



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

**PEOPLE
OF THE
PHILIPPINES**

OF THE

Plaintiff,

- versus -

**EFRAIM C. GENUINO,
RAFAEL A. FRANCISCO,
EDWARD F. KING, RENE C.
FIGUEROA, ESTER P.
HERNANDEZ, VALENTE C.
CUSTODIO, WILLIAM I.
RAMIREZ, MARK P. JOSEPH,**
Accused.

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**PEOPLE
OF THE
PHILIPPINES**

OF THE

Plaintiff,

- versus -

EFRAIM C. GENUINO
Accused.

**Criminal Case No. SB-16-
CRM-0327**

*For: Violation of Section 3 (e) of
Republic Act No. 3019, as
amended.*

**Criminal Case No. SB-16-
CRM-0328**

*For: Violation of Section 3 (h) of
Republic Act No. 3019, as
amended.*

Present:

**CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B., J. and
MORENO, J.**

Promulgated:

JUNE 8, 2023

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RESOLUTION**CABOTAJE-TANG, P.J.:**

For resolution are the following: [1] “*Motion for Reconsideration (on the Decision dated March 3, 2023)*” dated March 11, 2023, filed by accused Rafael Francisco;¹ [2] “*Motion for Reconsideration*” dated March 15, 2023, filed by accused Efraim C. Genuino;² and, [3] “*Motion for Reconsideration to the Decision promulgated on 3 March 2023*” dated March 17, 2023, filed by accused William I. Ramirez.³

MOTION FOR RECONSIDERATION OF ACCUSED FRANCISCO

Accused-movant Francisco prays that the Court [1] reverse and set aside its *Decision* promulgated on March 3, 2023; [2] acquit him of the crime of Violation of Section 3 (e) of Republic Act (R.A.) No. 3019; and [3] dismiss the present case against him on the ground of a violation of his constitutional right to speedy disposition of cases.⁴

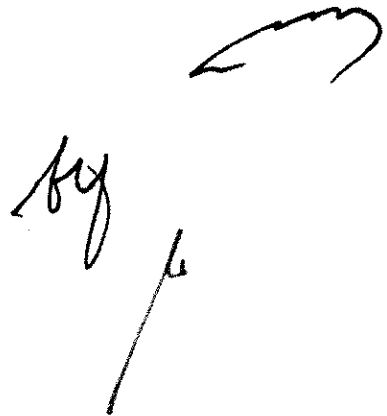
The said accused-movant contends that he did not violate Section 26 of R.A. No. 6847 but he merely complied with Section 24 thereof by rendering “*full assistance and cooperation*” to the Philippine Sports Commission (PSC) pursuant to the *Letter* dated August 1, 2007, of then PSC Chairman William I. Ramirez (accused Ramirez) which was addressed to the Philippine Gaming and Amusement Corporation (PAGCOR) Chairman Efraim C. Genuino (accused Genuino). He explains that in the said *letter*, the PSC fully authorized PAGCOR to release its five percent (5%) share to the Philippine Amateur Swimming Association (PASA) thereby giving

¹ pp. 153-173, Vol. VI, Record

² *Id.*, at pp. 208-446

³ *Id.*, at pp. 449-474

⁴ *Id.*, at p. 170



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PAGCOR the authority to deduct the expenses incurred by PASA for the training of the Philippine National Swimming team from the PSC fund.⁵




Moreover, accused-movant Francisco asserts that the accused PAGCOR officials acted with “*utmost good faith and in compliance to the PSC Act/Law*” when they rendered full assistance and cooperation to the written authority given by the PSC through its chairman;⁶ he argues that there was a “*clear written instruction by the PSC*” that PAGCOR disburse to PASA a portion of the PSC’s share in the PAGCOR’s income; the PAGCOR regularly informed the PSC of the reallocation of the subject funds; there is no showing from the prosecution’s evidence that the PSC Board questioned the distribution of the PSC’s share; there is nothing from R.A. No. 6847 which requires that any and all actions of the PSC should be approved by the PSC Board; assuming *arguendo* that a PSC Board approval is required, it was not incumbent upon him to know or investigate because he only abided by the wisdom and authority given by the PAGCOR Board; he did not have any direct or indirect dealings with the PSC or accused Ramirez; if not for the above-mentioned *letter*, the PAGCOR would not have remitted anything to the PASA; it was not him alone who remitted and disbursed the subject funds to the PASA; the disbursements of PAGCOR to PASA were supported by the letters and requests for financial assistance which were endorsed by the PAGCOR’s Finance and Treasury Department (FTD) to the PAGCOR Board for its approval; the PAGCOR never disbursed any fund without prior approval of the PAGCOR Board; there is no law prohibiting the PAGCOR from directly remitting a portion of the PSC’s share to PASA;⁷ that from August 2007 to January 2009, the PAGCOR regularly submitted to the PSC monthly reports which included PAGCOR’s remittances to PASA; the PSC Board never questioned the above-mentioned *letter*, or the said monthly reports submitted by the PAGCOR;⁸ and, there is nothing from the *Letter* dated February 10, 2009, of then PSC

⁵ *Id.*, at pp. 154-155

⁶ *Id.*, at pp. 155-156

⁷ *Id.*, at pp. 162-163

⁸ *Id.*, at p. 157

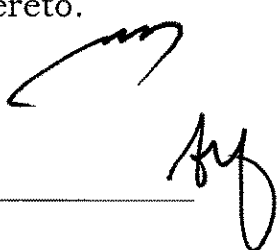


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Chairman Angpin which states that the subject remittances made by the PAGCOR subject of these cases were irregular.⁹

To further support his arguments, accused-movant Francisco submits that he was able to prove the following during trial, thus:

- a) Ms. Maria Cynthia Paz, incumbent Assistant Vice President of PAGCOR under Fund Management who has custody of the subpoena documents which are the existing documents and all its attachments as regards to the August 2007 to January 2009 Monthly Report of PAGCOR to the Philippine Sports Commission (PSC) regarding the PSC Shares [sic].
- b) That (Exhibits "16" to "34" with submarkings all for Accused Rafael Francisco) brought by Ms. Maria Cynthia Paz are documents coming from the office documents in the office files of PAGCOR.
- c) All these Exhibits "16" to "34" for Accused Francisco proves that PAGCOR during the period August 2007 to January 2009 on a Monthly basis formally reported in writing to the Philippine Sports Commission (PSC) regarding the details of the PSC Shares.
- d) On a monthly basis from August 2007 to January 2009, PSC was well aware of the direct remittances of PAGCOR to PASA as clearly instructed by the PSC Chairman William Ramirez to PAGCOR through the PSC Letter dated August 1, 2007, (Plaintiff's Exhibits "C-5," "J-8," etc.), and in these 18 months, despite PSC's receipt of PAGCOR's monthly advice, and awareness of the remittances of its monthly share, including the direct remittance to PASA further to Mr. Ramirez's instruction, PSC never raised any objection thereto.



⁹ *Id.*, at pp. 160



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- e) The PSC likewise allows other direct remittances to other parties such as "sponsorship of Roderick Ternida's Training" for the PSC monthly shares from PAGCOR.
- f) Exhibits "16" to "34" and all its submarkings that these documents itself are the best evidence that Accused Francisco merely complied with the PSC Act [sic].
- g) That PAGCOR officials and Accused Francisco in truth and in fact merely complied with the provisions of RA 6847 specifically complying with **Section 24 of RA 6847 - "Assistance by the Government Entities."**¹⁰ - The Commission may call upon any government entity for assistance in the performance of its functions and duties. All heads of departments, agencies, corporations and offices of the government are hereby enjoined to render full assistance and cooperation to the Commission to ensure the attainment of its objectives and the success of the national sports development program."¹⁰
- h) That PAGCOR officials and Accused Francisco merely complied with the mandate of Section 24 of RA 6847 by rendering full assistance and cooperation to the Philippine Sports Commission based on the Letter dated August 1, 2007, of accused PSC Chairman William I. Ramirez (Plaintiff's Exhibits "C-5," "J-8," etc.) addressed to co-accused PAGCOR Chairman Efraim C. Genuino which fully authorized PAGCOR to release its 5% share directly to PASA.¹¹

On another point, accused-movant Francisco argues that there was no undue injury or actual damage to the government or to any third party arising from the questioned disbursements in these cases.¹²

¹⁰ Emphasis supplied by the accused-movant.

