan	[Signature]	8:00 - 5:00	DPWH - C-DEED II
16.		Daddy P. Manon	[Signature]	8:00 - 5:00	DPWH - C-DEED II
17.		Leo H. Forasuelo	[Signature]	8:00 - 5:00	DPWH - C-DEED II
18.		Raulito J. Pabellondo	[Signature]	8:00 - 5:00	DPWH - C-DEED II
19.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
20.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
21.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
22.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
23.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
24.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
25.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
26.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II
27.		Arday M. Carmona	[Signature]	8:00 - 5:00	DPWH - C-DEED II

No manifest partiality

The Prosecution posits that the accused exhibited bias in favor of her husband by taking advantage of the absence of Engr. Buhat in the seminar and using the registration fee paid for by MinDA.

C. Escaño, for her part, maintains that she did not intend for her husband to substitute for Engr. Buhat during the seminar.

[Signature]

[Signature]

Partiality” is synonymous to “bias”.¹¹⁹ Partiality excites a disposition to see and report matters as they are wished for rather than as they are.¹²⁰ It becomes manifest when partiality is attended by a clear, notorious, or plain inclination or predilection to favor one side or person rather than another.¹²¹

There is no manifest partiality in this case. C. Escaño did not handpick the MinDA employees who will attend the seminar. As a matter of fact, MinDA’s Infrastructure Team only,¹²² consisting of Engr. Buhat, Engr. Cisneros, Engr. Amino, and Engr. Pasawilan, was supposed to attend the seminar. C. Escaño was included because she is the only other engineer of MinDA who was not then a job order personnel.¹²³

The PICE-Davao personnel at the registration area allowed the participation of walk-in participants to fill in the vacant seats in the training venue. C. Escaño cannot exercise a clear, notorious, or plain inclination or predilection to favor her husband. Whether or not Engr. Buhat was able to attend the seminar, A. Escaño may still attend as a walk-in participant subject to payment of registration fee. The accused could not be said to have been manifestly partial because the attendance of her husband had nothing to do with the participation of the other MinDA engineers, whose seminar fees were already paid.

No gross inexcusable negligence

The Prosecution claims that C. Escaño acted with gross inexcusable negligence by letting her husband substitute Engr. Buhat for the seminar and gain benefit from the fees paid by MinDA.

C. Escaño claims that she was not negligent. She invited her husband to attend the seminar believing that he will pay for his own registration fees upon entering the seminar venue.¹²⁴

Negligence is the omission of the diligence required by the nature of the obligation and corresponds with the circumstances of the persons, of the time, and of the place.¹²⁵ In the case of public officials, there is negligence when there is a breach of duty or failure to perform the obligation. There is “gross inexcusable negligence” when the breach of duty is flagrant and palpable.¹²⁶ Gross inexcusable negligence is characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences insofar as other persons



¹¹⁹ *Soriano v. Marcelo*, G.R. No. 163017, June 18, 2008 citing *Alberto v. Sandiganbayan*, G.R. 164015, February 26, 2009.

¹²⁰ *Id.*

¹²¹ *Albert v. Sandiganbayan*, G.R. 164015, February 26, 2009.


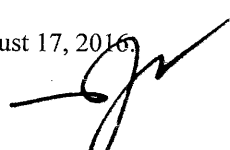
¹²² Exhibit “D”.

¹²³ Judicial Affidavit of Engr. Cisneros, Records, vol. 2, p. 189.

¹²⁴ TSN dated July 1, 2021, p. 26.

¹²⁵ Article 1173, New Civil Code.

¹²⁶ *Navarro v. Office of the Ombudsman*, G.R. No. 210128, August 17, 2016.



