



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**  
QUEZON CITY

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**SEVENTH DIVISION**

*MINUTES of the proceedings held on March 8, 2023.*

*Present:*

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson  
ZALDY V. TRESPESSES ----- Associate Justice  
GEORGINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

**CRIMINAL CASE NOS. SB-16-CRM-0173 TO 0178**

**PEOPLE v. RODOLFO G. VALENCIA, ET AL.**

Before the Court are the following:

1. Accused Rodolfo Valencia's "**MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE**" dated February 20, 2023; and
2. Prosecution's "**COMMENT/OPPOSITION** to the Motion for Leave of Court to File Demurrer to Evidence dated February 20, 2023 filed by accused Rodolfo Garong Valencia" dated February 27, 2023.

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**GOMEZ-ESTOESTA, J.:**

This resolves accused Valencia's *Motion for Leave of Court to File Demurrer to Evidence*. Accused Valencia's motion follows this court's resolution of his co-accused Cunanan, Relampagos, Nuñez, Paule, Bare and Lacsamana's respective *Motions for Leave to File Demurrer to Evidence*, and Relampagos, Nuñez, Paule and Bare's *Joint Demurrer to Evidence*.

In his *Motion*, accused Valencia argues that the prosecution was unable to sufficiently establish his complicity in the purported conspiracy. None of the witnesses testified on how he cooperated in the commission of the crimes

777



charged. On the contrary, they admitted that they never saw him dealing with accused Napoles or any other accused on any PDAF-related matter. Benhur Luy testified that he never spoke to accused Valencia, or saw him in any of the events hosted by accused Napoles, or personally gave him kickbacks or commissions. The witnesses from AMLC, NBI and COA admitted that there is no proof that the PDAF funds ended up in accused Valencia's bank accounts.

The prosecution likewise failed to prove that accused Valencia acted through accused Cuasay. It later on changed its theory, suggesting that it was accused Valencia's son and alleged chief-of-staff, Nico Valencia, who acted in his behalf. However, Nico Valencia was mentioned by Luy only in his testimony but never in his prior statements. Further, there is no proof that Nico Valencia's actions bore the imprimatur of accused Valencia. Their relationship alone does not prove that Nico Valencia acted in behalf of accused Valencia.

Finally, accused Valencia urges this court to take judicial notice of the disparities in the signatures in the documents, purporting to be his. Even the Ombudsman, in its Resolution dated June 22, 2016,<sup>1</sup> rejected these purported signatures as bases for a finding of conspiracy against him. Even assuming that accused Valencia signed these documents, his mere signature thereon does not establish the existence of conspiracy, citing *Maicaran v. People*.<sup>2</sup>

For its part, the prosecution asserts that accused Valencia omitted the totality of the evidence presented by the prosecution, and instead of pointing out the supposed defects or insufficiencies therein, accused Valencia nitpicked on trivial matters and prematurely advocated his defenses.

The prosecution asserted that they were able to prove beyond reasonable doubt all the elements of the crimes charged. For violation of Sec. 3(e) of R.A. 3019, the parties stipulated that accused Valencia was a public officer at the time material to the cases; the prosecution also proved his duties and functions as congressman, which are likewise matters of judicial notice. The prosecution proved that accused Valencia unilaterally indorsed MAMFI, an NGO controlled by accused Napoles as project partner, to implement projects using his PDAF. He requested the release of his PDAFs to TLRC and NABCOR, and later endorsed MAMFI as lead project implementer.<sup>3</sup> This proves manifest partiality, evident bad faith, and gross inexcusable negligence on the part of accused Valencia. The proceeds of accused Valencia's PDAF were pocketed and shared by some of the accused. The intended beneficiaries testified that their signatures were falsified and/or they did not receive the intended projects. This, in turn, proves undue injury to the government or unwarranted benefits, advantage, or preference to MAMFI.

<sup>1</sup> Should be 2015. *Records*, Vol. 1, pp. 72-73.

<sup>2</sup> G.R. No. 101545, January 3, 1995.

<sup>3</sup> Exhibits "C-5", "C-11", "C-17", "B-9", "B-57", "B-57-a", and "B-125".

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For malversation of public funds, it was proven that accused Valencia was a public officer at the time material to these cases. Accused Valencia had control of the PDAF, as evidenced by his indorsement of MAMFI, and his signatures on the liquidation of the funds released by the TLRC/NABCOR, which had actual or physical custody of the funds. Accused Valencia permitted accused Napoles, who owned and controlled MAMFI, to take possession and misappropriate the proceeds of his PDAF. Without the participation of accused Valencia to divert his PDAF to MAMFI, the crimes would not have been committed.

**THE COURT’S RULING**

In the *Motions for Leave to File Demurrer to Evidence* filed by accused Cunanan and Lacsamana, the court has found sufficiency of evidence to sustain the charges. The same ruling goes for accused Valencia, which should be more pronounced considering what the prosecution has shown to be his purported participation in the crimes charged. To reiterate this court’s *Resolution*<sup>4</sup>, with emphasis on accused Valencia’s participation:

As a concept, demurrer to the evidence is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. The court, in passing upon the sufficiency of the evidence raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt. Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances.

To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused. Thus, when the accused files a demurrer, the court must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt.<sup>5</sup>

In these cases, sufficient evidence is found to exist to sustain the charges filed against the accused, viz:

(a) the **commission of the crime**, gauged from the *prima facie* existence of the elements of the crime, among others:

A. *Violation of Section 3(e) of R.A. 3019*

Elements	Exhibits
(a) the accused must be a public officer discharging	Stipulated / No dispute

<sup>4</sup> Resolution dated December 9, 2022, *Records*, Vol. 17, pp. 345-352.