¹¹ *Id.*, at pp. 157-158

¹² *Id.*, at p. 160

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He alleges that based on the 2009 Commission on Audit (COA) Annual Audit Report on the PSC, it was stated that the “PSC successfully worked out for the return of the funds directly released to PASA which were previously deducted from its monthly share from PAGCOR;” witness Lipana confirmed that the PAGCOR returned the subject funds to the PSC upon the advice of the COA; upon learning of the PSC Board’s new instructions, the PAGCOR Board immediately remitted to the PSC the money corresponding to the amount that it previously released to PASA; and, applying the ruling of the Supreme Court in the case of *Genuino, et al., v. Commission on Audit*,¹³ it is clear that only the 5% franchise tax and the government’s 50% share in the PAGCOR’s income may be classified as public funds; hence, all other funds, including the disbursements made in these cases, which were drawn against PAGCOR’s operational expenses (OPEX Fund), are private corporate funds.¹⁴

Moreover, accused-movant Francisco points out that none of the prosecution witnesses testified that the PAGCOR’s remittance to PASA was illegal or irregular.¹⁵ He states that the said witnesses have no personal knowledge on the subject transactions, and they admitted that accused-movant Francisco was never connected to nor had any financial interest with Trace College, PASA, Synercraft Control Technologies, and a certain Jose Arne A. Navarra.¹⁶

Also, the same accused-movant alleges that the Court’s finding of conspiracy in these cases “*simply relied on the high ranking positions*” of those convicted herein. He submits that he did not hold the highest position in the PAGCOR and all his questioned acts were approved by the PAGCOR Board.¹⁷

Finally, the same accused-movant argues that the case against him must be dismissed for violation of his constitutional

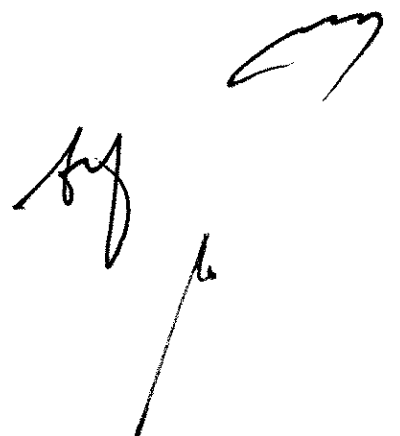
¹³ G.R. No. 230818, June 15, 2021

¹⁴ *Id.*, at pp. 160-161

¹⁵ *Id.*, at pp. 163-165

¹⁶ *Id.*, at pp. 165-167

¹⁷ *Id.*, at p. 168

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right to speedy disposition of cases considering that the Court rendered its Decision in these cases only on March 3, 2023, or after almost twelve (12) years, counted from the filing of the criminal complaints against him and his co-accused sometime in 2011.¹⁸

MOTION FOR RECONSIDERATION OF ACCUSED GENUINO




In his *Motion for Reconsideration* dated March 15, 2023,¹⁹ accused-movant Genuino prays that the Court reconsider its *Decision* promulgated on March 3, 2023, and acquit him of the crime of Violation of Section 3 (e) of R.A. No. 3019.²⁰ In support of his prayer, the said accused-movant relies on the following grounds, to wit:

1. He did not commit any overt criminal act in relation to the transactions subject of these cases;
2. He did not sign any of the checks issued by the PAGCOR to the PASA. The prosecution failed to present proof that he affixed the signatures appearing in the subject check vouchers;
3. A side-by-side comparison of the signatures appearing in the said checks *vis-à-vis* the signatures appearing above his name in the PAGCOR Board Minutes of the Meeting shows that the said signatures are not the same;
4. Assuming *arguendo* that he signed the said check vouchers, this act cannot be the basis of finding any criminal liability;
5. There is no evidence that he had any personal knowledge of the disbursements made to PASA prior to its inclusion in the PAGCOR Board's agenda because he did not personally

¹⁸ *Id.*, at p. 170

¹⁹ *Id.*, at pp. 208-446

²⁰ *Id.*, p. 264

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receive the letters of the PSC, PASA and PSC president Mark Joseph;

6. He did not act with evident bad faith or manifest partiality when PAGCOR remitted a portions of the PSC's 5% share in PAGCOR's income to PASA;
7. PAGCOR relied on good faith on the authority of PSC Chairman Ramirez when it complied with his instruction to directly remit a portion of PSC's share in PAGCOR's income to PASA;
8. In February 2009, the PSC revoked and rescinded Ramirez's authority to instruct PAGCOR to release a portion of the PSC's share to PASA; hence, this establishes that the Ramirez had prior authority to give the said instruction;
9. PAGCOR returned to the PSC the entire amount that it released to PASA; hence, this is a badge of good faith on the part of PAGCOR;
10. He did not give unwarranted benefits to PASA because it was the PSC which selected PASA as the beneficiary of its share in the PAGCOR's income. Also, the prosecution failed to prove that no other sports association received the same assistance from PAGCOR;
11. No public funds were disbursed in these cases because the releases to PASA by PAGCOR were sourced from PAGCOR's OPEX Fund which forms part of its private corporate funds; and,
12. The dismissal of the cases against accused Rene Figueroa due to the existence of inordinate delay as held by the Supreme Court in the case of *Figueroa v. Sandiganbayan*²¹ should likewise be applied in these cases.²²

²¹ G.R. No. 235965-66, February 15, 2022

²² *Id.*, at pp. 208-211

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MOTION FOR RECONSIDERATION OF ACCUSED RAMIREZ

In his *Motion for Reconsideration* dated March 17, 2023, accused-movant Ramirez insists that [1] the elements of a Violation of Section 3 (e) of R.A. No. 3019, as amended, are not present; and [2] the 2009 Annual Audit Report of the COA shows that the funds deducted from the PSC's 5% share from the income of PAGCOR were returned through offsetting; hence, there was no damage incurred by the PSC.

Also, the same accused-movant submits that "*the Court merely relied on assumptions, suppositions, and speculations in finding the existence of conspiracy in these cases.*"²³

THE PROSECUTION'S CONSOLIDATED OPPOSITION

In its *Consolidated Opposition* dated April 12, 2023,²⁴ the prosecution contends that it had established all the elements of a Violation of Section 3 (e) of R.A. No. 3019 against accused-movants Francisco, Genuino and Ramirez in Criminal Case No. SB-16-CRM-0327,²⁵ and the Court judiciously convicted the said accused of the said crime.²⁶

It submits the following circumstances which allegedly shows that the said accused-movants acted with manifest partiality, evident bad faith, or gross inexcusable negligence, and their actions gave unwarranted benefit, advantage, or preference to PASA, viz:

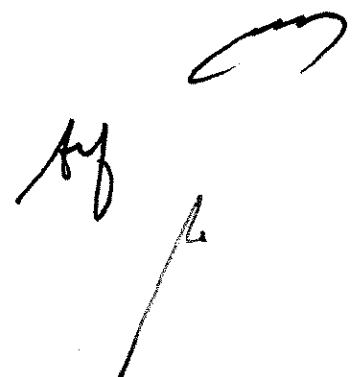
1. Accused PSC Chairman William I. Ramirez unlawfully authorized the direct releases of financial assistance by

²³ *Id.*, at p. 462

²⁴ *Id.*, at pp. 747-754

²⁵ *Id.*, at p. 748

²⁶ *Id.*, at p. 752

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PAGCOR to Philippine Amateur Swimming Association (PASA) without the approval of the PSC Board;

2. Such direct releases of financial assistance by PAGCOR to PASA violated the provisions of Section 26 of RA 6847 which mandates that five percent (5%) of PAGCOR's gross income should be automatically remitted directly to the PSC, which, thereafter, is mandated to disburse funds to various national sports associations;²⁷
3. Some PAGCOR payments to PASA, taken directly from the monthly income share of PSC from [the] PAGCOR income, were already processed in advance even without approval yet of such payments by [the] PAGCOR board as evidenced by the annotations in various accounts payable vouchers²⁸ such as "Note: FTD to submit Board Approved Memo," "Note: Board approval to follow."
4. Some PAGCOR fund releases to PASA, taken directly from the monthly income share of PSC from PAGCOR income, were subsequently used by PASA to pay Trace Aquatic Center or Trace College, Inc. ("TRACE")²⁹ effectively owned and controlled by the family of accused Efraim C. Genuino; [and],
5. Accused Efraim C. Genuino maintained direct pecuniary and financial interest in TRACE as shown in the General Information Sheet³⁰ of TRACE.³¹

To further support its arguments, the prosecution also summarizes the participation of the said accused-movants in these cases, to wit:

1. Accused PSC Chairman William I. Ramirez signed communication letter dated August 1, 2007,³² addressed to

²⁷ Footnote omitted.

