



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

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

**- versus -**

**SB-17-CRM-1593 and 1594**  
For: Violation of Section 3(e) of  
R.A. No. 3019, as amended

**SB-17-CRM-1595 and 1596**  
For: Malversation of Public Funds

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

*Accused.*

*Present:*

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

*Promulgated:*

*August 7, 2023*

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**RESOLUTION**

**VIVERO, J.:**

Before this Court for resolution are the following incidents:

1. *Motion for Reconsideration*<sup>1</sup> filed by accused Encarnita Cristina P. Munsod (*Munsod*) on June 16, 2023 through registered mail; and
2. *Comment/Opposition*<sup>2</sup> (*Re: Motion for Reconsideration*) filed by the Prosecution on July 21, 2023 via electronic mail.

The *fallo* of the now-impugned Decision<sup>3</sup> is quoted below, to wit:

\*In view of the inhibition of J. Miranda (per Administrative Order No. 307-A-2017 dated August 31, 2017).

<sup>1</sup> Dated June 16, 2023, pp. 1 - 12; Received by the Sandiganbayan on July 5, 2023.

<sup>2</sup> Dated July 18, 2023, pp. 1 - 10.

<sup>3</sup> Dated June 1, 2023, pp. 1 - 124.

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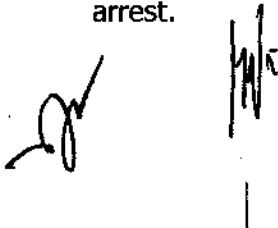
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**WHEREFORE**, judgment is hereby rendered as follows:

1. In SB-17-CRM-1593 to 1596, accused RODOLFO W. ANTONINO is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
2. In SB-17-CRM-1593 and 1594, accused ENCARNITA CRISTINA P. MUNSOD is hereby found **GUILTY** beyond reasonable doubt of Violation of Sec. 3(e) of R.A. No. 3019, and is sentenced to suffer the penalty of six (6) years and one (1) month, as minimum, to seven (7) years, as maximum, for each of the two (2) counts in these cases. She shall further suffer perpetual disqualification from public office.
3. In SB-17-CRM-1595, accused ENCARNITA CRISTINA P. MUNSOD is hereby found **GUILTY** beyond reasonable doubt of Malversation of Public Funds under Art. 217 of the Revised Penal Code, and is sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum. She shall likewise suffer the penalty of perpetual special disqualification and a fine in the amount of the funds malversed, or the amount of thirteen million ninety-five thousand pesos (P13,095,000.00).
4. In SB-17-CRM-1596, accused ENCARNITA CRISTINA P. MUNSOD is hereby found **GUILTY** beyond reasonable doubt of Malversation of Public Funds under Art. 217 of the Revised Penal Code, and is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum. She shall likewise suffer the penalty of perpetual special disqualification and a fine in the amount of the funds malversed, or the amount of one million four hundred fifty-five thousand pesos (P1,455,000.00).
5. Accused MUNSOD is held liable to pay the Government, through the Bureau of the Treasury, the total amount of the funds malversed, or the amount of fourteen million five hundred fifty thousand pesos (P14,550,000.00) plus interest of 6% *per annum*, to be reckoned from the date of the finality of this Decision until full payment, by way of her civil liability.

Let the hold departure order against accused Antonino by reason of these cases be lifted and set aside, and his bond released, subject to the usual accounting and auditing procedure.

Let warrants of arrest be issued against accused ALAN A. JAVELLANA, MARILOU L. ANTONIO, AND CARMELITA C. BARREDO, who are at large, and let the cases against them be archived pending their arrest.



