



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

CRIM. CASE No. SB-16-  
CRM-0783

*For: Violation of Sec. 3(e), R.A.  
No. 3019, as amended*

*-versus-*

APOLINARIA HANGAD  
BALISTOY,

*Accused.*

CRIM. CASE No. SB-16-  
CRM-0784 to 0787

*For: Falsification of  
Public/Official Document (Par. 2,  
Art. 171, Revised Penal Code)*

*Present:*

Lagos, J., Chairperson,  
Mendoza-Arcega, J., and  
Corpus-Mañalac, J.

Promulgated:

January 20, 2023

x ----- *Gerzel P. Garcia* ----- x

DECISION

MENDOZA-ARCEGA, J.:

Indicted for one (1) count of violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended ("Anti-Graft and Corrupt Practices Act"), and for four (4) counts of Falsification of Public/Official Document under paragraph 2, Article 171 of the Revised Penal Code is former Mayor Apolinaria Hangad Balistoy ("Mayor Balistoy") of the Municipality of Cortes, Province of Bohol. The accusatory portions of the *Informations* are as follows:

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**SB-16-CRM-0783**

“That on or about 5 January 2010 or sometime prior or subsequent thereto, in the Municipality of Cortes, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, **APOLINARIA HANGAD BALISTOY**, a public officer, being then the Municipal Mayor (SG 27) of the Municipality of Cortes, Province of Bohol, in such capacity and committing the offense in relation to office, taking advantage of her official functions and position, with evident bad faith, did then and there willfully, unlawfully and criminally travel to Cebu City on January 5, 20 and 21, 2010 and February 4, 5, 26, and 27, 2010, in the guise of official travels when in fact she had no authority from the Provincial Governor to do so, and thereafter utilized falsified Certificates of Appearance to liquidate her cash advances therefor, thereby causing undue injury to the Municipality of Cortes, Province of Bohol, in the total amount of **TWENTY THOUSAND SEVEN HUNDRED SEVENTY-NINE PESOS and FIFTY CENTAVOS (Php20,779.50)**, representing the cash advances released to accused in relation to her unauthorized/unofficial travels which she liquidated with the use of falsified Certificates of Appearance.

CONTRARY TO LAW.”

**SB-16-CRM-0784**

“That on or about 5 January 2010 or sometime prior or subsequent thereto, in the Municipality of Cortes, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, **APOLINARIA HANGAD BALISTOY**, a public officer, being then the Municipal Mayor (SG 27) of the Municipality of Cortes, Province of Bohol, in such capacity and committing the offense in relation to office, taking advantage of her official functions and position, did then and there willfully, unlawfully and feloniously falsify a public/official document consisting of a Certificate of Appearance dated 5 January 2010 from the Civil Service Commission Regional Office 7 (CSC RO7), by causing it to appear in said document that Dr. Lorenzo R. Canapi, Division Chief, Public Assistance and Liaison Division (PALD), CSC RO 7, participated in the execution of said document by affixing his signature thereon, when in truth and in fact he did not sign said document or participate in its execution.

CONTRARY TO LAW.”

**SB-16-CRM-0785**

“That on or about 20 January 2010 or sometime prior or subsequent thereto, in the Municipality of Cortes, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, **APOLINARIA HANGAD BALISTOY**, a public officer, being then the Municipal Mayor (SG 27) of the



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Municipality of Cortes, Province of Bohol, in such capacity and committing the offense in relation to office, taking advantage of her official functions and position, did then and there willfully, unlawfully and feloniously falsify a public/official document consisting of a Certificate of Appearance from the Civil Service Commission Regional Office 7 (CSC RO7) for the date 20 January 2010, by causing it to appear in said document that Dr. Lorenzo R. Canapi, Division Chief, Public Assistance and Liaison Division (PALD), CSC RO7, participated in the execution of the same by affixing his signature thereon, when in truth and in fact he did not sign or participate in its execution.

CONTRARY TO LAW.”

**SB-16-CRM-0786**

“That on or about 21 January 2010 or sometime prior or subsequent thereto, in the Municipality of Cortes, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, **APOLINARIA HANGAD BALISTOY**, a public officer, being then the Municipal Mayor (SG 27) of the Municipality of Cortes, Province of Bohol, in such capacity and committing the offense in relation to office, taking advantage of her official functions and position, did then and there willfully, unlawfully and feloniously falsify a public/official document consisting of a Certificate of Appearance from the Civil Service Commission Regional Office 7 (CSC RO7) for the date 21 January 2010, by causing it to appear in said document that Dr. Lorenzo R. Canapi, Division Chief, Public Assistance and Liaison Division (PALD), CSC RO7, participated in the execution of the same by affixing his signature thereon, when in truth and in fact he did not sign or participate in its execution.

CONTRARY TO LAW.”

**SB-16-CRM-0787**

“That on or about February 4 and 5, 2010 or sometime prior or subsequent thereto, in the Municipality of Cortes, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, **APOLINARIA HANGAD BALISTOY**, a public officer, being then the Municipal Mayor (SG 27) of the Municipality of Cortes, Province of Bohol, in such capacity and committing the offense in relation to office, taking advantage of her official functions and position, did then and there willfully, unlawfully and feloniously falsify a public/official document consisting of a Certificate of Appearance from the Civil Service Commission Regional Office 7 (CSC RO7) for the dates February 4 and 5, 2010, by causing it to appear in said document that Dr. Lorenzo R. Canapi, Division Chief, Public Assistance and Liaison Division (PALD), CSC RO 7, participated in the execution of the same by affixing his signature thereon, when in truth and in fact he did not sign or participate in its execution.

CONTRARY TO LAW.”

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a series of loops and a final flourish.

On October 24, 2016, a Hold Departure Order<sup>1</sup> was issued against the accused. There being a probable cause,<sup>2</sup> the Court issued warrants of arrest<sup>3</sup> on November 14, 2016. Since the accused remained at large notwithstanding the lapse of time since the order of arrest was issued, the instant cases were archived pending her arrest.<sup>4</sup> On February 17, 2021, Mayor Balistoy was finally arrested by the National Bureau of Investigation (NBI) – International Airport Investigation Division (IAID) at the Ninoy Aquino International Airport.<sup>5</sup> Thus, on February 18, 2021, these cases were revived.<sup>6</sup> On even date, Mayor Balistoy posted cash bail bonds for her temporary liberty.<sup>7</sup>

On March 12, 2021, Mayor Balistoy was arraigned with the assistance of her counsel *de parte*, and entered a plea of not guilty on the charges. The preliminary conference ensued on June 8, 2021.<sup>8</sup> During its continuation on September 30, 2021, the accused failed to appear at the hearing.<sup>9</sup> Due to her repeated absences despite notice, and for failure to comply with the Show Cause Order per Minute Resolution dated September 30, 2021, the prosecution moved for the forfeiture of her cash bail bond, and the issuance of Warrant of Arrest.<sup>10</sup> On November 10, 2021, the Court directed Mayor Balistoy to comment within ten (10) days on why her cash bail bond should not be forfeited, and why no warrant of arrest should be issued against her.<sup>11</sup> However, on February 10, 2022, the prosecution manifested that Mayor Balistoy was no longer in the country as per its inquiry from the Bureau of Immigration. She left the country on August 1, 2021 via special flight as an airline crew member.<sup>12</sup>

In its Minute Resolution<sup>13</sup> dated February 23, 2022, the Court ordered the forfeiture of the accused's cash bail bond. Mayor Balistoy's right to appear was waived and the preliminary conference was likewise terminated. On March 2, 2022, a Bench Warrant of Arrest<sup>14</sup> was issued. In an Order<sup>15</sup> dated March 18, 2022, Atty. Reden B. Bides of the Public Attorney's Office was appointed as counsel *de officio* for the accused considering that no counsel appeared for her during the pre-trial. On March 18, 2022, pre-trial was

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<sup>1</sup> Record, Volume (Vol.) 1, pp. 106-107.

<sup>2</sup> *Id.*, p. 108.

<sup>3</sup> *Id.*, pp. 112-113, 115-118.

<sup>4</sup> *Id.*, p. 127.

<sup>5</sup> *Id.*, pp. 135, 137.

<sup>6</sup> *Id.*, p. 149.

<sup>7</sup> *Id.*, pp. 151-152.

<sup>8</sup> *Id.*, p. 356.

<sup>9</sup> Record, Vol. 2, p. 151.

<sup>10</sup> *Id.*, p. 154.

<sup>11</sup> *Id.*, p. 156.

<sup>12</sup> *Id.*, pp. 169-173; 176-181.

<sup>13</sup> *Id.*, pp. 184-185-a.

<sup>14</sup> *Id.*, pp. 188-194.

<sup>15</sup> *Id.*, p. 210.



terminated.<sup>16</sup> The prosecution moved to reconsider the Court's Order dated March 18, 2022 assailing the appointment of counsel *de officio* for the accused whose cash bail bond was forfeited and a bench warrant of arrest was issued.<sup>17</sup> In its Comment/Opposition,<sup>18</sup> the defense countered that although the accused jumped bail, she did not lose her right to counsel since neither the Constitution nor the procedural rules prohibit the same. On May 5, 2022, the Court resolved to deny the prosecution's Motion for Reconsideration.<sup>19</sup>

Thereafter, trial on the merits ensued.

### **EVIDENCE FOR THE PROSECUTION**

The prosecution submitted the Judicial Affidavits of the following witnesses: 1) Felix M. Mejorada; 2) Fe Concepcion D. Cerino; 3) Bernadette C. Prado; 4) Aileen Smirnov L. Saranza; 5) Rosenda B. Cabang; 6) Paciente V. Acero; 7) Dexter Ray C. Ruiz; 8) Atty. Ryan P. Medrano; and 9) Dennis G. Buenaventura.<sup>20</sup>

#### **1. FELIX M. MEJORADA ("Mejorada")**

In 2011, Mejorada worked as the Supervising Administrative Officer of the Office of the Governor, Provincial Government of Bohol. He was assigned by the governor to sign documents relative to administrative matters. Part of his functions were writing communications pertaining to the Office of the Governor, and dealing with personnel matters including budget and supplies. He was accountable for the records of the Office of the Governor, and was authorized to authenticate and issue certified true copies of the records of the office.