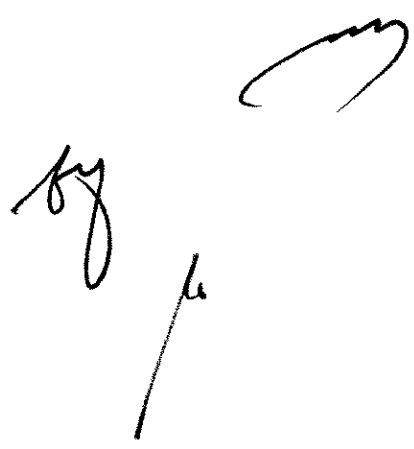
²⁸ Footnote omitted.

²⁹ Footnote omitted.

³⁰ Footnote omitted.

³¹ *Id.*, at pp. 749-750

³² Footnote omitted.

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his co-accused PAGCOR Chairman Efraim C. Genuino to authorize the direct releases of financial assistance by PAGCOR to [the] Philippine Amateur Swimming Association (PASA) (a) without the approval of the PSC Board and (b) in violation of the provisions of Section 26 of RA 6847 as earlier discussed;

2. Accused PAGCOR President Rafael A. Francisco affixed his initials in various Memoranda³³ to signify that the subject matter “to pay PASA shall be taken directly from the monthly income share of PSC from [the] PAGCOR income” was approved for take up or inclusion in the Agenda during PAGCOR Board meetings as testified by Marlene Guevara³⁴ and Marvic Baas;³⁵
3. Accused PAGCOR Chairman Efraim Genuino signed various check vouchers³⁶ authorizing the direct release or disbursement of PAGCOR funds, then supposedly allotted to PSC, in favor of PASA.³⁷

Finally, the prosecution emphasizes that the signatures of accused-movants Francisco, Genuino and Ramirez in the documents subject of these cases are indispensable to the commission of the crime charged against them. It argues that without the said signatures, public funds which were allotted to the PSC would not have been released by the PAGCOR to the PASA.³⁸

THE RULING OF THE COURT

The Court finds the subject *motions* unmeritorious.

³³ Footnote omitted.

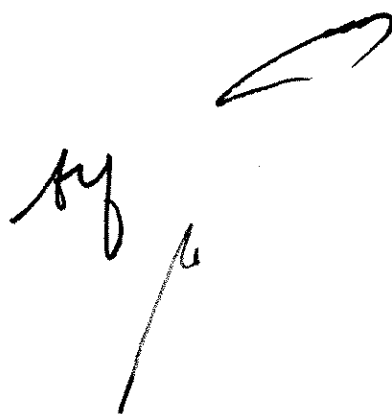
³⁴ Footnote omitted.

³⁵ Footnote omitted.

³⁶ Footnote omitted.

³⁷ *Id.*, at pp. 750-751

³⁸ *Id.*, at p. 751

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I. The prosecution evidence proved beyond reasonable doubt the guilt of accused Francisco, Genuino and Ramirez in Criminal Case No. SB-16-CRM-0327.

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In their motions for reconsideration accused-movants Francisco, Genuino and Ramirez all contend that the prosecution failed to prove beyond reasonable doubt the existence of all the elements of a Violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. SB-16-CRM-0327.

To recount, in its questioned *Decision* promulgated on March 3, 2023,³⁹ the Court held that **all** the elements of a Violation of Section 3 (e) of R.A. No. 3019 were proven by the prosecution evidence against accused Francisco, Genuino and Ramirez in Criminal Case SB-16-CRM-0327; that their acts in directly releasing a portion of the PSC's share from PAGCOR to PASA was illegal considering that it violated Section 26 of R.A. No. 6847 which explicitly provides that 5% of the gross income of PAGCOR should be automatically remitted to the PSC.⁴⁰

After another look at the records of these cases, the Court maintains its findings in its challenged *Decision*, to wit:

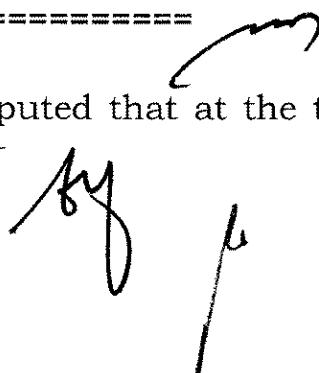
a. The accused were public officers.

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It is undisputed that at the time material to this case,

³⁹ *Id.*, at pp. 35-131

⁴⁰ *Id.*, at pp. 111-112



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accused Genuino, Francisco, King, Custodio, and Ramirez were public officers, occupying key positions in PAGCOR and PSC, respectively. This fact was stipulated upon by the parties during the Pre-Trial.

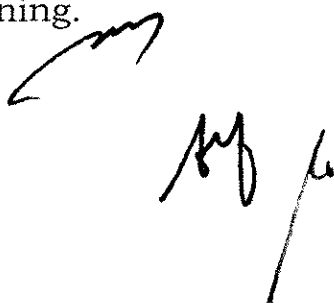
Thus, the matters left for determination of the Court are the existence of the second and third elements.

**b. Accused Genuino,
Francisco, and Ramirez,
acted with manifest
partiality and evident
bad faith in allowing the
direct release of
PAGCOR funds to PASA.**

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. . .

In this case, the prosecution alleges that the accused conspired with one another in causing the direct remittance of PAGCOR funds to PASA through these concerted acts: (1) Genuino – by authorizing the release of PAGCOR funds to PASA, and signing the PAGCOR checks in favor of PASA, (2) Francisco – by entering into and signing the Memorandum of Agreement between PAGCOR and PASA executed on March 15, 2007, approving the release of funds to PASA as member of the Board, and by affixing his initials in the various memoranda recommending the release of funds to PASA, (3) King – by recommending the approval of financial assistance to PASA by PAGCOR, and by certifying in various Requests for Payment that the expenses or advances to PASA are necessary, lawful and incurred under his direct supervision, (4) Custodio – by allowing in audit the release of amounts from the monthly income share of PSC from PAGCOR income in favor of PASA through his signatures in the various APVs, and, (6) Ramirez – by authorizing the deduction from PSC's monthly remittance effective August 2007 the amounts due from PASA for the expenses incurred by national athletes who underwent training.

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After a careful review of the evidence presented, the Court finds that the prosecution was able to prove that accused Genuino, Francisco, and Ramirez acted with evident bad faith and manifest partiality in facilitating the release of PAGCOR funds directly to PASA instead of coursing it through the PSC. As to King and Custodio, we find that their individual acts do not warrant the conclusion that they acted with evident bad faith or manifest partiality or that they conspired with the other accused.

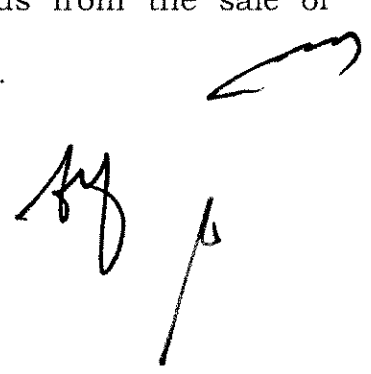
It is undisputed that PAGCOR directly released to PASA a total of P37,063,488.21 of public funds allotted for PSC over the course of eighteen (18) months.⁴¹ This began when PSC Chairman Ramirez wrote a letter addressed to PAGCOR Chairman Genuino authorizing PAGCOR to deduct from the PSC's legislated monthly income share the amounts due to PASA for the expenses incurred by the national athletes who are undergoing training. ***This was in direct contravention of the provision of Section 26 of R.A. No. 6847 which explicitly provides that 5% of the gross income of PAGCOR should be automatically remitted to the PSC,***⁴² viz:

Section 26. *Funding.* -

To finance the country's integrated sports development program, including the holding of the national games and all other sports competitions at all levels throughout the country as well as the country's participation at international sports competitions, such as, but not limited to, the Olympic, Asian, and Southeast Asian Games, and all other international competitions, sanctioned by the International Olympic Committee and the International Federations, thirty percent (30%) representing the charity fund of the proceeds of six (6) sweepstakes or lottery draws per annum, taxes on horse races during special holidays, **five percent (5%) of the gross income of the Philippine Amusement and Gaming Corporation**, the proceeds from the sale of

⁴¹ From December 2007 to May 2009; Emphasis supplied.

⁴² Emphasis supplied.



