



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City  
**THIRD DIVISION**

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

Crim Case No.  
**SB-14-CRM-0238**  
*For: Plunder (Violation of  
R.A. No. 7080, as  
amended)*

-versus-

**JUAN PONCE ENRILE, ET AL.,**  
*Accused.*

*Present:*  
Cabotaje-Tang, A.M., *PJ,*  
*Chairperson*  
Fernandez, B.R., *J,* and  
Moreno, R.B., *J.*

PROMULGATED:

JANUARY 13, 2021

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**RESOLUTION**

***Moreno, J.:***

For resolution is the *Judicial Affidavit* x x x<sup>1</sup> of prosecution witness Atty. Ryan P. Medrano dated February 12, 2019 submitted by the Office of the Special Prosecutor, to which an *Objection* x x x<sup>2</sup> had been filed by accused Juan Ponce Enrile on February 14, 2020. The Office of the Special

<sup>1</sup> Record, vol. XIX, pp. 217-232.

<sup>2</sup> Record, vol. XX, pp. 416-417.

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Prosecutor (OSP) filed its *Comment*<sup>3</sup> to Enrile's *Objection*, to which the latter filed his corresponding *Reply*.<sup>4</sup>

Per its *Manifestation and Submission* x x x of February 13, 2019, the OSP submitted the Judicial Affidavit of Atty. Medrano in "compliance with A.M. No. 15-06-10-SC (Revised Guidelines for Continuous Trial of Criminal Cases)",<sup>5</sup> with a prayer that the said judicial affidavit be admitted as Atty. Medrano's direct testimony and made part of the records of this case.

In his *Objection*, Enrile prayed that Atty. Medrano's Judicial Affidavit be disallowed considering that Enrile was charged with plunder – an offense punishable by *reclusion perpetua*. He argued that the Judicial Affidavit Rule only applies to criminal actions where the maximum of the imposable penalty does not exceed six (6) years.

In its *Comment*, the Office of the Special Prosecutor countered that A.M. No. 12-08-08-SC (the Judicial Affidavit Rule) had long been amended by A.M. No. 15-06-10-SC (the Revised Guidelines for Continuous Trial of Criminal Cases). It argued that the prevailing rule is that Judicial Affidavits – in the absence of any sworn statements or affidavits submitted during investigation – shall be used as a form of testimony in open court in lieu of oral testimony in criminal cases where the demeanor of the witness is not essential in determining the credibility of said witness; or where the case is transactional in character; or where the culpability or innocence of the accused can be established through documents.

The OSP also argued that Enrile's insistence to disallow the use of Judicial Affidavit in this case would be a blatant deviation from the objective of A.M. No. 15-06-10-SC to introduce innovations and best practice for the benefit of the parties. It further added that Enrile's opposition to the use of Atty. Medrano's Judicial Affidavit "will only drag further the proceedings in this case x x x."<sup>6</sup>

In his *Reply*, Enrile claimed that the Judicial Affidavit of Atty. Medrano is "allegedly relevant to the offense of plunder punishable by *reclusion perpetua* x x x."<sup>7</sup> He added that an accused has the right to meet the witness face to face. Enrile thus reiterated his prayer that the Judicial Affidavit of Atty. Medrano be disallowed and that in lieu thereof, "his oral testimony be clearly limited to what is relevant in proving the elements of plunder as charged in the Information."<sup>8</sup>

<sup>3</sup> *Id.* at 481-486.

<sup>4</sup> *Id.* at 526-528.

<sup>5</sup> Record, vol. XIX, p. 211-215.

<sup>6</sup> Record, XX, p. 484.

<sup>7</sup> *Id.* at 527.

<sup>8</sup> *Id.* at 528.

**THE COURT'S RULING:**

After due consideration, the Court **DENIES** Enrile's *Objection to the Use of the Judicial Affidavit of Atty. Ryan P. Medrano*.

The Judicial Affidavit Rule requires the submission of judicial affidavits in lieu of direct testimonies of witnesses in criminal cases where the maximum of the imposable penalty does not exceed six years. This is explicitly provided for under Section 9 of A.M. No. 12-08-08-SC, which reads:

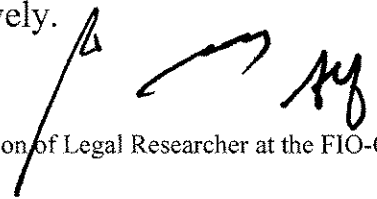
Sec. 9. *Application of rule to criminal actions.* - (a) This rule shall apply to all criminal actions:

- (1) Where the maximum of the imposable penalty does not exceed six years;
- (2) Where the accused agrees to the use of judicial affidavits, irrespective of the penalty involved; or
- (3) With respect to the civil aspect of the actions, whatever the penalties involved are.

In the present case, Enrile is charged with the crime of plunder – a capital offense – which carries with it the penalty of *reclusion perpetua* to death. Under ordinary circumstance, Enrile may or may not agree to the use of the judicial affidavit during trial.