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may be affected.¹²⁷ It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.¹²⁸

Despite her denial, the Court finds that the accused was indeed negligent. She knew that attendance in the seminar was for a fee. She should have known that the participation of her husband was with a concomitant obligation to pay fees upon his walk-in. Having told the PICE-Davao registration personnel that she was inviting her husband and that he was not an employee of the MinDA and not substituting for Engr. Buhat, she should have paid his registration fees. It was negligent for her to assume that her husband will pay for his own registration fees, when it was her who invited A. Escaño to attend the seminar. Such cavalier attitude contributed to the wrong impression by the PICE-Davao registration personnel that the registration fee for Engr. Buhat was to be applied to A. Escaño.

As testified by C. Escaño:

Justice Miranda: Okay. Now, can you just summarize to the Court and tell us why the training participation fee of your husband was not paid during the duration of the activity?

A: On my part Your Honors, **I presumed already that during the day of training, my husband was a walk-in participant**, so, as an SOP or Standard Operating Procedure for all training, the Secretariat would normally ask the participants once they registered.

Q: Ask the participants if they have paid?

A: If they have paid or not?

Q: Now, did it occur to you that because of the following: Number one, since the MinDA engineer was not going to attend the training, that's number one. And then No. 2, you asked the Secretariat if your husband could attend despite missing hours, do you get me? Do you get me? Those two conditions. Absent yung isa and then you asked the Secretariat if your husband can attend despite missing hours, you get that, maam, clearly?

A: Yes, Your Honors.

Q: Okay. **Did it not occur to you that the Secretariat could get confused and think that your husband was taking the place of the absent MinDA Engineer? It did not occur to you?**

A: **It did not your Honor because with all due respect, when I asked the organizer, I asked them only if they would allow. I was not talking to the Secretariat, Your Honor.**

Q: **Sige not the Secretariat anymore. Did you not think that there could be a confusion resulting from the non-attendance of the MinDA engineer. And then you're asking if your husband can attend despite missing hours?**

¹²⁷ Uriarte v. Sandiganbayan, G.R. No. 169251, December 20, 2006.

¹²⁸ Supra, Fonacier v. Sandiganbayan.

A: Yeah. It did not come across into my mind.¹²⁹ [Emphasis supplied]

For his part, being a mere walk-in applicant, A. Escaño, the husband of the accused, knew that the seminar was for a fee. In fact, he thought his wife already paid the registration fee when she asked him to join the seminar. It was also negligent for him not to have asked the PICE-Davao registration personnel if his fees had already been paid. Again, PICE-Davao registration personnel were also negligent and should have billed A. Escaño separately considering that they knew beforehand that he was not an employee of MinDA and not a substitute for Engr. Buhat. They should have collected his registration fees right away. To the Court, it was the personnel of PICE-Davao who misapplied Engr. Buhat's registration fee to that of A. Escano's.

Under the circumstances then, the negligence of C. Escaño failed to meet the gravity required to sustain a conviction for gross inexcusable negligence under Section 3(e) of R.A. No. 3019. Gross inexcusable negligence requires a conscious indifference to consequence and want of even the slightest care. This is not the case here and the Court rules that C. Escaño's negligence cannot be characterized as gross and inexcusable that would warrant a criminal conviction.

Third Element: C. Escaño did not cause undue injury to MinDA. There was no unwarranted benefits, advantage, or preference extended to her husband.

There are two ways by which a public official violates Section 3 (e) of R.A. No. 3019 in the performance of his functions: 1) by causing undue injury to any party, including the Government; or 2) by giving any private party any unwarranted benefit, advantage or preference. The accused may be charged under either or both. The disjunctive term "or" connotes that either act qualifies as a violation of Section 3 (e) of R.A. No. 3019.¹³⁰

In *Guadines v. Sandiganbayan and People*,¹³¹ the Supreme Court explained the concept of undue injury:

"The term undue injury in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of causing undue injury to any party, has a meaning akin to that civil law concept of actual damage. The Court said so in *Llorente vs. Sandiganabayan*, thus:

In jurisprudence, **undue injury is consistently interpreted as actual damage. Undue has been defined as more than necessary, not proper, [or] illegal; and injury as any wrong or damage done to another, either in his person, rights, reputation or property [; that is the] invasion of any legally protected interest of another.** Actual damage, in the context of these definitions, is akin to that in civil law." (Emphasis supplied)

¹²⁹ TSN dated July 1, 2021. pp. 43-44.