The witness recounted that the Commission on Audit (COA) requested for a list of official travels granted to Mayor Apolinaria H. Balistoy of Cortes, Bohol. Upon checking with their records, Mejorada drafted a Letter<sup>21</sup> dated June 14, 2011 informing the COA that their office has no available records on the approved travel order/authority of Mayor Balistoy from January 2009 up to June 14, 2011 (the date of the letter-response to the COA), except for her travel last February 16-17, 2011 as shown in the letter's attachment.<sup>22</sup> The

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<sup>16</sup> *Id.*, pp. 211-228.

<sup>17</sup> *Id.*, pp. 238-245.

<sup>18</sup> *Id.*, pp. 252-254.

<sup>19</sup> *Id.*, pp. 272-276.

<sup>20</sup> Record, Vol. 2, pp. 291-303, 452-457, 470-474, 484-490, 546-555, 556-560 and 569-581; Record, Vol. 3, 35-229 and 230-243.

<sup>21</sup> Exhibit I.

<sup>22</sup> Exhibit H.

said letter was signed by Provincial Administrator Alfonso R. Damalerio II and countersigned by Mejorada.

Subsequently, Mejorada issued a Certification<sup>23</sup> dated June 29, 2011 addressed to the Office of the Ombudsman stating that as per verification from the records of the Office of the Governor, there were no available papers relative to the official travels of the accused. There was also no request for a travel order/authority from Mayor Balistoy.

## 2. FE CONCEPCION D. CERINO (“Cerino”)

Cerino started working with the COA in 2009. She is the State Auditor IV and Audit Team Leader of Region VII, LGS B – Bohol II, Teams 2 and 7. In July 2014, she was assigned as the OIC-Audit Team Leader (Team 2) of the said region, comprising of the Municipalities of Balilihan, Corella, Cortes and Sikatuna, all in the province of Bohol. She became the Audit Team Leader of the said team in 2021 up to the present.

As Audit Team Leader, she examines and audits all the accounts pertaining to the municipalities’ revenues, receipts, and expenditures or uses of funds and properties which are owned or held in trust by the latter. She is also the teams’ record custodian who authenticates and issues the certified true copies of the records.

Cerino was subpoenaed by the Office of the Ombudsman, and required her to submit certified true copies of the documents regarding the travels of Mayor Balistoy to Cebu City in 2010. She stamped “Certified True Copy From Document on File” and signed the following documents after comparing and assessing the same as faithful reproductions of those on file:

- 1) Certification dated March 29, 2011 from the Civil Service Commission;<sup>24</sup>
- 2) Letter dated June 14, 2011 of the Provincial Administrator of Bohol to State Auditor Rosenda B. Cabang;<sup>25</sup>
- 3) Certificates of Appearance for the dates of January 5, 20 & 21, 2010 and February 4 & 5, 2010;<sup>26</sup>

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<sup>23</sup> Exhibit G.

<sup>24</sup> Exhibit F/W-8.

<sup>25</sup> Exhibit I.

<sup>26</sup> Exhibit J to J-3.

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- 4) Disbursement Vouchers with Nos. 100-10-01-008 (Php48,000.00); 100-10-01-100 (Php48,500.00); 100-10-02-211 (Php49,500.00); and 100-10-02-241 (Php47,500.00);<sup>27</sup>
- 5) Liquidation Reports for the cash advances amounting to: Php48,000.00 (LBP Check No. 0001299002); Php48,500.00 (LBP Check No. 0001299049); Php49,500.00 (LBP Check 0001299095); and Php47,500.00 (LBP Check No. 0001299108);<sup>28</sup>
- 6) Itineraries of Travel of Apolinaria H. Balistoy for the dates of January 5, 20 & 21, 2010 and February 4, 5, 26 & 27, 2010;<sup>29</sup>
- 7) Reimbursement Expense Receipts (RERs) in the name of Apolinaria H. Balistoy to various named payees;<sup>30</sup>
- 8) Boat tickets/boarding passes/terminal tickets;<sup>31</sup>
- 9) Various official receipts;<sup>32</sup> and
- 10) Notice of Disallowance dated August 10, 2011 with ND No. 11-012-100-(10).<sup>33</sup>

Cerino stated that Notice of Disallowance dated August 10, 2011, with ND No. 11-012-100-(10)<sup>34</sup> was stamped received by the Office of the Ombudsman, General Investigation Bureau-B on August 22, 2011, and certified by State Auditor Rosenda B. Cabang. Regarding the subject Certificates of Appearance,<sup>35</sup> the witness explained that Mayor Balistoy merely submitted photocopies thereof.

### 3. BERNADETTE C. PRADO ("Prado")

Prado is the Chief Human Resource Specialist of the CSC, Regional Office No. 7. She has been working with the CSC since 2007. Her duties and functions involve personnel matters such as selection and recruitment, maintenance of records, performance monitoring, conduct learning and development training, implementation of rewards and recognition for all employees of the CSC Regional Office No. 7, and conduct learning and development training of the CSC stakeholders and external clients.

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<sup>27</sup> Exhibit K to K-3.

<sup>28</sup> Exhibits M to M-3.

<sup>29</sup> Exhibits N to N-3.

<sup>30</sup> Exhibits O to O-39.

<sup>31</sup> Exhibits P to P-15.

<sup>32</sup> Exhibits Q to Q-3.

<sup>33</sup> Exhibits R to R-2.

<sup>34</sup> Exhibits R to R-2.

<sup>35</sup> Exhibit J to J-3.

She received a subpoena<sup>36</sup> from the Office of the Ombudsman requiring her to submit certified true copies from the original of the Service Record of Lorenzo R. Canapi, and the Certification<sup>37</sup> dated March 29, 2011 of Judith D. Chicano.

Thus, Prado issued a certified true copy of the Service Record of Lorenzo R. Canapi.<sup>38</sup> As for the Certification dated March 29, 2011 of Judith D. Chicano, she issued an Affidavit<sup>39</sup> dated June 17, 2021 with attachments stating that the requested certification could no longer be produced since their office does not maintain duplicate copies of certifications issued to a requesting party.

Prado disclosed that Dr. Canapi was employed in the CSC, Regional Office No. 7, Cebu City from August 15, 1977 up to July 31, 2009 based on his Service Record and Personal Data Sheet.<sup>40</sup>

#### 4. AILEEN SMIRNOV L. SARANZA ("Saranza")

Saranza is the Human Resource Management Officer III/ Administrative Officer V under the Office of the Municipal Mayor, Cortes, Bohol. She is in charge of the human resource management and development of personnel actions like appointments, transfer, detail and reassignment of personnel. She oversees the administrative functions to ensure the smooth transaction of the Office of the Municipal Mayor, and is the custodian of personnel records of the municipality. Some of the personnel records she maintains are Personal Data Sheets,<sup>41</sup> Service Records<sup>42</sup> and Oaths of Office.<sup>43</sup>

In 2010, she held the position of Senior Bookkeeper and concurrently held the position of Municipal Accountant Designate of the said municipality. As Municipal Accountant Designate, she was tasked to accomplish entries and records of general, trust and special education funds. She was also tasked to do bank reconciliation and to review supporting documents.

In her Sworn Statement<sup>44</sup> dated August 3, 2011 executed before the investigators of the Office of the Ombudsman, she narrated the irregularities

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<sup>36</sup> Exhibit W-6.

<sup>37</sup> Exhibit F/W-8.

<sup>38</sup> Exhibit E.

<sup>39</sup> Exhibits W-5 to W-8.

<sup>40</sup> Exhibits E/V-5, V-1 to V-4 and V-6.

<sup>41</sup> Exhibits B to B-6.

<sup>42</sup> Exhibit C.

<sup>43</sup> Exhibit D.

<sup>44</sup> Exhibits S to S-3.



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of Mayor Balistoy's transactions involving the funds of Cortes, Bohol. Mayor Balistoy submitted questionable documents to the municipality's accounting office, such as the Certificates of Appearances<sup>45</sup> for her travels to Cebu City 2010 wherein she purportedly appeared before Dr. Lorenzo R. Canapi of the CSC.

No purpose was indicated in the Certificates of Appearances<sup>46</sup> dated January 5, 20 & 21, 2010 and February 4 & 5, 2010. The originals of these certificates were neither submitted nor presented, and the ones submitted were just mere photocopies. There were also alterations and erasures visible on the certificates. Likewise, Saranza learned that Dr. Lorenzo R. Canapi was already retired at the time the certificates were issued. Aside from the Certificates of Appearance, the accused also submitted the following:

- 1) Itineraries of Travel;<sup>47</sup>
- 2) Reimbursement Expense Receipts (RERs);<sup>48</sup>
- 3) Boat tickets/boarding passes/ terminal tickets;<sup>49</sup> and
- 4) Official receipts.<sup>50</sup>

The Itineraries of Travel<sup>51</sup> were also irregular since the destinations and purpose of travel were not indicated. Saranza confirmed that municipal funds were disbursed for the aforesaid travels of Mayor Balistoy through the latter's cash advances. The following disbursement vouchers (DV) and Landbank checks were issued to the accused:

- 1) DV No. 100-10-01-008 - Php48,000.00;<sup>52</sup>
- 2) DV No. 100-10-01-100 - Php48,500.00;<sup>53</sup>
- 3) DV No. 100-10-02-211 - Php49,500.00;<sup>54</sup>
- 4) DV No. 100-10-02-241 - Php47,500.00;<sup>55</sup>
- 5) Landbank Check No. 0001299002;<sup>56</sup>
- 6) Landbank Check No. 0001299049;<sup>57</sup>
- 7) Landbank Check No. 0001299095;<sup>58</sup> and
- 8) Landbank Check No. 0001299108<sup>59</sup>

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<sup>45</sup> Exhibits J to J-3.

<sup>46</sup> Exhibits J to J-3.

<sup>47</sup> Exhibits N to N-3.

<sup>48</sup> Exhibits O to O-39.

<sup>49</sup> Exhibits P to P-15.

<sup>50</sup> Exhibits Q to Q-3.

<sup>51</sup> Exhibits N to N-3.

<sup>52</sup> Exhibit K.

<sup>53</sup> Exhibit K-1.