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SO ORDERED.<sup>4</sup>

Accused Munsod inveigh against the Court's verdict on the following grounds:

- a. The dismissal of the above-captioned case against her co-accused for inordinate delay in the conduct and termination of the preliminary investigation of this case should benefit her.
- b. Accused Munsod[s] act of signing the BOX "A" of [the] disbursement vouchers subject of this case cannot constitute violation of Section 3(e) of RA No. 3019, as amended, and Malversation of Public Funds under Article 217 of the Revised Penal Code, as amended.
- c. There is no evidence sufficient to prove conspiracy between accused Munsod and accused Antonino.<sup>5</sup>

The dismissal of the cases against accused Rodolfo W. Antonino (Antonino), Arthur C. Yap (Yap), Rhodora B. Mendoza (Mendoza), and Maria Ninez P. Guañizo (Guañizo) cannot perforce benefit accused Munsod. Unlike accused Munsod, her four (4) co-accused seasonably asserted their constitutional right to speedy disposition of the cases<sup>6</sup> conformably with the **Cagang guidelines**.<sup>7</sup>

Accused Antonino sought relief from the Supreme Court<sup>8</sup> while invoking said right, and he was vindicated.<sup>9</sup> Meanwhile, accused Yap filed an *Urgent Omnibus Motion*<sup>10</sup> before the Special Sixth Division<sup>11</sup> of this Court. As it turned out, "accused Yap was subjected to fact-finding investigation and preliminary investigation within a combined period of **seven (7) years, two (2) months, and seven (7) days**," which "caused tactical disadvantage in the preparation of his

<sup>4</sup> Id. at pp. 92 - 93.

<sup>5</sup> Supra, Note 1 at p. 3.

<sup>6</sup> CONSTITUTION, ARTICLE III, Section 16.

<sup>7</sup> *Cagang v. Sandiganbayan, Fifth Division*, G.R. Nos. 206433, 206458 and 210141-42, July 31, 2018, 875 SCRA 374 [Per J. Leonen, En Banc], reiterated in *Malones v. Sandiganbayan (Third and Seventh Divisions)*, G.R. Nos. 226887-88, July 20, 2022 [Per J. Gaerlan, Third Division].

<sup>8</sup> Accused Antonino's *Motion to Dismiss (Information for Crim. Cases Nos. SB-17-CRM-1593 - 1596 dated 15 February 2017)* dated March 12, 2018, was denied by the Sandiganbayan (Sixth Division) in its Resolution dated July 5, 2018.

<sup>9</sup> *Rodolfo Antonino v. Hon. Sandiganbayan (Sixth Division)*, G.R. No. 242451-54, August 31, 2022.

<sup>10</sup> Dated August 25, 2017.

<sup>11</sup> Justice Sarah Jane T. Fernandez, Chairperson, and members namely: Justice Michael Frederick L. Musngi, Justice Alex L. Quiroz, Justice Geraldine Faith A. Econg, and Justice Bayani H. Jacinto.



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defense."<sup>12</sup> Consequently, the cases against said accused were dismissed.<sup>13</sup>

For her part, accused Mendoza filed an *Omnibus Motion (I.) To Quash and/or Dismiss on the Ground of Violation of Right to Speedy Disposition of Cases and (II.) To Defer Arraignment*<sup>14</sup> before this Court. Considering that accused Mendoza was similarly situated as accused Yap, the Court granted said *Motion*.<sup>15</sup> The plaintiff filed a *Motion for Partial Reconsideration (Of the Honorable Court's Resolution dated 05 July 2018)*,<sup>16</sup> but to no avail.<sup>17</sup> Concomitantly, accused Guañizo filed her *Manifestation (to Adopt Accused Mendoza's Omnibus Motion To Quash and/or Dismiss on the Ground of Violation of Right to Speedy Disposition of Cases and To Defer Arraignment)*.<sup>18</sup> The Court ratiocinated thusly:

It appearing that accused Guañizo is similarly situated as accused Mendoza, this Court is constrained to adopt its ruling in its Resolution dated July 5, 2018 x x x.<sup>19</sup>

Only now did accused Munsod raise the allegedly inordinate delay during the investigation phase. This is too little too late. Timely assertion at the earliest opportunity of the right to speedy disposition of cases is crucial.<sup>20</sup> *Apropos* is the Supreme Court's pronouncement in ***Perez v. People***,<sup>21</sup> viz:

More important than the absence of serious prejudice, petitioner himself did not want a speedy disposition of his case. Petitioner was duly represented by counsel *de parte* in all stages of the proceedings before the Sandiganbayan. From the moment his case was deemed submitted for decision up to the time he was found guilty by the Sandiganbayan, however, petitioner has not filed a single motion or manifestation which could be construed even remotely as an indication that he wanted his case to be dispatched without delay.