In the present case, however, the prosecution is intending to present Atty. Ryan P. Medrano, Director IV of the Field Investigation Office of the Office of the Ombudsman, as its witness. The prosecution's *Manifestation with Submission (Re: Judicial Affidavit of Atty. Ryan P. Medrano)* disclosed that prior to being Director IV, Atty. Medrano held the positions of Graft Investigation and Prosecution Officer (GIPO) I and GIPO III from 2010 to 2018. As GIPO I, Atty. Medrano was one of the members of the Special Team I formed by the Office of the Ombudsman which conducted a fact-finding investigation on the release and use of the Priority Development Assistance Fund (PDAF) of accused Enrile for the years 2007-2009.<sup>9</sup> As part of this investigation process, Atty. Medrano, together with the other members of Special Team I, evaluated documents from, among others, the Commission on Audit, and conducted interviews with some municipal officials, as well as the beneficiaries of the project funded by Enrile's PDAF. The Team then prepared a Complaint against Enrile, et al. for plunder and violation of Republic Act No. 3019, respectively.

<sup>9</sup> Record also showed that Atty. Medrano held the position of Legal Researcher at the FIO-OMB.



Part III, Number 11 of A.M. No. 15-06-10-SC provides that:

11. Form of Testimony

x x x x

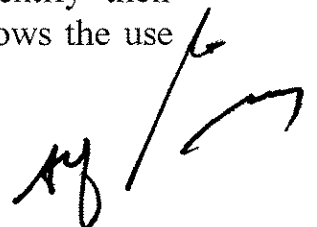
*(b) For Second Level Courts, Sandiganbayan and Court of Tax Appeals*

In criminal cases where the demeanor of the witness is not essential in determining the credibility of said witness, such as forensic chemists, medico-legal officers, investigators, auditors, accountants, engineers, custodians, expert witnesses and other similar witnesses, who will testify on the authenticity, due execution and the contents of public documents and reports, and in criminal cases that are transactional in character, such as falsification, malversation, estafa, or other crimes where the culpability or innocence of the accused can be established through documents, the testimonies of the witnesses shall be the duly subscribed written statements given to law enforcement or peace officers or the affidavits or counter-affidavits submitted before the investigating prosecutor, and if such are not available, testimonies shall be in the form of judicial affidavits, subject to additional direct and cross-examination questions.

In all other cases where the culpability or the innocence of the accused is based on the testimonies of the alleged eyewitnesses, the testimonies of these witnesses shall be in oral form.

As one of the members of the Special Team I formed by the Office of the Ombudsman which conducted a fact-finding investigation on the release and use of Enrile's PDAF, Atty. Medrano falls within the enumeration under paragraph 11 of A.M. No. 15-06-10-SC where the use of judicial affidavit is allowed regardless of the imposable penalty: he was an investigator who could testify on the authenticity, due execution and contents of, among others, the Complaint he and his team prepared.

To be sure, Enrile's culpability or innocence will not be based on the testimony of Atty. Medrano, as the latter was not eyewitness to the offense charged: he has no personal knowledge of the facts and circumstances constituting plunder. It bears noting that Atty. Medrano was not a privy to the documents requested by the Special Team 1 from various government agencies, and his testimony on this matter will be on the fact of the request made and identification of the documents submitted. While he (and the other Special Team 1 members) interviewed municipal officials, beneficiaries and 'whistle-blowers' who, for their part, executed their respective sworn statements, the probative value of these documents will still depend on, *inter alia*, whether the said witnesses will appear in court to identify their affidavits. Prescinding from these circumstances, the Court allows the use



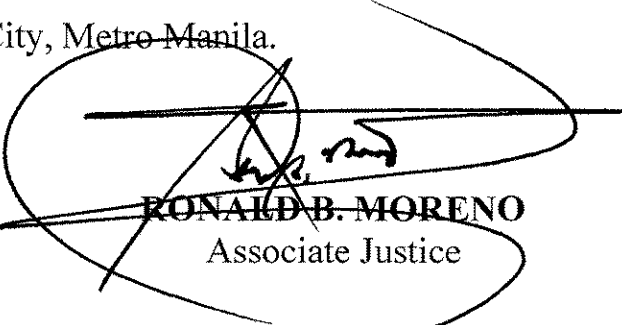
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of the judicial affidavit of Atty. Medrano in the present case, subject to additional direct and cross-examination questions. The opportunity given to Enrile to cross-examine the witness satisfies his constitutional right to confrontation.

**WHEREFORE**, in light of all the foregoing, the Court **DENIES** the *Objection to the Use of Judicial Affidavit of Atty. Ryan P. Medrano* filed by accused Juan Ponce Enrile for lack of merit.

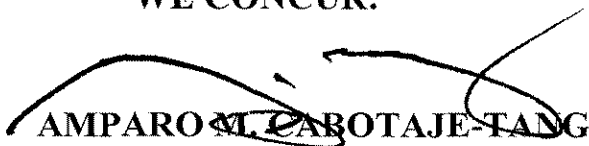
**SO ORDERED.**

Quezon City, Metro Manila.

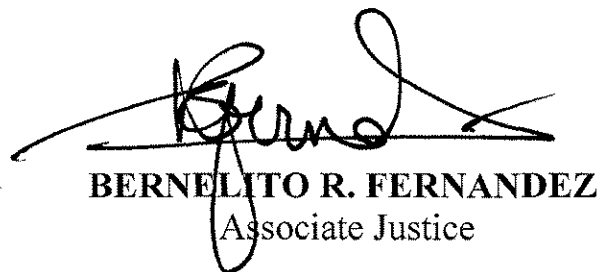


**RONALD B. MORENO**  
Associate Justice

**WE CONCUR:**



**AMPARO M. CABOTAJE-TANG**  
Presiding Justice  
*Chairperson*



**BERNELITO R. FERNANDEZ**  
Associate Justice