<sup>54</sup> Exhibit K-2.

<sup>55</sup> Exhibit K-3.

<sup>56</sup> Exhibit L.

<sup>57</sup> Exhibit L-1.

<sup>58</sup> Exhibit L-2

<sup>59</sup> Exhibit L-3.



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Upon signing and approving the checks, the said amounts were released in favor of the accused.<sup>60</sup> Likewise, Mayor Balistoy submitted the following Liquidation Reports:

- 1) Liquidation Report for Php48,000.00 (Landbank Check No. 0001299002);
- 2) Liquidation Report for Php48,500.00 (Landbank Check No. 0001299049);
- 3) Liquidation Report for Php49,500.00 (Landbank Check No. 0001299095); and
- 4) Liquidation Report for Php47,500.00 (Landbank Check No. 0001299108).

The witness stated that based on the Itineraries of Travel and the Notice of Disallowance dated August 10, 2011<sup>61</sup> [ND No. 11-012-100-(10)] issued by the COA, the total amount of cash advances for the travels of Mayor Balistoy is Php20,779.50, broken down as follows:

- 1) For January 5, 2010 – Php3,713.75;
- 2) For January 20 & 21, 2010 – Php7,183.25;
- 3) For February 4 & 5, 2010 – Php5,301.25; and
- 4) For February 26 & 27, 2010 – Php4,581.25.

Saranza clarified that a Notice of Disallowance was issued for the said travels since these were not supported by travel orders which is contrary to Section 96(b) of R.A. 7160 or the Local Government Code.

**5. ROSENDA B. CABANG (“Cabang”)**

Cabang was the Audit Team Leader assigned at the Municipality of Cortes, Bohol at the time material to the instant cases. She started working with the COA on April 1980 as Audit Examiner II until she became the State Auditor IV in 2010. As Audit Team Leader, she was in charge with planning, team’s execution and output, and submission of reports. Her audit jurisdiction covered the Municipalities of Cortes, Maribojoc, Antequera, Loon, Sikatuna and Corella, all at the province of Bohol.

The witness recalled that sometime in the years 2010 and 2011, her team audited the Municipality of Cortes which included disbursement vouchers, official receipts, and other relevant documents. As part of their

<sup>60</sup> Exhibits K-a, K-1-a, K-2-a and K-3-a; K-b, K-1-b, K-2-b and K-3-b.

<sup>61</sup> Exhibits R to R-2.

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regular audit, they also audited the travels made by Mayor Apolinaria Hangad Balistoy on January 5, 20 & 21, 2010 and February 4, 5, 26 & 27, 2010.

The audit team examined the following documents relative to the travels of Mayor Balistoy to Cebu in 2010:

- 1) Certificates of Appearance<sup>62</sup> –
  - a) Certificate of Appearance dated January 5, 2010;
  - b) Certificate of Appearance dated January 20, 2010;
  - c) Certificate of Appearance dated January 21, 2010; and
  - d) Certificate of Appearance dated February 4 & 5, 2010.
- 2) Disbursement Vouchers (DV)<sup>63</sup> –
  - a) DV No. 100-10-01-008 - Php48,000.00;
  - b) DV No. 100-10-01-100 - Php48,500.00;
  - c) DV No. 100-10-02-211 - Php49,500.00;
  - d) DV No. 100-10-02-241 - Php47,500.00;
- 3) Landbank checks,<sup>64</sup>
  - a) Landbank Check No. 0001299002;
  - b) Landbank Check No. 0001299049;
  - c) Landbank Check No. 0001299095; and
  - d) Landbank Check No. 0001299108.
- 4) Liquidation reports;<sup>65</sup> –
  - a) Liquidation Report for the cash advance of Php48,000.00 (Landbank Check No. 0001299002);
  - b) Liquidation Report for the cash advance of Php48,500.00 (Landbank Check No. 0001299049);
  - c) Liquidation Report for the cash advance of Php49,500.00 (Landbank Check No. 0001299095); and
  - d) Liquidation Report for the cash advance of Php47,500.00 (Landbank Check No. 0001299108).
- 5) Itineraries of Travel;<sup>66</sup>
- 6) Reimbursement Expense Receipts (RERs);<sup>67</sup>
- 7) Boat tickets/Boarding passes/ Terminal tickets;<sup>68</sup> and
- 8) Official Receipts.<sup>69</sup>

<sup>62</sup> Exhibits J, J-1, J-2 and J-3.

<sup>63</sup> Exhibits K, K-1, K-2 and K-3.

<sup>64</sup> Exhibits L to L-3.

<sup>65</sup> Exhibits M to M-3.

<sup>66</sup> Exhibits N to N-3.

<sup>67</sup> Exhibits O to O-39.

<sup>68</sup> Exhibits P to P-15.

<sup>69</sup> Exhibits Q to Q-3.

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Cabang stated that Mayor Balistoy did not submit the Certificates of Appearance for her travel to Cebu City on February 26-27, 2010. As regards the DVs, the purpose specified for the accused's cash advances is for "LGU operating expenses." The witness clarified that these DVs were issued for the accused's travels because when the latter submitted the liquidation reports, she attached her travel documents for Cebu City.

Further, the Itineraries of Travel<sup>70</sup> showed that Mayor Balistoy's cash advances for her Cebu City travels in 2010 amounted to a total of Php20,779.50, viz:

- 1) For January 5, 2010 – Php3,713.75;
- 2) For January 20 & 21, 2010 – Php7,183.25;
- 3) For February 4 & 5, 2010 – Php5,301.25; and
- 4) For February 26 & 27, 2010 – Php4,581.25.

The audit team also found the following:

- 1) Mayor Balistoy's travels to Cebu City on January 5, 20 & 21, 2010 and February 4, 5, 26 & 27, 2010 were not supported by Travel Orders contrary to Section 96 (b) of the Republic Act No. 7160 the Local Government Code which states, "Mayors of component cities and municipalities shall secure the permission of the Governor concerned for any travel outside the province."

The Municipal Mayor failed to attach the travel orders which should have been secured first from the Office of the Governor prior to the actual travel.

- 2) All Certificates of Appearance submitted had no purpose indicated and were all photocopies. It was also noted that alterations and erasures were visible on the certificates. However, for February 26-27, 2010 travel, no certificate of appearance was submitted;
- 3) All travels, except for February 26-27, 2010 appear to deal with the CSC but no credible purpose was stated. Certificates of travel were not submitted and attached to prove the completion of the actual travel undertaken;

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<sup>70</sup> Exhibits N to N-3.

- 4) Except for official receipts and boat tickets, all documents submitted were photocopies;
- 5) The Certification<sup>71</sup> from the Office of the CSC in Cebu City disclosed that the officer who issued the Certificates of Appearance used by the municipal mayor to support her three (3) travels was already retired from the CSC effective July 31, 2009. In this instance, all travels by the mayor as indicated above were undertaken after the retirement of the said officer. Hence, the validity, propriety and authenticity of the claim appears very doubtful;
- 6) In the Itinerary of Travels,<sup>72</sup> the places to be visited and purposes of the travel were not indicated. Only the boat tickets, hotel/meal receipts as well as the photocopies of Certificates of Appearance provided the details of the travels.

Cabang recalled that when she requested from the Provincial Administrator of Bohol, Office of the Governor for the list of official travels of Mayor Balistoy, the latter replied in a Letter<sup>73</sup> dated June 14, 2011, "no available records on approved travel order/authority starting January 2009 up to present (the date of the letter is June 14, 2011) for Mayor Balistoy except for the travel on Feb. 16-17, 2011,<sup>74</sup> copy of which is attached for reference." Consequently, the audit team issued a Notice of Disallowance<sup>75</sup> dated August 10, 2011 with ND No. 11-012-100-(10) disallowing the total amount of Php20,779.50 that was used for the disputed travels.

## 6. PACIENTE V. ACERO ("Acero")

Acero worked at the Municipality of Cortes, Bohol from 1989 to 2012. In 2010, he held the position of municipal treasurer. As municipal treasurer, he was tasked to disburse and pay vouchers, to collect taxes and other fees, to act as a custodian, and to update the inventory of the properties of the municipality.

He stated that the investigators of the Office of the Ombudsman took his Sworn Statement<sup>76</sup> dated August 4, 2011. He disclosed that prior to the

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<sup>71</sup> Exhibit F.

<sup>72</sup> Exhibit N to N-3.

<sup>73</sup> Exhibit I.

<sup>74</sup> Exhibit H.

<sup>75</sup> Exhibits R to R-2.

<sup>76</sup> Exhibits T to T-3.

accused's administration, the treasurer's office plays an active role in the procurement of the municipality's equipment and supplies. But during Mayor Balistoy's administration, the Treasurer's Office was no longer allowed to participate, especially those involving large amounts of money. The Treasurer's Office became limited to the preparation, signing and release of the checks for payment of suppliers. The checks<sup>77</sup> that were forwarded to the Office of the Mayor would no longer be returned to the Treasurer's Office even the latter requested for their return. The witness was a signatory to the said checks including Mayor Balistoy.

## 7. DEXTER RAY C. RUIZ ("Ruiz")

Ruiz is the Assistant Vice President and Branch Head of the Landbank of the Philippines (LBP), Tagbilaran Capitol Branch. He works with the bank since November 2018. His duties include the overseeing of the operations of the branch, and dealing with the marketing and relations of existing clients. He is the accountable officer for the records of the branch, and has authority to authenticate and issue certified true copies of the said records.

Ruiz received a subpoena from the Office of the Ombudsman, requiring him to submit certified true copies from the original of the following LBP checks issued to Apolinaria H. Balistoy:

- 1) Landbank Check No. 0001299002 dated January 4, 2010;<sup>78</sup>
- 2) Landbank Check No. 0001299049 dated January 19, 2010;<sup>79</sup>
- 3) Landbank Check No. 0001299095 dated February 3, 2010;<sup>80</sup> and
- 4) Landbank Check No. 0001299108 dated February 8, 2010.<sup>81</sup>

Upon verification, Ruiz explained that the originals of the said checks were already disposed as these were more than five (5) years already in the bank's files. Under LBP Executive Order No. 100, Series of 2019, entitled "Guidelines on the Implementation of the LBP Records Disposition Schedule (RDS)," negotiated checks may be retained for only a period of five (5) years to comply with R.A. No. 9470 or the National Archives of the Philippines Act of 2007. Subsequently, he referred the matter to the bank's legal officer for appropriate action, and a Certification<sup>82</sup> dated June 15, 2021 with attachments was submitted to the Office of the Ombudsman.