¹³⁰ *Braza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013.

¹³¹ *Guadines v. Sandiganbayan*, G.R. No. 164891, June 6, 2011.

In *Rivera v. People*,¹³² the Supreme Court defined the following terms: “unwarranted” means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason; “advantage” means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action; and “preference” signifies priority or higher evaluation or desirability; choice or estimation above another.

Here, the undue injury sustained by MinDA in the form of wasted registration fee for Engr. Buhat was not caused by C. Escaño. Engr. Buhat’s negligence was the main reason for the wastage of the registration fee paid for him. He did not properly inform MinDA or his colleagues if he was really going to be absent because of a conflict in his schedule. In fact, his colleagues were waiting for him up to the last minute before the conference started.¹³³ Neither did he inform MinDA right away that he was not able to attend the seminar and that MinDA should seek a reimbursement of his registration fees.

There was also no unwarranted benefit, advantage, or preference extended to the husband of the accused. As a matter of fact, A. Escaño paid for his registration fee, although belatedly, after being sent a demand letter by PICE-Davao.¹³⁴

CONCLUSION

In criminal cases, the burden of proof rests upon the Prosecution, which must rely on the strength of its case rather than on the weakness of the case for the Defense. Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment, is indispensable to overcome the constitutional presumption of innocence.

In this case, the Court is convinced that the guilt of accused C. Escaño was not proven beyond reasonable doubt. The totality of the facts and circumstances demonstrate that she is entitled to acquittal as a matter of course.

WHEREFORE, accused **CHARLITA ANDALES ESCAÑO** is hereby **ACQUITTED** of the crime of Violation of Section 3(e) of R.A. No. 3019, as amended.

No civil liability may be adjudged against the accused as the act or omission from which the civil liability might arise did not exist.

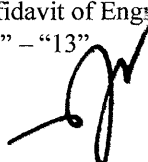
Let the bond posted for her provisional liberty be **RELEASED**, subject to the usual accounting and auditing procedures.



¹³² G.R. Nos. 156577, 156587 & 156749, December 3, 2014.


¹³³ Judicial Affidavit of Engr. Cisneros, Records, vol. 2, p. 195.

¹³⁴ Exhibit “11” – “13”




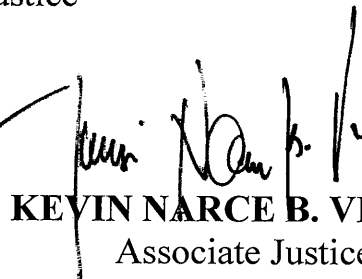
The Hold Departure Order (HDO) dated December 17, 2018 issued against the accused by reason of this case is hereby **LIFTED** and **SET ASIDE**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

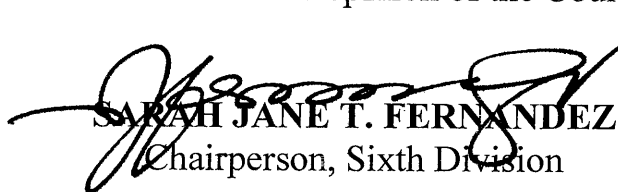
WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice

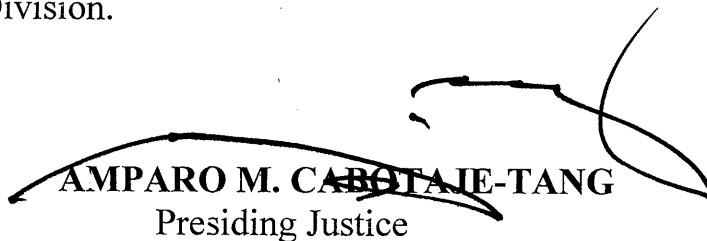
ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


SARAH JANE T. FERNANDEZ
Chairperson, Sixth Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABATAJE-TANG
Presiding Justice