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stamps as hereinafter provided, and three percent (3%) of all taxes collected on imported athletic equipment **shall be automatically remitted directly to the Commission and are hereby constituted as the National Sports Development Fund.** Further, the Philippine Postal Service Office is hereby authorized to print paper and gold stamps which shall depict sports events and such other motif as the Philippine Postal Service Office may decide, at the expense of the Commission. Any deficiency in the financial requirements of the Commission for its sports development program shall be covered by an annual appropriation passed by Congress.⁴³

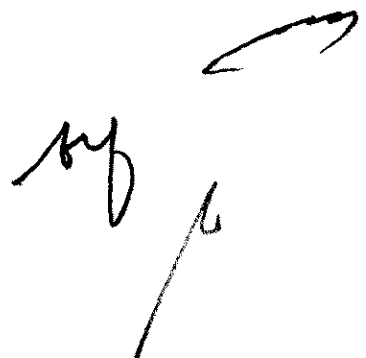
Plainly, the direct release of a portion of the PSC's share from PAGCOR to PASA was illegal as it directly contravened the above-quoted provision of the law.⁴⁴ . . .

As PSC Chairman, ***Ramirez was expected to be aware of the provisions of the law governing their agency. Thus, he ought to know, or ought to have known, that the direct release by PAGCOR of funds allocated to the PSC to another agency, PASA, was not allowed under the law. Worse, he made the request to PAGCOR unilaterally since it was made without the approval of the PSC Board of Commissioners.*** To be sure, accused Ramirez failed to show any Board Resolution authorizing PAGCOR to release PSC funds directly to PASA. What is most revealing from the records is that no other organization or sports association received such distinct favor from the PSC. Neither did the defense offer any sound or reasonable explanation why this peculiar arrangement was made with PASA and not with the other national sports association.

As to accused Genuino and Francisco, it is indubitable that they actively and indispensably participated in the release of PAGCOR funds to PASA. They both played a part in approving the release of the

⁴³ Emphasis supplied in the original text.

⁴⁴ Emphasis supplied.

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PSC's income share from PAGCOR to PASA through their separate individual acts – Francisco and Genuino as members of the Board, in approving the various requests for the payment to PASA to be deducted from the PSC's monthly income share from PAGCOR, while Genuino signed the checks in favor of PASA. Through their concerted acts, they authorized the release of a portion of the PSC's income share from PAGCOR directly to PASA.

. . . 45

Notably, even defense witness Julia Llanto admitted that there were direct releases of the subject funds to the PASA that were authorized by the concerted acts of the accused and which violated Section 26 of R.A. No. 6847.⁴⁶ Also, she further confirmed that there was no PSC Board Resolution which authorized the PAGCOR to directly remit the subject funds to the PASA, to wit:

. . .

Q Under that Board Resolution 299-1993 that you mentioned, **there was no other PSC Board Resolution passed authorizing PAGCOR to directly release funds** to Philippine Amateur Singing [sic] Association instead of being released directly to the PSC? None?

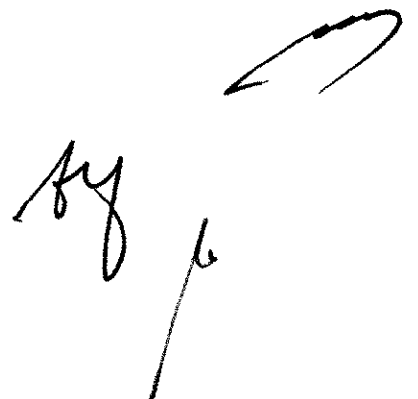
A **None, sir.**⁴⁷

Accused-movants Francisco and Genuino's insistence that they "*merely acted in good faith*" in directly remitting the subject

⁴⁵ *Id.*, pp. 110-115; Emphasis supplied.

⁴⁶ pp. 22-23, TSN, January 25, 2001

⁴⁷ *Id.*, pp. 24-26; Emphasis supplied.

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funds to the PASA because they simply relied on the *Letter* dated August 1, 2007, of accused Ramirez is puerile.

Indeed, such insistence of accused-movants Francisco and Genuino indubitably shows that they completely disregarded the existing laws and rules. In its assailed *Decision* promulgated on March 3, 2023, the Court noted that as high-ranking officials of PAGCOR, “it should have been apparent to them that a mere letter by the PSC Chairman was sorely deficient,” to wit:

They cannot escape liability by claiming that they merely acted in good faith pursuant to the letter of PSC Chairman Ramirez. As high-ranking officials of the PAGCOR, they should have known that organizations such as itself and the PSC operate by authority of the Board. Thus, it should have been apparent to them that a mere letter by the PSC Chairman was sorely deficient, not to mention the fact that their act of directly remitting part of the PSC’s share from five percent (5%) of PAGCOR’s gross income to PASA was a blatant violation of the explicit provision of the law.⁴⁸

Even accused-movant Genuino’s claim that he had no personal knowledge of the subject transactions remains implausible. In its challenged *Decision* promulgated on March 3, 2023, the Court found, *viz*:

Accused Genuino’s inhibition from the board meetings involving PASA does not negate a finding of evident bad faith and manifest partiality on his part in favor of PASA. In fact, his inhibition due to a potential conflict of interest should have impelled him to be more circumspect about the transaction itself by absolutely inhibiting himself from any matter pertaining to PASA, subject matter of this case. ***Instead, he signed the check vouchers and checks releasing funds to***

⁴⁸ *Id.*, at p. 115; Emphasis supplied.

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PASA, and he continued to do so until the time that they were made aware that their arrangement was improper and illegal. It is also worth noting that the letters of PSC Chairman Ramirez and Mark P. Joseph, President of PASA, requesting the direct payment to PASA were both addressed to him. **This unmistakably shows that he had personal knowledge of all these transactions and arrangements and that he did not merely sign checks as part of his regular duty.**⁴⁹

The accused-movants also argue that they cannot be convicted of a Violation of Section 3 (e) of R.A. No. 3019 because the prosecution evidence purportedly failed to prove that their acts resulted in any damage to the government.

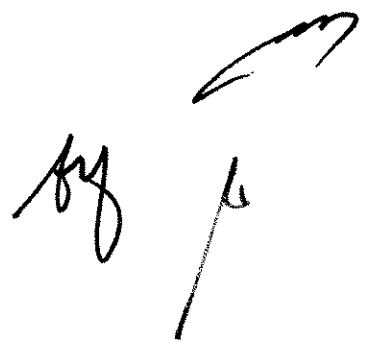
The argument lacks merit.

It must be underscored that in its questioned *Decision* promulgated on March 3, 2023, the Court held that it is jurisprudentially settled that a Violation of Section 3 (e) of R.A. No. 3019 refers to **two (2) separate acts**, i.e., [1] *causing undue injury to the government or any party*, or [2] *giving unwarranted benefits to any party*. To reiterate, after an assiduous assessment of the records, the Court found in its questioned *Decision* that accused's concerted acts gave unwarranted benefits to the PASA, thus:

It is jurisprudentially settled that the third element of Section 3(e) of R.A. No. 3019 refers to two [2] separate acts, i.e., causing undue injury to the government or any party, or giving unwarranted benefits to any party. An accused may be charged with the commission of either or both. The use of the disjunctive term "or" connotes that either act qualifies as a violation of Section 3(e) of R.A. No. 3019.⁵⁰ Under the first punishable act, the accused is said to have caused undue injury to the government or any party when the latter sustains

⁴⁹ *Id.*, at p. 115; Emphasis supplied.

⁵⁰ *Cabrera v. People*, G.R. Nos. 191611-14, July 29, 2019

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actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures.⁵¹ While the loss or damage need not be proven with actual certainty, there must be "some reasonable basis by which the court can measure it."⁵² On the other hand, under the second punishable act, proof of the extent or *quantum* of damage is not essential.⁵³ It is sufficient that the accused has given unjustified favor or benefit to another.⁵⁴

In this case, the Court finds that ***through their act of directly remitting a portion of the PSC's share in PAGCOR's income to PASA, accused Genuino and Francisco gave unwarranted benefits to PASA.*** To recall, the share of the PSC from PAGCOR forms part of the NSDF which is supposed to fund the various athletes and sports associations in the Philippines, and not just one association. It was likewise established during trial that while the PSC has the discretion to choose which sports associations to support and give funds to, PASA was given an assured sum every month for more than a year. In the case of the other sports associations or athletes, they had to go through a certain process to get funding or support from the PSC. ***To repeat, no other sports association was granted this benefit and the said accused miserably failed to present any valid justification as to why the PSC by-passed the usual procedure in favor of PASA.***⁵⁵

Furthermore, the accused-movants maintain that the funds subject of these cases are not public funds because the said funds were not sourced from the 5% franchise tax or the 50% share of the government in PAGCOR's income.