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<sup>77</sup> Exhibits L to L-3.

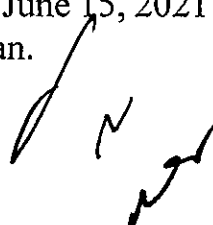
<sup>78</sup> Exhibit L.

<sup>79</sup> Exhibit L-1.

<sup>80</sup> Exhibit L-2.

<sup>81</sup> Exhibit L-3.

<sup>82</sup> Exhibits W to W-4.



### 8. Atty. Ryan P. Medrano (“Atty. Medrano”)

Atty. Medrano is the Director IV of the Field Investigation Office (FIO) II, Office of the Ombudsman. He started working with the Office of the Ombudsman on July 2004. In 2011, he held the position of Graft Investigation and Prosecution Officer I (GIPO I) of the FIO, Office of the Ombudsman. As GIPO I, he conducted fact-finding investigation and evaluated cases filed before the Office of the Deputy Ombudsman for Visayas.

He recalled that he and Mr. Dennis G. Buenaventura were assigned to investigate the instant cases based on the Letter-Complaint dated May 15, 2011 of Bohol Vice Mayor Danilo L. Montero and Municipal Councilors Lynn Iven P. Lim, Celerino T. Jubac, Jr., Soledad B. Ligan, Martian J. Iyoy, and Rolando D. dela Torre, and on a concerned citizen’s Letter-Complaint dated May 20, 2011. Consequently, a fact-finding investigation was conducted by the FIO. The documents gathered were:

- 1) Personal Data Sheet of Apolinaria Hangad Balistoy;<sup>83</sup>
- 2) Service Record of Apolinaria Hangad Balistoy;<sup>84</sup>
- 3) Oath of Office of Apolinaria Hangad Balistoy<sup>85</sup>
- 4) Certification dated June 29, 2011 of Felix M. Mejlada;<sup>86</sup>
- 5) Authority to Travel dated February 15, 2011;<sup>87</sup>
- 6) Letter dated June 14, 2011 of Alfonso R. Damalerio;<sup>88</sup>
- 7) Sworn Statement of Ms. Aileen Smirnov Lungay-Saranza dated August 03, 2011;<sup>89</sup>
- 8) Sworn Statement of Mr. Paciente V. Acero dated August 04, 2011;<sup>90</sup>
- 9) Sworn Statement of Mr. Lorenzo Dela Rosa Canapi dated August 01, 2011;<sup>91</sup>

<sup>83</sup> Exhibits B to B6.

<sup>84</sup> Exhibit C.

<sup>85</sup> Exhibit D.

<sup>86</sup> Exhibit G.

<sup>87</sup> Exhibit H.

<sup>88</sup> Exhibit I.

<sup>89</sup> Exhibits S to S-3.

<sup>90</sup> Exhibits T to T-3.

<sup>91</sup> Exhibits U to U-2.

Handwritten signature and initials, possibly reading 'N' and 'J'.

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- 10) DV No. 100-10-01-008 in the amount of Php48,000.00;<sup>92</sup>
- 11) DV No. 100-10-01-100 in the amount of Php48,500.00;<sup>93</sup>
- 12) DV No. 100-10-02-211 in the amount of Php49,500.00;<sup>94</sup>
- 13) DV No. 100-10-02-241 in the amount of Php47,500.00;<sup>95</sup>
- 14) Landbank Check No. 0001299002 dated January 4, 2010 in the amount of Php48,000.00;<sup>96</sup>
- 15) Liquidation Report for the Php48,000.00 covered by Landbank Check No. 0001299002;<sup>97</sup>
- 16) Itinerary of Travel for January 5, 2010 amounting to Php3,713.75;<sup>98</sup>
- 17) Reimbursement Expense Receipt (RER) dated January 5, 2010 in the amount of Php337.50 with a certain "Nguito" as Payee;<sup>99</sup>
- 18) Starlite Passenger Ticket for January 05, 2010 with No. 634453;<sup>100</sup>
- 19) RER dated January 5, 2010 in the amount of Php100.00 with Alberto Itong as Payee;<sup>101</sup>
- 20) Weesam Express Ticket for January 05, 2010 with No. 27667;<sup>102</sup>
- 21) Weesam Boarding Pass for January 05, 2010;<sup>103</sup>
- 22) RER dated January 5, 2010 in the amount of Php100.00 with a certain "Exerquiel" as Payee;<sup>104</sup>

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<sup>92</sup> Exhibits K, K-a and K-b.

<sup>93</sup> Exhibits K-1, K-1-a and K-1-b.

<sup>94</sup> Exhibits K-2, K-2-a and K-2-b.

<sup>95</sup> Exhibits K-3, K-3-a and K-3-b.

<sup>96</sup> Exhibit L.

<sup>97</sup> Exhibit M.

<sup>98</sup> Exhibit N, N-a and N-b.

<sup>99</sup> Exhibit O.

<sup>100</sup> Exhibit P.

<sup>101</sup> Exhibit O-1.

<sup>102</sup> Exhibit P-1.

<sup>103</sup> Exhibit P-1-a.

<sup>104</sup> Exhibit O-2.





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- 23) RER dated January 05, 2010 in the amount of Php365.00 with Antonio Lasaten as Payee;<sup>105</sup>
- 24) RER dated January 05, 2010 in the amount of Php350.00 with Romlilo Anton as Payee;<sup>106</sup>
- 25) RER dated January 05, 2010 in the amount of Php100.00 with Felipe Manerto as Payee;<sup>107</sup>
- 26) Super Terminals, Inc. Terminal Ticket with No. 473649;<sup>108</sup>
- 27) Supercat Fast Ferry Corporation Ticket for January 05, 2010 with No. 08908643;<sup>109</sup>
- 28) Receipt issued by Celjim's Juices & Shakes dated January 05, 2010 with No. 4432 in the amount of Php785.00;<sup>110</sup>
- 29) RER dated January 05, 2010 in the amount Php100.00 with a certain "Casiano" (handwriting unintelligible) as Payee;<sup>111</sup>
- 30) RER dated January 05, 2010 in the amount of Php340.00 with Francisco Bosbos as Payee;<sup>112</sup>
- 31) Certificate of Appearance dated January 5, 2010 purportedly issued by Dr. Lorenzo R. Canapi;<sup>113</sup>
- 32) LBP Check No. 0001299049 dated January 19, 2010 in the amount of Php48,500.00;<sup>114</sup>
- 33) Liquidation Report for the Php48,500.00 covered by Landbank Check No. 0001299049;<sup>115</sup>
- 34) Itinerary of Travel for January 20 and 21, 2010 amounting to Php7,183.25;<sup>116</sup>



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<sup>105</sup> Exhibit O-3.

<sup>106</sup> Exhibit O-4.

<sup>107</sup> Exhibit O-5.

<sup>108</sup> Exhibit P-2.

<sup>109</sup> Exhibit P-3.

<sup>110</sup> Exhibit Q.

<sup>111</sup> Exhibit O-6.

<sup>112</sup> Exhibit O-7.

<sup>113</sup> Exhibits J and J-a.

<sup>114</sup> Exhibit L.

<sup>115</sup> Exhibit M-1.

<sup>116</sup> Exhibits N-1, N-1-a and N-1-b.

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- 35) RER dated January 20, 2010 in the amount of Php387.50 with Antonio Lambo as Payee;<sup>117</sup>
- 36) RER dated January 20, 2010 in the amount of Php100.00 with Santiago Alba as Payee;<sup>118</sup>
- 37) Weesam Express Ticket for January 20, 2010 with No. 18120;<sup>119</sup>
- 38) Weesam Boarding Pass for January 20, 2010;<sup>120</sup>
- 39) Starlite Passenger Ticket for January 20, 2010 with No. 668043;<sup>121</sup>
- 40) RER dated January 20, 2010 in the amount of Php100.00 with Casiano Anito as Payee;<sup>122</sup>
- 41) RER dated January 20, 2010 in the amount of Php600.00 with Gerardo Quimpan as Payee;<sup>123</sup>
- 42) Receipt issued by Cebu Northwinds Hotel dated January 20, 2010 with No. 89917 in the amount of Php1,400.00;<sup>124</sup>
- 43) RER dated January 20, 2010 in the amount of Php205.00 with Roman Socorro as Payee;<sup>125</sup>
- 44) RER dated January 20, 2010 in the amount of Php207.50 with Angelo Coquila as Payee;<sup>126</sup>
- 45) RER dated January 21, 2010 in the amount of Php212.50 with Moises Estepa as Payee;<sup>127</sup>
- 46) RER dated January 21, 2010 in the amount of Php207.50 with Romeo Bangbong as Payee;<sup>128</sup>

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<sup>117</sup> Exhibit O-8.

<sup>118</sup> Exhibit O-9.

<sup>119</sup> Exhibit P-4.

<sup>120</sup> Exhibit P-4-a.

<sup>121</sup> Exhibit P-5.

<sup>122</sup> Exhibit O-10.

<sup>123</sup> Exhibit O-11.


<sup>124</sup> Exhibit Q-1.

<sup>125</sup> Exhibit O-12.

<sup>126</sup> Exhibit O-13.

<sup>127</sup> Exhibit O-14.

<sup>128</sup> Exhibit O-15.