<sup>5</sup> *People v. Go*, G.R. No. 191015, August 6, 2014.

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administrative, judicial or official functions;	
(b) he must have acted with manifest partiality, evident bad faith or gross inexcusable negligence;	<b>Valencia's endorsement of MAMFI - Exhibits "B", "J", and sub-markings</b>  Release of funds to MAMFI - Exhibits "B", "C", and sub-markings - testimonies of Rodante Berou and Gloria Silverio
(c) his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions. <sup>6</sup>	Link between MAMFI and Napoles - Exhibits "B", "H", "I", and sub-markings - testimonies of Rodante Berou and Gloria Silverio - testimonies of Benhur Luy and Marina Sula, Exhibits "L", "M", "N", "O", and sub-markings  Non-implementation of project and grant of kickbacks - Exhibits "B", "D", "E", "F", "G", "P", and sub-markings - testimonies of Rodante Berou and Gloria Silverio

*B. Malversation*

(a) that the offender is a public officer;	Stipulated / No dispute
(b) that he had custody or control of funds or property by reason of the duties of his office;	<b>Valencia and TRC's control and custody of public funds - Exhibits "B", "C", and sub-markings</b>
(c) that those funds or property were public funds or property for which he was accountable;	
(d) that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them. <sup>7</sup>	<b>Valencia's endorsement of MAMFI - Exhibits "B", "J", and sub-markings</b>  Release of funds to MAMFI - Exhibits "B", "C", and sub-markings - testimonies of Rodante Berou and Gloria Silverio  Link between MAMFI and Napoles - Exhibits "B", "H", "I", and sub-markings - testimonies of Rodante Berou and Gloria Silverio

<sup>6</sup> Coloma v. People, G.R. No. 233152, July 13, 2020.

<sup>7</sup> Valenzuela v. People, G.R. No. 205693, February 14, 2018.

17



	<ul style="list-style-type: none"><li>- testimonies of Benhur Luy and Marina Sula, Exhibits “L”, “M”, “N”, “O”, and sub-markings</li></ul> <ul style="list-style-type: none"><li>Non-implementation of project and grant of kickbacks</li><li>- Exhibits “B”, “D”, “E”, “F”, “G”, “P”, and sub-markings</li><li>- testimonies of Rodante Berou and Gloria Silverio</li></ul>
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(b) the **precise degree of participation by the accused**, who are cloistered together under the theory of conspiracy.

Gauged from the prosecution’s evidence, it was sufficiently established that accused Valencia caused the release of his PDAF to TLRC/NABCOR and ultimately to MAMFI as the project implementer. Indeed, the very funds subject of these cases were released to MAMFI at the behest of accused Valencia. The purported commission of the crimes pointed to accused Valencia at the helm, who provided the trigger point with his endorsement, without whom the consummation of the crimes would not have been effected in the same way.

To take him out of the web of conspiracy, the question accused Valencia insists, at this instance, is the perceived absence of direct proof on his “direct participation”. Here, accused Valencia’s posits that there is no direct proof, as prosecution evidence could only show that: (i) he did not **personally** meet with accused Napoles as prosecution witnesses Benhur Luy or Marina Sula have no recollection of such fact; and that (ii) he did not **personally** receive the proceeds of the PDAF, as there are no transaction records to show this on record.

Proof on direct participation is not entirely necessitated on crimes tied to conspiracy. Regardless, such posture does not diminish the sufficiency of the evidence presented by the prosecution to prove the allegations against accused Valencia under the *Informations*.

On conspiracy, the case of *Alvizo v. Sandiganbayan*<sup>8</sup> relevantly held:

Direct proof is not essential to show conspiracy. It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design. The existence of the assent of minds which is involved in a conspiracy may be, and from the secrecy of the crime, usually must be, inferred by the court from proof of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a

<sup>8</sup> G.R. Nos. 98494-98692, 99006-20, 99059-99259, 99309-18, 99412-16 & 99436-99636, 99417-21 & 99637-99837 & 99887-100084, July 17, 2003, 454 PHIL 34-147.

17



closeness of personal association and a concurrence of sentiments, then a conspiracy may be inferred though no actual meeting among them to concert means is proved. Thus, the proof of conspiracy, which is essentially hatched under cover and out of view of others than those directly concerned, is perhaps most frequently made by evidence of a chain of circumstances only.


Accused Valencia's reliance on "direct proof" is at once drowned on such principle.

Finally, accused Valencia's allegations of forgery and Nico Valencia's lack of authority to act on his behalf are matters of defense, which this court cannot accept as gospel truth at this stage of the proceedings. Necessarily, this will be subject of the evaluation of their probative worth which, at this stage, cannot yet be determined with finality.

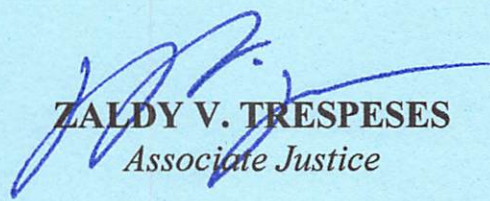
WHEREFORE, the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Congressman Rodolfo G. Valencia is **DENIED**.

Accused Congressman Rodolfo G. Valencia is directed to follow the revised sequence in the presentation of defense evidence, where he immediately follows after accused Dennis L. Cunanan.

**SO ORDERED.**

  
**MA. THERESA DOLORES C. GOMEZ-ESTOESTA**  
*Associate Justice, Chairperson*

WE CONCUR:

  
**ZALDY V. TRESPES**  
*Associate Justice*

  
**GEORGINA D. HIDALGO**  
*Associate Justice*