To be sure, the same issue was also tackled by the Court in its *Decision* promulgated on March 3, 2023. Therein, the Court

⁵¹ *Abubakar v. People*, G.R. Nos. 202408, 202409 & 202412, June 27, 2018

⁵² *Id.*

⁵³ *Cabrera v. People, Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*, at p. 124; Emphasis supplied.



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explained that [1] the pronouncement of the Supreme Court in *Genuino v. Commission on Audit*⁵⁶ referred only to the audit jurisdiction of the COA over PAGCOR; [2] there was no categorical ruling made by the Supreme Court in the said case that declared that only the 5% franchise tax and the 50% share of the government in PAGCOR's income are public funds; [3] the funds subject of these cases are public funds considering that the PAGCOR is mandated under R.A. No. 6847 to remit 5% of its gross income to the PSC, and these funds form part of the National Sports Development Fund of the PSC which is used to finance the country's integrated sports development program; and, [4] the PSC is subject to the full audit jurisdiction of COA which includes the 5% share remitted by PAGCOR. Thus:

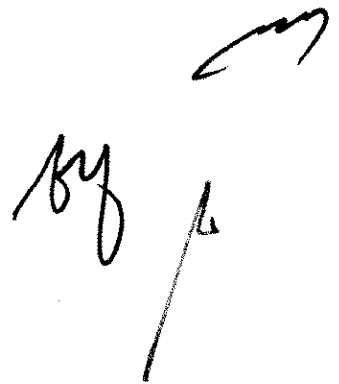
While a finding of either mode under the third element is sufficient, the Court finds it necessary to address the accused's contention that the funds due to the PSC are private funds. In support thereof, they cited the recent case of *Genuino v. COA*,⁵⁷ where the Supreme Court ruled that the COA acted with grave abuse of discretion in conducting an audit of PAGCOR's accounts beyond the 5% franchise tax and the 50% of the Government's share in its gross earnings as provided in Section 15 of P.D. No. 1869. They argue that since the funds it remitted to the PSC are not sourced from the 5% tax or the 50% share of the government, they are outside the audit jurisdiction of the COA, as they form part of the corporate funds of the PAGCOR.

Indeed, it is unequivocal that the audit jurisdiction of the COA over the PAGCOR is limited to the 5% franchise tax and the 50% share of the government. However, this does not mean that the 5% share of the PSC is regarded as private funds.

First. The Supreme Court never made a categorical declaration that only the 5% franchise tax and 50% share

⁵⁶ G.R. No. 230818, June 15, 2021

⁵⁷ G.R. No. 230818, June 15, 2021; Emphasis supplied.

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of the government in PAGCOR's gross income are classified as public funds.

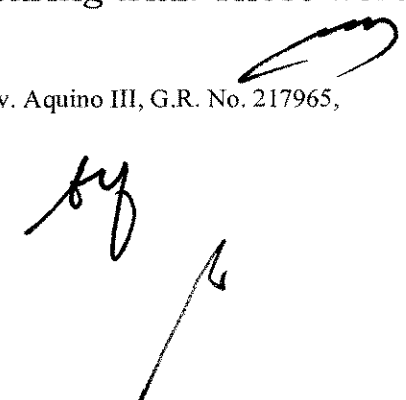
Second. As correctly pointed out by the prosecution, PAGCOR is mandated under R.A. No. 6847 to remit 5% of its gross income to the PSC, which forms part of the National Sports Development Fund (NSDF) of the PSC. The NSDF, as explicitly stated in the law, is used to finance the country's integrated sports development program, including the holding of the national games and all other sports competitions at all levels throughout the country as well as the country's participation in international sports competitions. **In short, these are considered public funds. It is well-settled that public funds are those moneys belonging to the State or to any political subdivision of the State; more specifically, taxes, customs duties and moneys raised by operation of law for the support of the government or for the discharge of its obligations.⁵⁸ Moreover, Section 3(2) of Presidential Decree No. 1445 defines government funds as public moneys of every sort and other resources to any agency of the government.**

Third. Unlike the PAGCOR, the PSC is subject to the full audit jurisdiction of the COA, which includes the 5% remittance by the PAGCOR to the PSC as part of its NSDF. In other words, the 5% share remitted by the PAGCOR to the PSC is, in fact, subject to audit by the COA. However, it is the PSC that reports and liquidates the funds to the COA, not PAGCOR. Indeed, it would be redundant to audit the 5% remittance of the PAGCOR to the PSC twice under two (2) different government agencies.⁵⁹

Plainly, the above-mentioned issues raised by the accused-movants in their present *motions* are mere reiterations of their defenses and arguments which they raised during trial. These were

⁵⁸ Confederation of Coconut Farmers Organization of the Philippines, Inc. v. Aquino III, G.R. No. 217965, August 8, 2017

⁵⁹ *Id.*, at pp. 124-125, Emphasis supplied.



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already passed upon by the Court in its assailed *Decision* after a careful consideration of the pieces of evidence presented by the parties. Indeed, absent any new and/or substantial matters raised in their *motions for reconsideration*, the Court sees no cogent reason to reverse its findings in its *Decision* sought to be reconsidered.

II. There was no inordinate delay in the resolution of these cases.

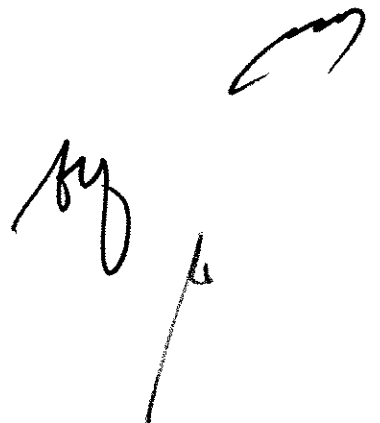
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Accused-movants Francisco and Genuino further claim that the present case against them should be dismissed on the ground of a violation of their constitutional right to speedy disposition of cases because the Court allegedly took “almost twelve (12) years” to resolve the present cases.

In the recent case of ***Daep, et al., v. Sandiganbayan***,⁶⁰ the Supreme Court reiterated that the right to a speedy disposition of cases is a relative and flexible concept, and the assertion of the right ultimately depends on the peculiar circumstances of the case. Moreover, the said right is deemed violated only when there is inordinate delay, such that the proceedings are attended by vexatious, capricious, and oppressive delays; ***or when unjustified postponements of the trial are asked for and secured, or when without cause or unjustifiable motive, a long period of time is allowed to elapse without the party having his case tried.***

In its challenged *Decision* promulgated on March 3, 2023, the Court narrated the following chronology of relevant events in these cases, to wit:

⁶⁰ G.R. No. 244649, June 14, 2021



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THE PROCEEDINGS

On **June 3, 2016**, the Ombudsman filed with the Court *Informations* charging the herein accused for two (2) counts of Violation of Section 3(e) of R.A. No. 3019, and another one solely against accused Genuino for Violation of Section 3(h) of R.A. No. 3019, docketed as Criminal Cases Nos. SB-16-CRM-0326-0328, respectively.⁶¹

On **June 10, 2016**, accused Hernandez and Genuino filed separate motions for judicial determination of probable cause.⁶² On the same date, accused Genuino, Francisco, King, and Custodio posted their respective cash bail bonds for their provisional liberty.⁶³ Accused Figueroa and Ramirez followed suit three (3) days and seven (7) days later.⁶⁴ Meanwhile, accused Hernandez and Joseph remain at-large. Accused Francisco and King likewise filed their respective motions for judicial determination of probable cause on **June 17, 2016**.⁶⁵

In its *Resolution* promulgated on **September 9, 2016**, the Court denied the motions filed by the accused for lack of merit.⁶⁶ Accused Genuino, King, and Hernandez then filed their respective motions for reconsideration.⁶⁷ On **January 26, 2017**, the Court denied their motions.⁶⁸ Thereafter, the Court ordered the arraignment of the accused on **April 25, 2017**.⁶⁹

On **July 19, 2017**, accused Figueroa filed a Motion to Quash Information.⁷⁰ This was denied by the Court in its Resolution dated **October 11, 2017**.⁷¹ Thereafter, or on December 28, 2017, accused Figueroa filed a Petition for

⁶¹ Record, (SB-16-CRM-0326), pp. 1-5, Record, (SB-16-CRM-0327), pp. 1-5, Record, (SB-16-CRM-0328), pp. 1-3.

⁶² Record, Vol. III, pp. 1-294; 295-689.

⁶³ Record, Vol. III, pp. 690-698.