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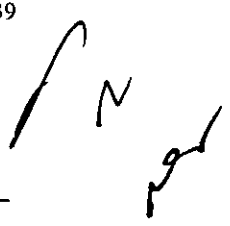
People v. Apolinaria Hangad Balistoy

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- 47) Receipt issued by Celjim's Juices & Shakes dated January 21, 2010 with No. 4442 in the amount of Php800.00;<sup>129</sup>
- 48) RER dated January 21, 2010 in the amount of Php650.00 with Juanito Casing as Payee;<sup>130</sup>
- 49) RER dated January 21, 2010 in the amount of Php100.00 with Vicente Antig as Payee;
- 50) Supercat Fast Ferry Corporation Ticket for January 21, 2010 with No. 08948014;<sup>131</sup>
- 51) Super Terminals, Inc. Terminal Ticket with No. 490637;<sup>132</sup>
- 52) RER dated January 21, 2010 in the amount of Php100.00 with Silvano Nioda as Payee;<sup>133</sup>
- 53) RER dated January 21, 2010 in the amount of Php395.00 with Pacifico Jadlocon as Payee;<sup>134</sup>
- 54) Certificate of Appearance for the date January 20, 2010 purportedly issued by Dr. Lorenzo R. Canapi;<sup>135</sup>
- 55) Certificate of Appearance for the date January 21, 2010 purportedly issued by Dr. Lorenzo R. Canapi;<sup>136</sup>
- 56) LBP Check No. 0001299095 dated February 3, 2010 in the amount of Php49,500.00;<sup>137</sup>
- 57) Liquidation Report for the Php49,500.00 covered by the LBP Check No. 0001299095;<sup>138</sup>
- 58) Itinerary of Travel for February 4 and 5, 2010 amounting to Php5,301.25;<sup>139</sup>



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<sup>129</sup> Exhibit Q-2.

<sup>130</sup> Exhibit O-16.

<sup>131</sup> Exhibit P-6.

<sup>132</sup> Exhibit P-7.

<sup>133</sup> Exhibit O-18.

<sup>134</sup> Exhibit O-19.

<sup>135</sup> Exhibits J-1 and J-1-a.

<sup>136</sup> Exhibits J-2 and J-2-a.

<sup>137</sup> Exhibit L-2.

<sup>138</sup> Exhibit M-2.

<sup>139</sup> Exhibits N-1, N-1-a and N-1-b.

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- 59) RER dated February 04, 2010 in the amount of Php367.50 with Alfredo Alesna as Payee;<sup>140</sup>
- 60) RER dated February 04, 2010 in the amount of Php100.00 with Silvano Quinto as Payee;<sup>141</sup>
- 61) Starlite Passenger Ticket for February 04, 2010 with No. 703671;<sup>142</sup>
- 62) Weesam Express Ticket for February 04, 2010 with No. 18180;<sup>143</sup>
- 63) Weesam Boarding Pass for February 04, 2010;<sup>144</sup>
- 64) RER dated February 04, 2010 in the amount of Php100.00 with Saturino Antig as Payee;<sup>145</sup>
- 65) RER dated February 04, 2010 in the amount of Php295.00 with Antonio Inso as Payee;<sup>146</sup>
- 66) RER dated February 04, 2010 in the amount of Php197.50 with Feliciano Bangbong as Payee;<sup>147</sup>
- 67) RER dated February 04, 2010 with Casiano Fonte as Payee;<sup>148</sup>
- 68) Receipt issued by Crowne Garden Hotel dated February 05, 2010 with No. 6454 in the amount of Php1,400.00;<sup>149</sup>
- 69) Super Terminals, Inc. Terminal Ticket with No. 503589;<sup>150</sup>
- 70) Supercat Fast Ferry Corporation Ticket for 5 February 2010 with No. 08931137;<sup>151</sup>

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<sup>140</sup> Exhibit O-20.

<sup>141</sup> Exhibit O-21.

<sup>142</sup> Exhibit P-8.

<sup>143</sup> Exhibit P-9.

<sup>144</sup> Exhibit P-9-a.

<sup>145</sup> Exhibit O-22.

<sup>146</sup> Exhibit O-23.

<sup>147</sup> Exhibit O-24.

<sup>148</sup> Exhibit O-25.

<sup>149</sup> Exhibit Q-3.

<sup>150</sup> Exhibit P-10.

<sup>151</sup> Exhibit P-11.

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- 71) RER dated February 05, 2010 in the amount of Php297.50 with Augusto Tampus as Payee;<sup>152</sup>
- 72) RER dated February 05, 2010 in the amount of Php100.00 with Alberto Quijano as Payee;<sup>153</sup>
- 73) RER dated February 05, 2010 in the amount of Php100.00 with Felipe Panio as Payee;<sup>154</sup>
- 74) RER dated February 05, 2010 in the amount of Php372.50 with a certain "Marcelo" as Payee;<sup>155</sup>
- 75) Certificate of Appearance for the dates February 4 and 5, 2010 purportedly issued by Dr. Lorenzo R. Canapi;<sup>156</sup>
- 76) Landbank Check with No. 0001299108 dated February 08, 2010 in the amount of Php47,500.00;<sup>157</sup>
- 77) Liquidation Report covered by LBP Check No. 0001299108;<sup>158</sup>
- 78) Itinerary of Travel for February 26 and 27, 2010 amounting to Php4,581.25;<sup>159</sup>
- 79) RER dated February 26, 2010 in the amount of Php367.50 with a certain "Albano" as Payee;<sup>160</sup>
- 80) RER dated February 26, 2010 in the amount of Php100.00 with Alfredo Pino as Payee;<sup>161</sup>
- 81) Starlite Passenger Ticket for February 25, 2010 with No. 756658;<sup>162</sup>
- 82) Ocean Fast Ferries Inc. Ticket for February 26, 2010 with No. 5232974;<sup>163</sup>

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<sup>152</sup> Exhibit O-26.

<sup>153</sup> Exhibit O-27.

<sup>154</sup> Exhibit O-28.

<sup>155</sup> Exhibit O-29.

<sup>156</sup> Exhibits J-3 and J-3-a.

<sup>157</sup> Exhibit L-3.

<sup>158</sup> Exhibit M-3.

<sup>159</sup> Exhibits N-3, N-3-a and N-3-b.

<sup>160</sup> Exhibit O-30.

<sup>161</sup> Exhibit O-31.

<sup>162</sup> Exhibit P-12.

<sup>163</sup> Exhibit P-13.

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- 83) RER dated February 26, 2010 in the amount of Php100.00 with nobody named as Payee;<sup>164</sup>
- 84) RER dated February 26, 2010 in the amount of Php395.00 with Ronaldo Celis as Payee;<sup>165</sup>
- 85) RER dated February 26, 2010 in the amount of Php 197.50 with Florencio Sales as Payee;<sup>166</sup>
- 86) RER dated February 26, 2010 in the amount of Php 195.00 with Felipe Quano as Payee;<sup>167</sup>
- 87) Weesam Express Ticket for February 27, 2010 with No. 31856;<sup>168</sup>
- 88) Weesam Boarding Pass "2DFC";<sup>169</sup>
- 89) Cebu Port Authority Terminal Fee with No. 083116;<sup>170</sup>
- 90) RER dated February 27, 2010 in the amount of Php397.50 with Juanito Qinete as Payee;<sup>171</sup>
- 91) RER dated February 27, 2010 in the amount of Php100.00 with a certain "Castro" as Payee;<sup>172</sup>
- 92) RER dated February 27, 2010 in the amount of Php100.00 with Francisco Celis as Payee;<sup>173</sup>
- 93) RER dated February 27, 2010 in the amount of Php372.50 with Brigido Ofamen as Payee;<sup>174</sup>
- 94) Letter dated June 23, 2011 of Atty. Judith D. Chicano;<sup>175</sup>
- 95) Personal Data Sheet of Lorenzo Dela Rosa Canapi;<sup>176</sup>

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<sup>164</sup> Exhibit O-32.

<sup>165</sup> Exhibit O-33.

<sup>166</sup> Exhibit O-34.

<sup>167</sup> Exhibit O-35.

<sup>168</sup> Exhibit P-14.

<sup>169</sup> Exhibit P-14-a.

<sup>170</sup> Exhibit P-15.

<sup>171</sup> Exhibit O-36.

<sup>172</sup> Exhibit O-37.

<sup>173</sup> Exhibit O-38.

<sup>174</sup> Exhibit O-39.

<sup>175</sup> Exhibit V.

<sup>176</sup> Exhibits V to V-6.



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96) Service Record of Lorenzo R. Canapi;<sup>177</sup>

97) Certification dated March 29, 2011 of Judith D. Chicano;<sup>178</sup>  
and

98) Notice of Disallowance with ND No. 11-012-100-(10) dated  
August 10, 2011.<sup>179</sup>

The investigation showed that Mayor Balistoy could be held liable for falsification under paragraph 2 of Article 171 of the Revised Penal Code based on the falsified Certificates of Appearance submitted by Mayor Balistoy. Dr. Lorenzo R. Canapi, the one who purportedly issued the said Certificates of Appearances, was already retired<sup>180</sup> at the time these certificates were issued. In a Sworn Statement of Dr. Canapi,<sup>181</sup> he denied that he executed the said Certificates of Appearance.

As regards the violation of Section 3(e) of R.A. 3019 (Anti-Graft and Corrupt Practices Act), Mayor Balistoy travelled to Cebu City under the guise of official travels on January 5, 20 & 21, 2010, and February 4, 5, 26 & 27, 2010 when in fact she was not duly authorized by the Provincial Governor. These findings were based on the Certification<sup>182</sup> dated June 29, 2011 of the Supervising Administrative Officer, and Letter dated June 14, 2011 of the Provincial Administrator<sup>183</sup>. Her unauthorized travels were shown in the aforesaid Itineraries of Travel, RERs, boat/tickets/boarding pass/terminal tickets. Similarly, the cash advances of the accused amounted to a total of Php20,779.50 as evidenced by the said disbursement vouchers and checks.

After the investigation, Atty. Medrano's recommendation was approved by the Ombudsman wherein he executed a Complaint<sup>184</sup> dated September 5, 2011 with attachments, and it was filed with the Office of the Deputy Ombudsman.

## 9. DENNIS G. BUENAVENTURA ("Buenaventura")

Buenaventura is the Associate Graft Investigation Officer III (AGIO III) of the FIO, Office of the Ombudsman. He started working with the said office in 2004. As AGIO III, he conducts investigation on erring public

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<sup>177</sup> Exhibits E/V-5.

<sup>178</sup> Exhibits F/W-8.

<sup>179</sup> Exhibits R to R-2.

<sup>180</sup> Exhibits E/V-5 and F/W-8.

<sup>181</sup> Exhibit U to U-2.