<sup>12</sup> Resolution dated February 19, 2018, pp. 6, 8

<sup>13</sup> Justices Musngi, Quiroz and Econg voted to grant the *Urgent Omnibus Motion* of accused Yap, while Justices Fernandez and Jacinto dissented. Plaintiff's *Motion for Reconsideration* was denied for lack of merit (Resolution dated May 4, 2018).

<sup>14</sup> Dated April 6, 2018, and filed on April 11, 2018.

<sup>15</sup> Resolution dated July 5, 2018, pp. 1 - 10.

<sup>16</sup> Dated July 9, 2018, pp. 1 - 11.

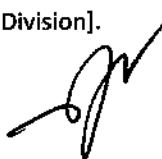
<sup>17</sup> Resolution dated September 6, 2018, pp. 1 - 3.

<sup>18</sup> Dated June 29, 2018, pp. 1 - 2.

<sup>19</sup> Resolution dated July 30, 2018, p. 1.

<sup>20</sup> *Pacuribot v. Hon. Sandiganbayan (Second Division)*, G.R. Nos. 247414-18, July 6, 2022; *Catamco v. Sandiganbayan (Sixth Division)*, G.R. Nos. 243560-62, July 28, 2020; *Javier and Tumamao v. Sandiganbayan*, G.R. No. 237997, June 20, 2020; *Coscolluela v. People*, G.R. Nos. 191411 and 191871, July 15, 2013.

<sup>21</sup> G.R. No. 164763, February 12, 2008 [Per J. R.T. Reyes, Third Division].



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Petitioner has clearly slept on his right. The matter could have taken a different dimension if during all those twelve years, petitioner had shown signs of asserting his right to a speedy disposition of his case or at least made some overt acts, like filing a motion for early resolution, to show that he was not waiving that right.

*Currit tempus contra decedes et sui juris contempores:* Time runs against the slothful and those who neglect their rights. **Ang panahon ay hindi panig sa mga tamad at pabaya sa kanilang karapatan. Vigilantis sed non dormientibus jura in re subveniunt.** The law aids the vigilant and not those who slumber in their rights. **Ang batas ay tumutulong sa mga mapagbantay at hindi sa mga humihimbing sa kanilang karapatan.** (Citations Omitted.)

Further, the *dictum* in **Republic v. Sandiganbayan (Special Second Division) and Roman**<sup>22</sup> is noteworthy, *viz:*

While the Constitution guarantees the right of the accused to speedy disposition of cases, this right is not a magical invocation which can be cunningly used by the accused for his or her advantage. This right is not a last line of remedy when accused find themselves at the losing end of the proceedings. **The State's duty to prosecute cases is equally as important, and this cannot be disregarded at the whim of the accused, especially when it appears that the contention was raised as a mere afterthought.**<sup>23</sup> (Emphasis Supplied.)

Accused Munsod intransigently argues that because (1) she was a newly-hired probationary employee<sup>24</sup> when the PDAF-funded project of accused Antonino was transacted in NABCOR; and (2) she was merely designated to sign the disbursement vouchers (DVs) as substitute of accused Mendoza, her immediate superior, she should be exonerated.<sup>25</sup>

The Court is not swayed.

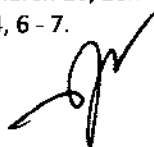
The defense of accused Munsod that a probationary employee is not a full-fledged public officer; hence, she should not have been charged as an accused does not hold water. It is well-settled that, "jurisdiction is not affected by the pleas or the theories set up by the defendant or respondent in an answer, a motion to dismiss, or

<sup>22</sup> G.R. No. 231144, February 19, 2020, 933 SCRA 173 [Per: J. Leonen, Third Division].

<sup>23</sup> *Id.* at pp. 176 - 177.

<sup>24</sup> Judicial Affidavit dated March 10, 2022, of E. C. P. Munsod, p. 2.

<sup>25</sup> *Supra*, Note 1 at pp. 3 - 4, 6 - 7.



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a motion to quash. Otherwise, jurisdiction would become dependent almost entirely upon the whims of the defendant or respondent.<sup>26</sup> Besides, her admission in the Counter-Affidavit<sup>27</sup> militates against her claim that she was not a public officer.