⁶⁴ *Id.*, pp. 699-701; 705-707

⁶⁵ Record, Vol. IV, pp. 1-10; 11-411

⁶⁶ *Id.*, pp. 523-537

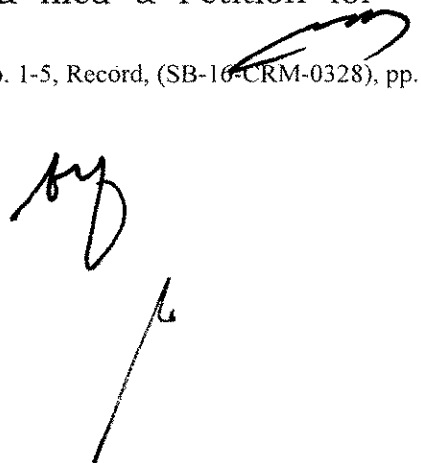
⁶⁷ Record, Vol. IV, pp. 590, 601, 602-612, 613-622

⁶⁸ Record, Vol. V, pp. 29-41

⁶⁹ *Id.*, p. 101

⁷⁰ *Id.*, p. 544-552

⁷¹ *Id.*, pp. 681-691



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Certiorari and Prohibition with the Supreme Court, docketed as G.R. Nos. 235965-66.⁷²

Meanwhile, upon their arraignment on **September 22, 2017**, accused Genuino, Francisco, King, Custodio, and Ramirez, duly assisted by counsel, refused to enter a plea.⁷³ Thus, the Court entered a plea of “not guilty” on their behalf.⁷⁴ Meanwhile, accused Figueroa was arraigned on **January 19, 2018** where he likewise refused to enter any plea. Thus, the Court also entered a plea of “not guilty” for the said accused. Thereafter, the Court set the pre-trial on **February 9, 2018**.⁷⁵

After several postponements, the pre-trial proceeded on **July 6, 2018**.⁷⁶ During the scheduled pre-trial, the parties informed the Court that they already completed the pre-marking of their documentary exhibits. As prayed for by the parties, they were granted thirty (30) days to submit their *Joint Stipulations of Fact*.⁷⁷

On **August 3, 2018**, the parties submitted their “*Joint Stipulations*.”⁷⁸ The Court admitted the same in its *Resolution* promulgated on **August 6, 2018**.⁷⁹ Consequently, the Court issued a *Pre-trial Order* on **September 7, 2018**, consistent with the said *Joint Stipulations*.⁸⁰

During the pre-trial, the parties stipulated on the following facts:

. . . .

On **October 18, 2018**, the prosecution filed a *Manifestation with Motion* for the withdrawal of the Information

⁷² Record, Vol. VI, pp. 28-392

⁷³ Record, Vol. V, pp. 641-642

⁷⁴ *Id.*

⁷⁵ *Id.*

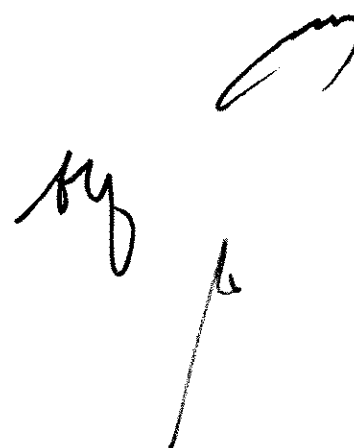
⁷⁶ Record, Vol. VI, pp. 677-678

⁷⁷ *Id.*

⁷⁸ *Id.*, pp. 687-693

⁷⁹ *Id.*, p. 695.

⁸⁰ Record, Vol. VII, pp. 6-43.

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in the case docketed as SB-16-CRM-0326, stating that upon examination of the case records, it was revealed that the funds involved in SB-16-CRM-0326 is already included in the funds covered in SB-16-CRM-0327, which charges the same crime against the same accused.⁸¹ In its *Resolution* promulgated on **February 7, 2019**, the Court granted the said motion, and accordingly, dismissed SB-16-CRM-0326.⁸²

The prosecution presented as its witnesses the following: (1) Recto Baltazar, Jr., (2) Atty. Juanito Sañosa, (3) Atty. RJ Bernal, (4) Mario G. Lipana, (5) Marvic P. Baas, (6) Cynthia S. Vergara, (7) Marlene S. Guevara, (8) Atty. Daniel P. Gabuyo, and (9) Anna Dominique M.L. Coseteng.

On **August 9, 2019**, the prosecution filed its *Formal Offer of Documentary Evidence* consisting of Exhibits "A" to "BB," together with its sub-markings.⁸³ In its *Resolution* promulgated on September 17, 2019, the Court admitted the same over the opposition of the accused finding their objections to be more on the probative value of the evidence rather than their admissibility.⁸⁴

Thereafter, or on **October 8, 2019**, accused Genuino, King, and Figueroa filed separate motions for leave to file demurrer to evidence.⁸⁵ Accused Ramirez likewise filed a similar motion the next day, and accused Francisco five (5) days later.⁸⁶ The prosecution filed its *Consolidated Opposition* to accused Genuino and King's motion on **October 10, 2019**, and to accused Francisco and Ramirez' motion on **October 16,**

⁸¹ Record, SB-CRM-0326-0328, Vol. VII, pp. 134-140.

⁸² *Id.*

⁸³ Record, SB-16-CRM-0327-0328, Vol. I, pp. 256-862

⁸⁴ *Id.*, Vol. II, pp. 149-150.

⁸⁵ "Motion for Leave to File Demurrer to Evidence" dated October 7, 2019, filed by accused Genuino, Record Vol. II, pp. 165-174; "Motion for Leave to File Demurrer to Evidence" dated October 7, 2019, filed by accused King, *id.*, pp. 213-219; "Motion for Leave to File Demurrer to Evidence" dated October 8, 2019, filed by accused Figueroa, *id.*, pp. 321-331, *Id.*, pp. 165-174 (for accused Genuino), pp. 213-219 (for accused King), pp. 321-331 (for accused Figueroa)

⁸⁶ "Motion for Leave to File Demurrer to Evidence" dated October 9, 2019, filed by accused Ramirez, *id.*, pp. 362-373; "Motion for Leave to File Demurrer to Evidence" dated October 12, 2019, filed by accused Francisco, *id.*, pp. 418-422

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2019.⁸⁷ It filed a separate *Opposition* to Figueroa's motion on **October 21, 2019.**⁸⁸

In separate *Resolutions*, the Court denied the respective *Motions for Leave to file Demurrer to Evidence* filed by accused Genuino, King, Francisco, Ramirez, and Figueroa for lack of merit and gave them five (5) days from receipt thereof within which to file a manifestation on whether or not they will pursue their demurrer to evidence without leave of court.⁸⁹ The motions for reconsideration⁹⁰ separately filed by accused Genuino, King, and Francisco were likewise denied.⁹¹

[The defense started presenting its evidence on **February 3, 2020,**⁹² and terminated the same on **March 9, 2021.**]⁹³

For its part, the defense presented the following witnesses: (1) Maria Vinia Claudette P. Oca, (2) Edward F. King, (3) Valente C. Custodio, (4) Julia G. Llanto,⁹⁴ (5) Erik Jean A. Mayores,⁹⁵ and (6) Maria Cynthia G. Paz.⁹⁶

Thereafter, the accused filed their *Formal Offer of Evidence* as follows:

- a. Accused Genuino filed his Formal Offer of Evidence on **March 23, 2021**, consisting of Exhibits "1-C" to "1-R", together with its sub-markings;⁹⁷

⁸⁷ *Id.*, pp. 244-251, 337-341, 425-430

⁸⁸ *Id.*, pp. 337-341

⁸⁹ Minute Resolution dated October 12, 2019, *Id.*, pp. 298-299; Minute Resolution dated November 6, 2019, *id.*, pp. 441-442; Minute Resolution dated November 6, 2019, *id.*, pp. 443-444

⁹⁰ *Id.*, pp. 377-386, 387-396, 528-534

⁹¹ Minute Resolution dated November 8, 2019, *Id.*, p. 457; Minute Resolution dated January 16, 2020, *Id.*, p. 554.