<sup>182</sup> Exhibit G.

<sup>183</sup> Exhibit I.

<sup>184</sup> Exhibits A to A-92.

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officials and employees based on complaints. He was assigned to investigate the present cases with Atty. Ryan P. Medrano.

They conducted a fact-finding investigation based on the Letter-Complaint dated May 15, 2011 of Bohol Vice Mayor Danilo L. Montero, Municipal Councilors Lynn Iven P. Lim, Celerino T. Jubac, Jr., Soledad B. Ligan, Martian J. Iyoy, and Rolando D. dela Torre, and a concerned citizen's Letter-Complaint dated May 20, 2011. Based on their investigation, Mayor Apolinaria H. Balistoy could be charged with Falsification under paragraph 2 of Article 171 of the Revised Penal Code based on the falsified Certificates of Appearance<sup>185</sup> dated January 5, 2010, January 20, 2010, January 21, 2010, and dated February 4 and 5, 2010. The said certificates were purportedly issued by Dr. Lorenzo R. Canapi who was already retired<sup>186</sup> at the time those certificates were issued. Dr. Canapi denied that he executed the said Certificates of Appearance in his Sworn Statement<sup>187</sup> before investigators Buenaventura and Atty. Medrano.

On June 15, 2022, after presenting its last witness, the prosecution was given a period of ten (10) days therefrom to file its *Formal Offer of Evidence*, while the defense was also given the same period from receipt of the latter to file its *Comment*.<sup>188</sup> On June 23, 2022, the prosecution filed its *Formal Offer of Evidence*.<sup>189</sup> However, the defense merely filed its *Comment* on August 22, 2022. Consequently, the prosecution filed a *Manifestation*<sup>190</sup> dated August 30, 2022 noting that the defense's *Comment* was filed almost two (2) months from receipt of the pleading.

On August 30, 2022, the Court resolved to admit all the prosecution's exhibits: Exhibits A to A-92, B to B-6, C, D, E/V-5, F/W-8, G, H, I, J, J-a, J-1, J-1-a, J-2, J-2-a, J-3, J-3-a, K, K-a, K-b, K-1, K-1-a, K-1-b, K-2, K-2-a, K-2-b, K-3, K-3-a, K-3-b, L, L-1, L-2, L-3, M, M-1, M-2, M-3, N, N-a, N-b, N-1, N-1-a, N-1-b, N-2, N-2-a, N-2-b, N-3, N-3-a, N-3-b, O, O-1, O-2, O-3, O-4, O-5, O-6, O-7, O-8, O-9, O-10, O-11, O-12, O-13, O-14, O-15, O-16, O-17, O-18, O-19, O-20, O-21, O-22, O-23, O-24, O-25, O-26, O-27, O-28, O-29, O-30, O-31, O-32, O-33, O-34, O-35, O-36, O-37, O-38, O-39, P, P-1-a, P-2, P-3, P-4, P-4-a, P-5, P-6, P-7, P-8, P-9, P-9-a, P-10, P-11, P-12, P-13, P-14, P-14-a, P-15, Q, Q-1, Q-2, Q-3, R to R-2, S to S-3, T to T-3, U to U-2, V to V-6, W to W-4, and W-5 to W-8.<sup>191</sup>

<sup>185</sup> Exhibits J to J-3.

<sup>186</sup> Exhibits E/V-5 and F/W-8.

<sup>187</sup> Exhibits U to U-2.

<sup>188</sup> Record, Vol. 3, p. 245. Also see: TSN dated June 15, 2022, pp. 27-28.

<sup>189</sup> *Id.*, pp. 248-460.

<sup>190</sup> *Id.*, pp. 476-477

<sup>191</sup> *Id.*, pp. 479-481.



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Meanwhile, the *Comment* of the defense was belatedly filed without any justification; thus, it was considered as a mere scrap of paper.<sup>192</sup>

The accused was not able to present her evidence considering that she jumped bail. Hence, these cases were submitted for decision as the parties did not manifest their intention to file their respective memoranda.<sup>193</sup>

**FINDINGS OF FACTS**

The material operative facts are as follows:

Accused Apolinaria H. Balistoy was a duly elected mayor of the Municipality of Cortes, Bohol Province. On different dates, she obtained cash advances from the municipality covered by the following:

- 1) DV No. 100-10-01-008 in the amount of Php48,000.00;<sup>194</sup>
- 2) DV No. 100-10-01-100 in the amount of Php48,500.00;<sup>195</sup>
- 3) DV No. 100-10-02-211 in the amount of Php49,500.00;<sup>196</sup>
- 4) DV No. 100-10-02-241 in the amount of Php47,500.00;<sup>197</sup>
- 5) Landbank Check No. 0001299002 dated January 4, 2010 in the amount of Php48,000.00;<sup>198</sup>
- 6) Landbank Check No. 0001299049 dated January 19, 2010 in the amount of Php48,500.00;<sup>199</sup>
- 7) Landbank Check No. 0001299095 dated February 3, 2010 in the amount of Php49,500.00;<sup>200</sup>
- 8) Landbank Check No. 0001299108 dated February 8, 2010 in the amount of Php47,500.00.<sup>201</sup>

On January 5, 20 & 21, 2010, and February 4, 5, 26 & 27, 2010, Mayor Balistoy travelled to Cebu City supposedly to visit the CSC. To liquidate the said cash advances, she submitted several supporting documents such as liquidation reports, reimbursement expense receipts, itineraries of travel, official receipts, and boat tickets/boarding passes/terminal tickets. Mayor Balistoy also submitted Certificates of Appearance dated January 5, 20 & 21,

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<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> Exhibits K, K-a and K-b.

<sup>195</sup> Exhibits K-1, K-1-a and K-1-b.

<sup>196</sup> Exhibits K-2, K-2-a and K-2-b.

<sup>197</sup> Exhibits K-3, K-3-a and K-3-b.

<sup>198</sup> Exhibit L.

<sup>199</sup> Exhibit L-1.

<sup>200</sup> Exhibit L-2.

<sup>201</sup> Exhibit L-3.

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2010 and February 4 & 5, 2010, all signed by Dr. Lorenzo R. Canapi of the CSC, Cebu City.

Sometime in 2010 to 2011, the COA Audit Team conducted its regular audit at the Municipality of Cortes. They examined the travel documents of Mayor Balistoy, including the said certificates of appearance. As for her February 26-27, 2010 travel, the accused did not submit any certificate of appearance. However, the audit team discovered that the signatory in the certificates of appearance, Dr. Lorenzo R. Canapi, already retired from the CSC on July 31, 2009. The legitimate purpose of the visit was not also specified in the said certificates. It was divulged that Mayor Balistoy did not secure any travel authority/order from the Office of the Governor. Except for the official receipts and boat tickets, the certificates of appearance and all the other documents submitted were mere photocopies.

Consequently, the audit team issued a Notice of Disallowance dated August 10, 2011, which disallowed the total amount of Php20,779.50 for the said travels.

**ISSUES**

The issues may be encapsulated as follows:

1. Whether or not Mayor Balistoy is guilty of Violation of Section 3(e) of R.A. 3019, as amended?
2. Whether or not Mayor Balistoy is guilty of Falsification of Public/Official Document under paragraph 2, Article 171 of the Revised Penal Code?

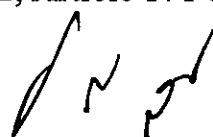
**THE COURT'S RULING**

The issue of whether Mayor Balistoy is liable of Falsification of Public/Official Document shall be resolved first as the Graft case is hinged on her alleged use of falsified certificates of appearance.

**I.**

**Criminal Case Nos. SB-16-CRM-0784 to 0787:  
Falsification of Public/Official Document**

The felony for which Mayor Balistoy is accused of is Falsification of Public/Official Document under paragraph 2, Article 171 of the Revised Penal Code, as amended by R.A. No. 10951, viz:



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Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* - The penalty of prision mayor and a fine not to exceed One million pesos (P1,000,000) shall be imposed upon any public officer, employee, or notary who, taking advantage of his of position shall falsify a document by committing any of the following acts:

xxx xxx

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

xxx xxx

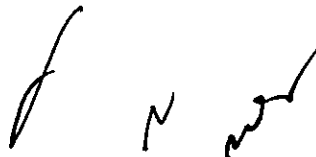
In this regard, Section 19 of Rule 132 of the 2019 Revised Rules on Evidence classifies documents into either public or private document. Section 19(a) thereof states that the written official acts, or records of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country are public documents. Certificates of appearance fall within this scope of public documents.

Criminal intent or mens rea must be shown in felonies committed by means of *dolo*, such as falsification.<sup>202</sup> Such intent is a mental state, the existence of which is shown by the overt acts of a person.<sup>203</sup> In falsification of public documents under Article 171(2) of the Revised Penal Code, the prosecution must prove that these elements exist:<sup>204</sup>

1. That the offender is a public officer, employee, or notary public.
2. That he/she takes advantage of his/her official position.
3. That he/she falsifies a document by causing it to appear that persons have participated in any act or proceeding.
4. That such person or persons did not in fact so participate in the proceeding.

***The first element:***

***Accused is a public officer***



<sup>202</sup> Dr. Malabanan v. Sandiganbayan, G.R. No. 186329, August 2, 2017 citing Mendoza-Arce v. Office of the Ombudsman, 430 Phil. 101 (2002); Article 3, Revised Penal Code.

<sup>203</sup> *Id.*, citing Lastrilla v. Granda, 516 Phil. 667 (2006).

<sup>204</sup> Atty. Constantino v. People, G.R. No. 225696, April 8, 2019

It is irrefutable that herein accused is a public officer, being the Municipal Mayor of Cortes, Bohol at the time of the alleged commission of the falsification. Article 203 of the Revised Penal Code specifies that any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the government, or shall perform in the government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class, shall be deemed a public officer.