A "public officer," under R.A. No. 3019, as amended, is defined as follows:

**SEC. 2. Definition of terms.** – As used in this Act, the term –

x x x

(b) "Public officer" **includes** elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exemption service receiving compensation, even nominal, from the government . . . (Emphasis and Italics Supplied.)

The use of the term "**includes**" in Section 2(b) indicates that the definition is not restrictive.<sup>28</sup> The Anti-Graft and Corrupt Practices Act is just one of several laws that define "public officers." Article 203 of the Revised Penal Code,<sup>29</sup> provides that a public officer is:

x x x any person who, by direct provision of law, popular election or appointment by competent authority, takes part in the performance of public functions in the Government of the Philippines, or performs in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class.

Section 2 (14) of the Introductory Provisions of the Administrative Code of 1987,<sup>30</sup> on the other hand, states:

Officer – as distinguished from "clerk" or "employee", refers to a person whose duties, not being of a clerical or manual nature, involves the exercise of discretion in the performance of the functions of the government. When used with reference to a person having authority to do a particular act or perform a particular function in the exercise of governmental power, "officer" includes any government employee, agent or body having authority to do the act or exercise that function.

<sup>26</sup> *Serana v. Sandiganbayan, et al.*, G.R. No. 162059, January 22, 2008, 566 Phil. 224, 251.

<sup>27</sup> Dated February 18, 2015.

<sup>28</sup> *Preclaro v. Sandiganbayan*, G.R. No. 111091, August 21, 1995, 247 SCRA 454.

<sup>29</sup> Act No. 3815 (December 8, 1930).

<sup>30</sup> Executive Order No. 292.

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A public officer is defined in the Revised Penal Code as "any person who, by direct provision of law, popular election, or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government, or in any of its branches, public duties as an employee, agent or subordinate official, of any rank or class."<sup>31</sup> The concept of a public officer was expounded further in *Laurel v. Desierto*,<sup>32</sup> to wit:

A public office is the right, authority and duty, created and conferred by law, by which, for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. The individual so invested is a public officer.<sup>33</sup>

Granting *arguendo* that accused Munsod was a *de facto* officer during her probationary period as Manager, Human Resources and Administrative Services Division of the National Agribusiness Corporation (NABCOR), it makes no difference. A *de facto* officer is one who is in possession of an office and who openly exercises its functions under color of an appointment or election, even though such appointment or election may be irregular.<sup>34</sup> It is likewise defined as one who is in possession of an office, and is discharging its duties under color of authority, by which is meant authority derived from an appointment, however irregular or informal, so that the incumbent be not a mere volunteer.<sup>35</sup> Consequently, the acts of the *de facto* officer are as valid for all purposes as those of a *de jure* officer, in so far as the public or third persons who are interested therein are concerned.<sup>36</sup>

More.

Accused Munsod alleges, albeit flawed, that signing the DVs was the sole basis of her criminal liability.<sup>37</sup> Contrariwise, the Court addressed this matter front-and-center, *scilicet*:




<sup>31</sup> ART. 203.

<sup>32</sup> G.R. No. 145368, April 12, 2002, 430 Phil. 658 [Per J. Kapunan, First Division].

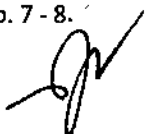
<sup>33</sup> *Id.* at 672-673, citing F.R. Mechem, A Treatise on the Law of Public Offices and Officers, §Sec. 1; See *Maligalig v. Sandiganbayan (Sixth Division), et. al.*, G.R. No. 236293, December 10, 2019

<sup>34</sup> *General Manager, Philippine Ports Authority v. Monserate*, G.R. No. 129616, April 17, 2002, 381 SCRA 200, 213.

<sup>35</sup> *Dimaandal v. Commission on Audit*, 353 Phil. 525, 534 (1998), citing the Philippine Law Dictionary, p. 162.

<sup>36</sup> *Dennis A.B. Funa v. Acting Secretary of Justice Alberto Agra, et al.*, G.R. No. 191644, February 19, 2013. 

<sup>37</sup> *Supra*, Note 1, pp. 7 - 8.