⁹² p. 566, Vol. III, Record

⁹³ p. 425, Vol. IV, Record

⁹⁴ For accused Ramirez

⁹⁵ For accused Ramirez

⁹⁶ For accused Francisco

⁹⁷ Record, Vol. IV, pp. 506-601

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- b. Accused Francisco filed his Formal Offer of Evidence on **March 22, 2021**, consisting of Exhibits “16” to “34”, together with its sub-markings;⁹⁸
- c. Accused King filed his Formal Offer of Evidence on **March 23, 2021**, consisting of Exhibits “5” to “8”, together with its sub-markings;⁹⁹
- d. Accused Custodio filed his Formal Offer of Evidence on **March 19, 2021**, consisting of Exhibits “10” and “10-A”;¹⁰⁰
- e. Accused Ramirez filed his Formal Offer of Evidence on **March 23, 2021**, consisting of Exhibits “1-Ramirez” to “5-Ramirez”, together with its sub-markings, and “6-Ramirez” to “6-QQ-Ramirez”, “6-Y-Ramirez”, and “6-MM-Ramirez”;¹⁰¹ and
- f. Accused Figueroa filed his Formal Offer of Evidence on **March 21, 2022**, where he manifested that he is adopting the evidence of all of his co-accused, except Custodio’s. He also manifested that he is adopting as his own prosecution’s Exhibits “C” and “C-4”.¹⁰²

The prosecution filed its *Consolidated Comment* thereon on **May 24, 2021**.¹⁰³ On the same date, the prosecution also filed a motion to admit its Supplemental Formal Offer of Evidence, requesting for the admission of Exhibits “CC”, “CC-1”, and “CC-2”, adopting Ramirez’ Exhibits “6-Ramirez” to “6-QQ-Ramirez”.¹⁰⁴

⁹⁸ *Id.* pp. 433-505

⁹⁹ *Id.* pp. 602-606

¹⁰⁰ Record, SB-16-CRM-0327-0328, Vol. IV, pp. 430-432

¹⁰¹ *Id.* pp. 613-622

¹⁰² *Id.* Vol. V, pp. 341-343

¹⁰³ *Id.* pp. 210-218

¹⁰⁴ *Id.* Vol. IV, pp. 711-720

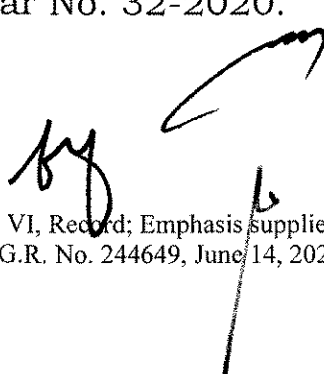
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In its *Resolution* promulgated on **January 3, 2022**, the Court admitted the exhibits presented by the accused as well as the additional exhibits offered by the prosecution.¹⁰⁵

On **February 15, 2022**, the Supreme Court promulgated its *Decision* in G.R. Nos. 235965-66 ordering the dismissal of the case against Rene Figueroa for violation of his constitutional right to speedy disposition of cases.¹⁰⁶

While the resolution of the present cases took seven (7) years, counted from the time of the filing of the said *Informations* with the Court, this should not be the sole determinant on whether the accused-movants' constitutional right to speedy disposition of cases has been violated. Applying settled jurisprudence,¹⁰⁷ the Court holds that the determination of the existence of inordinate delay should not be measured through mere mathematical reckoning of the time involved but the examination of the facts and circumstances surrounding each case.

The records of these cases show that in its *Order* dated March 9, 2020, the Court set the continuation of the reception of evidence for accused Ramirez on March 23, and 30, 2020.¹⁰⁸ However, it will be recalled that on March 16, 2020, the Office of the President, through the Executive Secretary, issued a *Memorandum* pursuant to Proclamation Nos. 922 and 929 s. 2020, placing the entire island of Luzon under Enhanced Community Quarantine (ECQ) due to the sharp increase in the number of confirmed Coronavirus Disease (COVID-19) cases in the country. Thereafter, or on March 20, 2020, the Chief Justice ordered the physical closure of all courts nationwide effective on March 23, 2020, through the issuance of Administrative Circular No. 32-2020.



¹⁰⁵ *Id.*, Vol. V, pp. 224-225.

¹⁰⁶ Footnote omitted; pp. 38-43, Vol. VI, Record; Emphasis supplied on the dates relevant to these cases.

¹⁰⁷ *Daep, et al., v. Sandiganbayan*, G.R. No. 244649, June 14, 2021

¹⁰⁸ p. 658, Vol. III, Record

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On April 8, 2020, the Chief Justice issued Administrative Circular No. 34-2020, extending the said physical closure of all courts until April 30, 2020. Again, all courts nationwide were ordered closed by the Chief Justice until May 31, 2020, through the issuance of Administrative Circular No. 35-2020.

On May 29, 2020, the Chief Justice issued Administrative Circular No. 41-2020 ordering the full operation of all courts nationwide beginning June 1, 2020. However, courts were only allowed to function with a skeleton-staff, if necessary, to be determined by the Chief Justice, Associate Justices, Presiding Justices, Executive Judges, Presiding Judges, and Chiefs of Offices, as the case may be.

On August 2, 2020, the Chief Justice issued Administrative Circular No. 43-2020 providing the guidelines of court operations from August 3-14, 2020. It was mentioned therein that all courts in the National Capital Judicial Region (NCJR), and those in areas placed under Enhanced Community Quarantine (ECQ) or Modified Enhanced Community Quarantine (MECQ), shall be physically closed to all court users. The following day, or on August 3, 2020, the Executive Secretary issued a *Memorandum* placing the National Capital Region and the provinces of Laguna, Cavite, Rizal and Bulacan under MECQ until August 18, 2020.

On August 18, 2020, the Chief Justice issued Administrative Circular No. 45-2020 prescribing the guidelines of court operations during the GCQ from August 19, 2020, onwards. Therein, the Chief Justice ordered that all courts in areas under GCQ be physically opened to court users, and all hearings shall be fully in-court, except under exceptional circumstances.

On September 16, 2020, the President of the Philippines issued Proclamation No. 1021 extending the declared State of Calamity throughout the Philippines for a period of one (1) year effective from September 13, 2020, to September 12, 2021, in view of the continued rise of COVID-19 positive cases and deaths.

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On October 5, 2020, the prosecution filed through electronic mail a *"Motion to Reset Hearings"* praying that the hearings scheduled on October 19-20, 2020, and November 23-24, 2020, be cancelled.¹⁰⁹ In its *Resolution* promulgated on November 27, 2020, the Court granted the said *motion* and set the continuation of the presentation of the defense evidence on January 25-26, 2021, and February 1, 2, 8, 9, 15, and 16, 2021.¹¹⁰ Accordingly, the presentation of the defense evidence resumed on January 25, 2021.¹¹¹

On March 23, 2021, the Supreme Court *en banc* issued A.M. No. 21-03-25-SC which ordered courts in all levels" in the NCJR, Bulacan, Cavite, Laguna, and Rizal to *"drastically reduce the court personnel."* It further provided that the courts affected shall only maintain a skeleton force (which may be less than 30% of the work staff) sufficient to attend to all urgent matters, from March 24 to April 16, 2021.

On March 28, 2021, the Acting Chief Justice issued Administrative Circular No. 14-2021, extending the filing period for pleadings/court submission in the above-mentioned affected areas considering the same were again placed under ECQ from March 29 to April 4, 2021. The physical closure of all courts in the NCJR were further extended from April 5 to May 14, 2021, through the issuance of Administrative Circular Nos. 15-2021 dated April 3, 2021; 21-2021 dated April 10, 2021; 22-2021 dated April 14, 2021, and 29-2021 dated April 30, 2021.

On May 14, 2021, the Chief Justice issued Administrative Circular No. 33-2021, ordering that the courts in the NCJR be physically opened with a skeleton force of at least 30% to 50% beginning May 17, 2021. However, on July 30, 2021, the Chief Justice issued Administrative Circular No. 56-2021 ordering anew the physical closure of all courts in the NCJR from August 2 to 20, 2021, for purposes of *"avert[ing] the possible surge in Covid-19*

¹⁰⁹ p. 714, Vol. III, Record

¹¹⁰ *Id.*, at p. 823

¹¹¹ *Id.*, at p. 858

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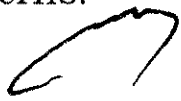
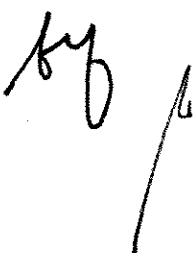
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cases due to the Delta variant, and considering that the entire National Capital Region (NCR) has been placed under General Community Quarantine (GCQ) with heightened restrictions from 30 July 2021 to 5 August 2021, and under Enhanced Community Quarantine (ECQ) from 6 to 20 August 2021.”