***The second element:  
Mayor Balistoy took advantage  
of her official position***

The offender "takes advantage of his (sic) official position" in falsifying a document when (1) he (sic) has the duty to make or to prepare or otherwise intervene in the preparation of the document; or (2) he (sic) has the official custody of the document which he (sic) falsifies.<sup>205</sup> Taking advantage of one's official position for the purpose of committing falsification of public document under Article 171 "is considered present when the offender falsifies a document in connection with the duties of his (sic) office which consist of either making or preparing or otherwise intervening in the preparation of a document."<sup>206</sup>

It bears stressing that Mayor Balistoy is an accountable officer and is duty bound to account for her cash advances. *Frias v. People*<sup>207</sup> is instructive:

Under the Government Auditing Code of the Philippines, an accountable public officer is a public officer who, by reason of his office, is accountable for public funds or property.<sup>208</sup> The Local Government Code expanded this definition with regard to local government officials. Section 340 thereof provides:

Section 340. *Persons Accountable for Local Government Funds.*  
— **Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable** and responsible for the safekeeping thereof in conformity with the provisions of this title. Other local officials, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

<sup>205</sup> *Adaza v. Sandiganbayan*, G.R. No. 154886, July 28, 2005 citing L. Reyes, *The Revised Penal Code*, (1998 ed).

<sup>206</sup> *Department Of Finance - Revenue Integrity Protection Service v. Office of the Ombudsman, et al.*, G.R. No. 238660, February 3, 2021.

<sup>207</sup> G.R. No. 171437, October 4, 2007.

<sup>208</sup> *Id.*, citing Sec. 101 (1), Government Auditing Code.

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**Local government officials become accountable public officers either (1) because of the nature of their functions or (2) on account of their participation in the use or application of public funds.**

**Of primordial interest in this case is whether petitioner, a municipal mayor, is an accountable public officer.**

According to the Local Government Code, municipal mayors are chief executives of their respective municipalities.<sup>209</sup> Section 102 of the Government Auditing Code of the Philippines provides:

Section 102. *Primary and secondary responsibility.* – (1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

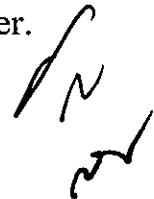
(2) Persons entrusted with the possession or custody of the funds or property under the agency head shall be immediately responsible to him, without prejudice to the liability of either party to the government.

xxx xxx

**Because petitioner was an accountable officer, he was obliged to liquidate the cash advances.** (Emphasis supplied.)

Prescinding from the foregoing, Mayor Balistoy is not only an accountable officer by nature of her functions as chief executive; she is also liable to account for the public funds that came into her possession when she obtained the cash advances. Section 339 of the Local Government Code mandates that no cash advance shall be granted to any local official or employee, elective or appointive, unless made in accordance with the rules and regulations as the Commission on Audit may prescribe. Thus, Item No. 3.0 of COA Circular No. 96-004 dated April 19, 1996 prescribes the guidelines for the liquidation of cash advances for the local travels of government personnel. Item 3.1.2.2(e) thereof requires the submission of a certificate of appearance or a copy of the report on the accomplishment of the purpose of the travel noted by the agency head or his (sic) authorized representative.

Consequently, Mayor Balistoy is duty bound to prepare the certificates of appearance in order to liquidate her cash advances from the municipality. The preparation of the subject certificates of appearance was done in connection with her duties as an accountable officer.



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<sup>209</sup> *Id.*, citing Sec. 444(a), Local Government Code.

***The third and fourth elements:  
Mayor Balistoy made it appear that  
Dr. Lorenzo R. Canapi participated in  
the proceeding, but he did not, in fact,  
so participate***

The *Informations* alleged that Mayor Balistoy falsified public/official documents consisting of Certificates of Appearance dated January 5, 20, & 21, 2010 and February 4 & 5, 2010 from the Civil Service Commission Regional Office 7 (CSC RO7) by causing it to appear in the said documents that Dr. Lorenzo R. Canapi, Division Chief, Public Assistance and Liaison Division (PALD), CSC RO7, participated in the execution of the same by affixing his signature thereon, when in truth and in fact he did not sign or participate in its execution.

Anent the validity of the Certificates of Appearance,<sup>210</sup> witness Aileen Smirnov L. Saranza's stated the following in her Judicial Affidavit:<sup>211</sup>

**Question (Q) 15:** On page 2 of your Sworn Statement previously marked as Exhibit "S-1," you stated therein the following: "It was during my second year as the accountant designate and/or sometime in 2009 that I started experiencing many anomalous and/or questionable supporting documents being submitted to the accounting office of the Municipality to support the disbursements of funds by Mayor Balistoy." Is this correct?

**Answer (A):** Yes, Sir.

**Q16:** What are these anomalous and/or questionable supporting documents you are referring to?

**A:** There are many, Sir, but some of those questionable documents relates to her travels using the municipality's funds.

**Q17:** What are these questionable documents that relates to her travels using the municipality's funds?

**A:** Some of those questionable documents are the Certificates of Appearances (sic) she submitted to the municipality's accounting office to support her travels to Cebu City in 2010 purportedly to appear before Dr. Lorenzo R. Canapi of the Civil Service Commission (CSC).

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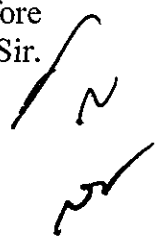
**Q20:** What made you say that these Certificates of Appearance you just identified are questionable?

**A:** First is that these Certificates of Appearance have no purpose indicated. The purpose for which Mayor Balistoy was appearing before Dr. Lorenzo R. Canapi of the CSC was not stated in the certificates, Sir.

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<sup>210</sup> Exhibits J to J-3.

<sup>211</sup> Record, Vol. 2, pp. 294-295.

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Second, the originals of these Certificates of Appearance were not submitted nor even presented to us. The ones submitted were just mere photocopies. Third, there are alterations and erasures visible on the certificates. **Lastly, I later learned that Dr. Lorenzo R. Canapi was already retired at the time these certificates were issued.** (Emphasis supplied.)

There is falsification of a public document when the public document is simulated “in a manner so as to give it the appearance of a true and genuine instrument, thus, leading others to errors as to its authenticity.”<sup>212</sup> Here, evidence shows that Mayor Balistoy neither presented nor submitted the originals of the subject Certificates of Appearance, and that the details appear to be superimposed. Not a single purpose is specified. What is merely indicated in each certificate is that “This certification is issued for whatever legal purpose it may serve her.”<sup>213</sup> Worse, the purported signatory, Dr. Lorenzo R. Canapi of the CSC, is already retired at the close of office hours of July 31, 2009 which is way before the dates (January 5, 20, & 21, 2010 and February 4 & 5, 2010) indicated in the Certificates of Appearance.<sup>214</sup> He was employed at the CSC, Regional Office No. 7, Cebu City from August 15, 1977 up to July 31, 2009 as evidenced by his Service Record<sup>215</sup> and the Certification<sup>216</sup> dated March 29, 2011. Clear as day, Mayor Balistoy made it appear that Dr. Lorenzo R. Canapi participated in the execution of the said certificates by affixing his signatures thereon, when in fact, he did not.

As aptly ruled by the Supreme Court:<sup>217</sup>

“This Court is well aware that falsification of documents under paragraph 1 of Article 172, like Article 171, does not require the idea of gain or the intent to injure a third person as an element of conviction. But, as early as *People v. Pacana*,<sup>218</sup> we have said:

Considering that even though in the falsification of public or official documents, whether by public officials or by private persons, it is unnecessary that there be present the idea of gain or the intent to injure a third person, for the reason that, in contradistinction to private documents, the principal thing punished is the violation of the solemnly proclaimed, it must, nevertheless, be borne in mind that **the change in the public document must be such as to affect the integrity of the same or to change the effects which it would otherwise produce;** for

<sup>212</sup> Atty. Constantino v. People, G.R. No. 225696, April 8, 2019 citing *Goma v. Court of Appeals*, 596 Phil. 1, 13 (2009).

<sup>213</sup> Exhibits J to J-3.

<sup>214</sup> Exhibits E/V-5 and F/W-8.

<sup>215</sup> Exhibits E/V-5.

<sup>216</sup> Exhibits F/W-8.

<sup>217</sup> *Dr. Malabanan v. Sandiganbayan*, *supra* note 202.

<sup>218</sup> 47 Phil. 48 (1924).

unless that happens, there could not exist the essential element of the intention to commit the crime which is required by article 1 [now Article 3] of the Penal Code. (Emphasis in the original.)”<sup>219</sup>

By using these Certificates of Appearance, the putative assumption is that the accused is the author of falsification. The settled rule is that in the absence of satisfactory explanation, one found in possession of and who used a forged document is the forger and therefore guilty of falsification.<sup>220</sup> Dr. Canapi’s so-called signatures in the said certificates affected the integrity of the documents. By submitting and using the spurious Certificates of Appearance to liquidate her cash advances, Mayor Balistoy is considered as the forger.

Verily, the prosecution was able to prove all the elements of falsification of public documents under Art. 171(2) of the Revised Penal Code.

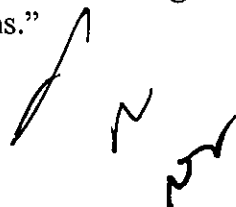
**II.**  
**Criminal Case No. SB-16-CRM-0783:**  
**Violation of Section 3 (e) of R.A. No. 3019,**  
**as amended**

The pertinent provisions of Section 3(e) of R.A. No. 3019, as amended, are as follows:

“**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.”



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<sup>219</sup> *Id.*

<sup>220</sup> *Maliwat v. Court of Appeals, et al.*, G.R. No. 107041, May 15, 1996 citing *Pecho v. Sandiganbayan*, 238 SCRA 116.



Its elements are as follows:<sup>221</sup>

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He [or she] must have acted with manifest partiality, evident bad faith or [gross] inexcusable negligence;
3. That his [or her] action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.<sup>222</sup>

***The first element:  
Accused is a public officer***

The first element is undisputed. As discussed above, herein accused was a municipal mayor discharging her official duties at the time of the alleged offense.

***The second element:  
Mayor Balistoy acted with  
evident bad faith***

As to the second element, there are three modalities for violating Section 3(e) of Republic Act No. 3019.<sup>223</sup> These are “manifest partiality,” “evident bad faith,” and “gross inexcusable negligence.”<sup>224</sup> These modalities are defined in *Fonacier v. Sandiganbayan*:<sup>225</sup>

“**Partiality**” is synonymous with “bias” which “excites a disposition to see and report matters as they are wished for rather than as they are.” “**Bad faith**” does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.” **Gross negligence** has been so defined as negligence 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 in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property. These definitions prove all too

<sup>221</sup> *Camp John Hay Development Corporation v. Office of the Ombudsman, et al.*, G.R. No. 225565, January 13, 2021.

