



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

- versus -

**RODOLFO W. ANTONINO, ET  
AL.,**  
Accused.

**SB-17-CRM-1593-1596**  
For: Violation of Section 3(e)  
of R.A. 3019, as amended  
and violation of Article 217 of  
the Revised Penal Code

*Present:*

**FERNANDEZ, SJ, J.**  
*Chairperson*  
**JACINTO,\* J. and**  
**VIVERO, J.**

*Promulgated:*

**MAR 04 2021**

x-----x

**RESOLUTION**

**VIVERO, J.**

This resolves the *Motion for Leave to File Demurrer to Evidence* filed by accused Rodolfo W. Antonino dated 25 January 2021 and the *Comment/Opposition (Re: Motion for Leave to File Demurrer to Evidence)* filed by the prosecution dated 29 January 2021.

Accused Antonino submits that the prosecution failed to prove his guilt beyond reasonable doubt. Accused posits the following:

- a) He had no participation in the procurement subject of the Informations, thus, he could not be charged with either violation of Section 3(e) of R.A. No. 3019 or Malversation of Public Funds under Article 217 of the Revised Penal Code.

\*Justice Bayani H. Jacinto sits as a Special member in lieu of Justice Karl B. Miranda, by virtue of AO No. 307-A-2017 dated August 31, 2017

**RESOLUTION**

People vs. Antonino, et al.  
SB-17-CRM-1593-1596

Page 2 of 4

x-----x

- b) Even assuming that the authorship of: (i) letter dated 31 January 2007, addressed to Congressman Joey Salceda; (ii) the letter to Secretary Arthur Yap of the Department of Agriculture; and (iii) the certificate of acceptance and the list of project beneficiaries can be attributed to him:
  - i. The prosecution failed to prove beyond reasonable doubt the concurrence of all the elements required to prove violation of Section 3(e) of R.A. No. 3019.
  - ii. The prosecution failed to prove beyond reasonable doubt the concurrence of all the elements of the crime of Malversation of Public Funds under Article 217 of the Revised Penal Code.
- c) The prosecution failed to prove beyond reasonable doubt that he acted in conspiracy with accused Munsod.

In its *Comment/Opposition*, the prosecution asked this Court to deny accused's *Motion for Leave to File Demurrer to Evidence* on the following grounds:

- a) The prosecution established all the elements of violation of Section 3(e) of R.A. No. 3019:
  - i. The first element is not disputed. Accused stipulated that he was a high-ranking public officer at the time material to the allegations in the Informations.
  - ii. The evidence presented by the prosecution clearly show that the accused, in conspiracy with one another, acted with manifest partiality, evident bad faith, and/or gross inexcusable negligence in awarding the livelihood project and transferring the PDAF allocation to BMMKFI in clear violation of R.A. No. 9184 and its Implementing Rules and Regulations and pertinent circulars on PDAF accounts.
  - iii. The third element was likewise sufficiently proven by the prosecution. The transaction



**RESOLUTION**

People vs. Antonino, et al.  
SB-17-CRM-1593-1596

Page 3 of 4

x-----x

which turned out to be inexistent caused undue injury to the government in the total amount of Php14,550,000.00.

b) The prosecution established all the elements of Malversation under Article 217 of the Revised Penal Code.

i. The first element is not disputed. Accused stipulated that he was a high-ranking public officer at the time material to the allegations in the Informations.

ii. The second and third elements are present, accused Antonino being the accountable officer contemplated under the ruling in *Torres v. People*,<sup>1</sup> to wit:

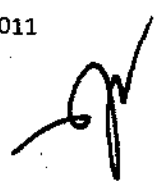
An accountable public officer, within the purview of Article 217 of the Revised Penal Code, is one who has custody or control of public funds or property by reason of the duties of his office. The nature of the duties of the public officer or employee, the fact that as part of his duties he received public money for which he is bound to account for and failed to account for it, is the factor which determines whether or not malversation is committed by the accused public officer or employee. xxx

c) The evidence adduced by the prosecution sufficiently show that the acts of the accused, taken together, were so intimately connected and related towards the realization of the same unlawful object – that is, to divert the PDAF-drawn public funds.

**RULING**

After a careful study of the records of the case and the evidence submitted by the prosecution, the Court finds that if unrebutted, the same is sufficient to support a verdict of guilt against *Rodolfo W. Antonino* for violation of Section 3(e) of R.A. 3019, as amended, and violation of Article 217 of the Revised Penal Code. Moreover, the

<sup>1</sup> 656 SCRA 486, G.R. No. 175074 August 31, 2011



**RESOLUTION**

People vs. Antonino, et al.  
SB-17-CRM-1593-1596

Page 4 of 4

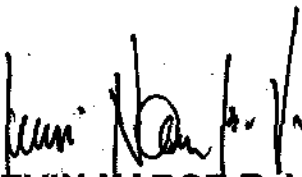
x-----x

arguments raised by the accused are matters of defense, the truth of which can best be passed upon in a full-blown trial on the merits.

Accordingly, the Court hereby **DENIES** the *Motion for Leave to File Demurrer to Evidence* filed by the accused-movant. However, this is without prejudice to the filing of a demurrer to evidence without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, accused shall waive his right to present his evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

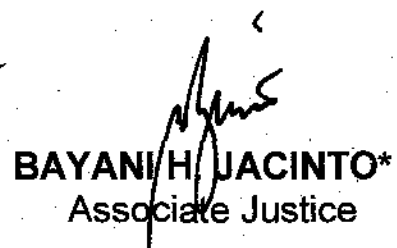
Accused *Antonino* is given a period of five (5) calendar days from receipt of this Resolution within which to file his Manifestation to inform this Court whether or not he will file a demurrer to evidence without leave of court.

**SO ORDERED.**

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

**WE CONCUR:**

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

  
**BAYANI H. JACINTO\***  
Associate Justice