On August 20, 2021, the Office of the Court Administrator issued OCA Circular No. 114-2021 stating, among other things, that all courts in the NCJR, except the Supreme Court, shall be physically closed to court users for the duration of the MECQ. The physical closure of the affected courts was reiterated in OCA Circular No. 117-2021 considering that the NCJR and other identified areas remained under MECQ until September 7, 2021. The closure of all courts in the NCJR, except the Supreme Court, was extended until September 30, 2021, upon the instructions of the Chief Justice, and through the issuance of OCA Circular No. 119-2021 dated September 7, 2021, and Administrative Circular No. 72-2021 dated September 15, 2021.

On October 1, 2021, the Chief Justice maintained the physical closure of all appellate collegiate courts within the NCJR, except the Supreme Court, beginning October 4, 2021, through the issuance of Administrative Circular No. 75-2021.

On October 27, 2021, the Acting Chief Justice issued Administrative Circular No. 85-2021, stating, among other things, that all appellate collegiate courts within the NCJR may conduct in-court proceedings on urgent matters and on other matters as may be determined by the Presiding Justice or the Chairpersons of the different divisions considering that the NCJR is still under the COVID-19 alert level systems of the Inter Agency Task Force for the Management of Emerging Infectious Diseases' (IATF-EID). Furthermore, courts were ordered to maintain a skeleton workforce of at most 30% to enable them to attend to all urgent matters and concerns.

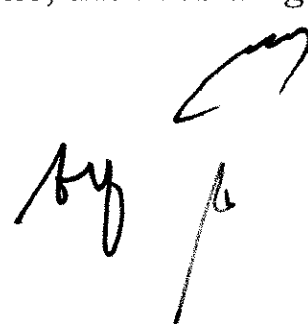
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On November 29, 2021, the Chief Justice through the issuance of Administrative Circular No. 96-2021, ordered all justices, court personnel and court users of the appellate collegiate courts to observe beginning on December 1, 2021, Supreme Court Memorandum Order No. 110-2021 dated November 19, 2021, which provides for a flexible working schedule/shifting in the judiciary, such that 50% of the work force shall report to work on site.

On January 9, 2022, the Presiding Justice issued Administrative Order No. 001-2022 providing for guidelines in the work arrangements in the Sandiganbayan, which states, among other things, that [1] the official working hours shall be from Monday to Friday, 9:00 a.m. to 3:00 p.m; [2] the Office of the Presiding Justice and the Chambers of the Associate Justices shall operate with a skeleton staff in accordance with the respective discretions of the Presiding Justice and the Associate Justices; [3] the Divisions of the Sandiganbayan shall conduct videoconferencing hearings on pending cases, whether urgent or not, as far as practicable, as may be determined by the Presiding Justice or the Chairpersons of the Divisions concerned. There shall be no in-court appearance of lawyers, parties or witnesses; and, [4] all offices/services shall maintain the necessary skeleton staff, to be determined by their respective heads of office to enable them to attend to all urgent matters and concerns. All heads of office must be on call and accessible through their mobile number, email, or other messaging applications.

Thereafter, or on January 12, 2022, the Chief Justice issued Memorandum Order No. 10-2022 ordering the physical closure of all courts in the NCJR and other affected areas from January 13 to 31, 2022, in view of the increasing rate of COVID-19 cases due to the Omicron variant.

On February 28, 2022, the Chief Justice issued Memorandum Order No. 29-2022 *Re: 100% On-Site Working Capacity in the Supreme Court starting March 1, 2022.* On even date, the Presiding

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Justice issued Administrative Order No. 021-2022 prescribing, among other things, a “*full onsite capacity*” in the Sandiganbayan from Monday to Friday.

As above-shown, the COVID-19 Pandemic and its surged caused the physical closure of courts for a significant period and forced courts to deploy only a skeleton staff when they were permitted to conduct in-court proceedings. Nevertheless, the records show that the Court took continued actions to resolve the present cases despite the constraints posed by the COVID-19 pandemic. Also, it must be emphasized that the accused herein were given [1] a full and fair opportunity to challenge the validity of the criminal proceedings against them through the filing of their *motions for judicial determination of probable cause* and *motions to quash information*, [2] answer the charges against them through the presentation of their respective pieces of evidence and witnesses, and [3] file their respective *memoranda* in these cases to further support their claims and defenses. Naturally, the resolution of these cases took time considering the number of the accused involved, the witnesses presented by the parties, the volume documentary exhibits presented by them, and the complexities of issues raised herein. At any rate, the records reveal that the present cases were submitted for decision on July 4, 2022,¹¹² or just after four (4) months from the time that the Court resumed its regular operations.

Plainly, the above-mentioned circumstances all contributed to the time spent by the Court in resolving the present cases. Thus, the said period expended by the Court should not be taken in isolation in determining the existence/non-existence of inordinate delay in this case.

It also bears emphasizing that while a respondent in a criminal case is not obligated to follow-up on his/her case, ***jurisprudence teaches that the accused’s assertion of his/her right to speedy disposition of cases is entitled to strong***

¹¹² p. 395, Vol. V, Record; Resolution promulgated on July 4, 2022.

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evidentiary weight in determining whether or not he/she is being deprived thereof.¹¹³ This is due to the fact that the right to speedy disposition of cases is usually invoked by an accused to any type of proceeding once the delay had become prejudicial to him/her.¹¹⁴

In this case, the accused-movants raised nary a whimper on the alleged delay in the proceedings in these cases. Case law teaches that they should have raised the issue of inordinate delay at the first instance and not after a judgment of conviction has been rendered against them.¹¹⁵

Applying settled jurisprudence, it is too late in the day for the accused-movants to raise the said issue considering that they failed to raise the same at the earliest opportunity. Also, their active participation in the proceedings in these cases further reinforces their implicit acquiescence to the time spent by the Court in the resolution of these cases.

Even the case of ***Figueroa v. Sandiganbayan***¹¹⁶ cannot help the cause of the accused-movants.

It must be underscored that in *Figueroa*, the Supreme Court found that the prosecution failed to substantiate its claim that the delay in the resolution of the preliminary investigation before the Office of the Ombudsman was reasonable and justified. Thus, it held that there was a violation of the petitioner's (Rene C. Figueroa's) constitutional right to speedy disposition of cases and ordered that the criminal cases against him be dismissed.

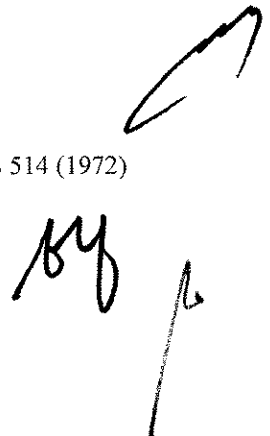
Notably, the Supreme Court did not make any pronouncement that there was inordinate delay regarding the proceedings in these cases pending before this Court. Thus, the

¹¹³ *Perez v. People*, 544 SCRA 532 (2008), citing *Barker v. Wingo*, 407 US 514 (1972)

¹¹⁴ See *Cagang v. Sandiganbayan*, 875 SCRA 374 (2018)

¹¹⁵ *Id*; See also *Perez v. People*, 544 SCRA 532 (2008), citing *Barker v. Wingo*, 407 US 514 (1972)

¹¹⁶ G.R. No. 235965-66, February 15, 2022.

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accused-movants reliance on the above-mentioned case is highly misplaced.


Indeed, accused-movants Francisco and Genuino's invocation of a violation of their constitutional right to speedy disposition of cases at this stage of the proceedings is a mere afterthought bundled in their attempt to have their conviction of a Violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. SB-16-CRM-0327 overturned.

In sum, the Court does not find any new and/or substantial arguments raised by the accused-movants in their present *motions* that would warrant a reconsideration of its assailed *Decision* promulgated on March 3, 2023.

WHEREFORE, the Court **DENIES** the [1] "*Motion for Reconsideration (on the Decision dated March 3, 2023)*" dated March 11, 2023, filed by accused Rafael Francisco;¹¹⁷ [2] "*Motion for Reconsideration*" dated March 15, 2023, filed by accused Efraim C. Genuino;¹¹⁸ and, [3] "*Motion for Reconsideration to the Decision promulgated on 3 March 2023*" dated March 17, 2023, filed by accused William I. Ramirez,¹¹⁹ for lack of merit and for being *pro-forma*.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

¹¹⁷ pp. 153-173, Vol. VI, Record

¹¹⁸ *Id.*, at pp. 208-446

¹¹⁹ *Id.*, at pp. 449-474



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WE CONCUR:



BERNELITO R. FERNANDEZ
Associate Justice



RONALD B. MORENO
Associate Justice