<sup>222</sup> *Id.*, citing *Abubakar v. People*, G.R. Nos. 202408, 202409, and 202412, June 27, 2018, 868 SCRA 489, 529.

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> 308 Phil. 660 (1994).

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well that the three modes are distinct and different from each other. Proof of the existence of any of these modes in connection with the prohibited acts under Section 3(e) should suffice to warrant conviction.

The use of the three phrases “manifest partiality,” “evident bad faith” and “gross inexcusable negligence” in the same information does not mean that the indictment charges three distinct offenses but only implies that the offense charged may have been committed through any of the modes provided by the law.<sup>226</sup> (Emphasis supplied.)

In the present case, the *Information* imputes evident bad faith on the accused when she travelled to Cebu City in the guise of official travels, and utilized falsified Certificates of Appearance. Because evident bad faith entails manifest deliberate intent to do wrong, it must be shown that the accused was spurred by any corrupt motive.<sup>227</sup>

The travels of Mayor Balistoy to Cebu City on January 5, 20 & 21, 2010 and February 4, 5, 26 & 27, 2010 are evidenced by the documents she submitted to the municipality’s accounting office for the liquidation of her cash advances. The boat tickets/boarding passes/terminal tickets,<sup>228</sup> and official receipts<sup>229</sup> all point to the fact that she travelled to Cebu City. Yet, these travels are not authorized by the Provincial Governor of Bohol. Section 96(b) of R.A. No. 7160<sup>230</sup> clearly mandates that mayors of component cities and municipalities shall secure the permission of the governor concerned for any travel outside the province. Prosecution witness Felix M. Mejorada attested that the Office of the Governor has no available records on the approved travel order/authority of Mayor Balistoy from January 2009 up to June 14, 2011.

Immediately apparent is that she intended to use the coffers of the municipality for her personal travels to Cebu City by submitting the questionable supporting documents, including the falsified Certificates of Appearance.<sup>231</sup> Using spurious documents, and travelling without authority from the Office of the Governor undoubtedly demonstrate her corrupt motive. Obviously, Mayor Balistoy obtained cash advances and utilized the municipality’s funds for her personal travels to Cebu City. Worse, she falsified the Certificates of Appearance to make it appear that her travels are legitimate. Taken together, these conscious acts of the accused indicate her moral obliquity.

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<sup>226</sup> Camp John Hay Development Corporation v. Office of the Ombudsman, et al., *supra* note 221 citing Fonacier v. Sandiganbayan, *supra*.

<sup>227</sup> Renales v. People, G.R. No. 231530-33, June 16, 2021 citing Republic v. Desierto, 516 Phil. 509, 516 (2006).

<sup>228</sup> Exhibits P to P-15.

<sup>229</sup> Exhibits Q to Q-3.

<sup>230</sup> The Local Government Code of the Philippines.

<sup>231</sup> Exhibits J to J-3.

***The third element:  
Mayor Balistoy's actions caused  
undue injury to the government***

On the third element, there are two separate component acts which may be committed: "causing undue injury to any party, including the Government" or "giving any private party any unwarranted benefit, advantage or preference."<sup>232</sup> Mayor Balistoy is charged under the first act. Jurisprudence defined "undue injury" as actual damage established by evidence as caused by the questioned conduct by the offender.<sup>233</sup> It is further defined as:<sup>234</sup>

In the case of *Llorente, Jr. v. Sandiganbayan*,<sup>235</sup> the Court explained the concept of "undue injury" in the context of Section 3(e) of R.A. 3019 in this wise:

**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 damaged one 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.**

In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

XXX XXX

In *Abubakar v. People of the Philippines*,<sup>236</sup> this Court held that an accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be "some reasonable basis by which the court can measure it." Aside

<sup>232</sup> *Camp John Hay Development Corporation v. Office of the Ombudsman*, *supra* note 221.

<sup>233</sup> *Sarion v. People*, G.R. Nos. 243029-30, March 18, 2021 citing *Bacasmas v. Sanidganbayan*, et al., 713 Phil. 639, 663 (2013).

<sup>234</sup> *Roque v. Sandiganbayan (First Division) and People*, G.R. No. 231603-08, June 16, 2021.

<sup>235</sup> 350 Phil. 820 (1998).

<sup>236</sup> 834 Phil. 435 (2018).

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from this, the loss or damage must be substantial. It must be "more than necessary, excessive, improper or illegal".<sup>237</sup>

In other words, jurisprudence requires that for a successful prosecution of violation of Section 3(e) of R.A. 3019, the fact of undue injury to the government must be specified, quantified, and proven beyond reasonable doubt. (Emphasis supplied.)

Mayor Balistoy utilized the funds of the municipality for her personal travels to Cebu City. Public funds were released in her favor through the cash advances obtained. As confirmed by witness Aileen Saranza:

Q30: How were the cash advances made?

A: Through cash advances to Mayor Balistoy, Sir.

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Q35: On Item "C. Approved for Payment" of these DVs you just identified, there appears to be signatures (please refer to Exhibits "K-a," "K-1-a," "K-2-a," and "K-3-a") appearing above the name "Engr. Apolinaria H. Balistoy," do you know whose signatures are those?

A: Those are the signatures of Mayor Apolinaria H. Balistoy.


Q36: How do you know her signature?

A: I am familiar with her signature for I have worked under her during her term as mayor of the Municipality of Cortes, Bohol.

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Q43. Ms. Witness you testified that municipal funds were disbursed to support the travels of Mayor Balistoy to Cebu City in 2010. However, if we look at the specific purposes for the cash advances in the DVs you identified it appears that they were for "LGU operating expenses". What made you say that these DVs were the ones issued for the cash advances for her travels to Cebu City in 2010?

A: **Sir, when she liquidated the cash advances stated in the DVs she included the supporting documents pertaining to her travels in Cebu City in 2010.** When she submitted her Liquidation Reports she attached and submitted the supporting documents for her travel to Cebu City such as the Certificates of Appearance, Itineraries of Travel, Official Receipts and other supporting documents I previously mentioned. The cash advances stated in the DVs included the cash advances for her travels to Cebu City in 2010.



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<sup>237</sup> *Id.*

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Based on the COA's findings, these cash advances relating to the accused's travels to Cebu City were tagged as "LGU operating expenses." The Itineraries of Travel<sup>238</sup> prepared and signed by Mayor Balistoy reflect the expenses incurred, the total amount of which is Php20,779.50. Yet, the said amount was disallowed by the COA as shown in the Notice of Disallowance<sup>239</sup> dated August 10, 2011 [ND No. 11-012-100-(10)] due to the irregularities relating to the said travels. More so, Mayor Balistoy's signature in the DVs<sup>240</sup> facilitated the release of various amounts that were covered by the LBP checks<sup>241</sup> issued in her favor. As it stands, the actual damage incurred by the Municipality of Cortes is Php20,779.50.

All told, the foregoing circumstances are antithetical to the innocence of Mayor Balistoy. Despite the unbridled opportunity given to her, she failed to present countervailing evidence to refute the allegations hurled against her. Thus, the pieces of evidence adduced by the prosecution become part of the realm of *prima facie*, and considering that they were not rebutted, they have been rendered conclusive as if fully proved. As ruled in *People v. Manulit*.<sup>242</sup>

In *People v. Deduyo*,<sup>243</sup> this Court said that flight by the accused clearly evinces "consciousness of guilt and a silent admission of culpability. Indeed, the wicked flee when no man pursueth, but the innocent are as bold as lion."

**IN LIGHT OF THESE DISQUISITIONS**, judgment is hereby rendered as follows:

- 1.) In Criminal Case No. SB-16-CRM-0783, accused **APOLINARIA HANGAD BALISTOY** is found **GUILTY** beyond reasonable doubt of violating Section 3(e) of Republic Act No. 3019, as amended. Pursuant to Section 9 thereof, the Court imposes an indeterminate penalty of **six (6) years and one (1) month, as minimum, to eight (8) years, as maximum**, with perpetual disqualification to hold public office.

As civil liability, she is ordered to indemnify the Municipality of Cortes, Bohol the amount of **Twenty Thousand Seven Hundred Seventy-Nine Pesos and Fifty Centavos (Php20,779.50)**, with interest of six (6%) per annum until fully paid.

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<sup>238</sup> Exhibits N to N-3.

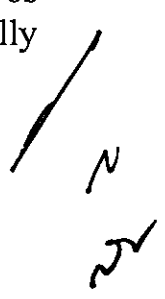
<sup>239</sup> Exhibits R to R-2.

<sup>240</sup> Exhibits K, K-1, K-2 and K-3.

<sup>241</sup> Exhibits L to L-3.

<sup>242</sup> G.R. No. 192581, November 17, 2010.

<sup>243</sup> G.R. No. 138456, October 23, 2003, 414 SCRA 146, 162.




2.) In Criminal Case Nos. SB-16-CRM-0784, 0785, 0786 and 0787, accused **APOLINARIA HANGAD BALISTOY** is found **GUILTY** beyond reasonable doubt of Falsification of Public/Official Document defined and penalized under paragraph 2 of Article 171 of the Revised Penal Code, as amended. Absent any mitigating or aggravating circumstances, and applying the Indeterminate Sentence Law, the Court imposes **for each count** an indeterminate penalty of **four (4) years and (2) months of *prision correccional* in its medium period, as minimum, to ten (10) years of *prision mayor* in its medium period, as maximum**, and to pay a fine amounting to **Ten Thousand Pesos (Php10,000.00) for each count** with subsidiary imprisonment in case of insolvency.

**SO ORDERED.**

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
*Associate Justice*

WE CONCUR:

  
**RAFAEL R. LAGOS**  
*Associate Justice*  
*Chairperson*

  
**MARYANN E. CORPUZ-MAÑALAC**  
*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.

  
**RAFAEL R. LAGOS**  
*Chairperson, Fifth Division*

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**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson'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. CABOTAJE-TANG**

*Presiding Justice*

*[Handwritten signature]*