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. . . [A]ccused Munsod signed **Box A** of the subject Disbursement Vouchers "**Certified: Expenses/Advances necessary, lawful and incurred under my direct supervision.**" It is immediately apparent from the certification that it involved the determination of the legality, or the legal basis of the expense. Before accused Munsod signed Box A, she was expected to have reasonably ensured that the expense subject of the Disbursement Vouchers had legal basis. But as shown by the prosecution's evidence, there was no basis for the release of the funds to BMMKFI.

x x x

The fact that accused Munsod was a newly-hired employee at the time is also not an excuse. **Even granting that she was newly-hired, and that she was merely designated to sign Box A of the pertinent vouchers, SHE WAS STILL EXPECTED TO PERFORM HER DUTY OF ENSURING THAT THE EXPENSES COVERED BY SUCH VOUCHERS HAD SOME LEGAL BASIS BEFORE MAKING HER CERTIFICATION, and not act as a mere rubber stamp.** The said certification was necessary to ensure that public funds are disbursed in accordance with the pertinent laws, rules and regulations. Had she bothered to examine the NABCOR-BMMKFI MOA, which consists of only three (3) pages including the Acknowledgment, and which accused Munsod admitted was attached to the Disbursement Vouchers, she would not have overlooked the conditions for the release of the funds.

**Accused Munsod's act of signing Box A of the said Disbursement Vouchers was clearly done with GROSS INEXCUSABLE NEGLIGENCE,** which is characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally, with conscious indifference to the consequences insofar as other persons may be affected.<sup>38</sup> (Emphasis and Capitalization Supplied.)

Certifying the DV cannot be downplayed as a ministerial function. Rather, It demands the exercise of sound discretion. Concededly, accused Munsod has failed to diligently crosscheck if everything is above board. Commission on Audit (COA) Circular No. 96-003 prescribes the requirements for NGO/PO accreditation, and Buhay Mo Mahal Ko Foundation, Inc. (BMMKFI) failed to measure up. She should have heeded the caveat: Don't trust the person; Trust the system. Overreliance on accused Mendoza and her colleagues is an asinine excuse. It should be stressed that the amount involved is not insignificant. Yet, accused Munsod failed to exercise any modicum of precaution and appeared to have callously

<sup>38</sup> Supra, Note 3, pp. 78, 81 - 82.



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disregarded the pernicious consequence of her action. The totality of the circumstances would have pricked curiosity and prompted inquiries into the transaction because of patent and definite defects<sup>39</sup> in its execution and substance.

Clutching at straws, accused Munsod harps on the ostensible absence of conspiracy.<sup>40</sup> She maintains that no "positive and conclusive evidence"<sup>41</sup> has established the proverbial "umbilical cord"<sup>42</sup> among the co-principals.

*A sensu contrario*, the Prosecution's postulation deserves the Court's *imprimatur*, viz:

... Accused Munsod was one of the people in a chain of processing officers who happened to sign or initial the vouchers as it is going [the] rounds. She is the first step in the syndicated corruption done by NABCOR; she possesses "guilty knowledge."<sup>43</sup> Stated otherwise, she has been "privy to the conspirational scheme"<sup>44</sup> by lending her assistance to his co-conspirator, her superiors, and accused Antonino.

By signing BOX "A", which in turn certifies that the transaction was necessary, lawful, and incurred under her direct supervision, accused Munsod knowingly went along with her co-accused NABCOR officials by lending a semblance of legitimacy to an otherwise irregular amassing of PDAF funds of accused Antonino.

x x x

Discretion had been narrowly tailored by the textual basis of the law . . . For committing acts contrary thereto, the "overt acts" in pursuance of the conspiracy, as required in *Bahilidad v. People*,<sup>45</sup> were proven. The actions of accused Munsod dovetailed those of accused Antonino, et. al.. As stated in *Jaca v. People*,<sup>46</sup> "[w]ithout anyone of these acts or omissions, the end result would not have been achieved."

The evidence admitted concatenated the chain of overt criminal acts, or extreme negligence of accused Munsod, et. al. "aimed by their acts towards the accomplishment of the same

<sup>39</sup> Besides the fact that BMMKFI was not an accredited NGO/PO within the contemplation of COA Circular No. 96-003, no project proposal and audited financial reports were submitted. Moreover, nothing was attached to the DV to confirm that the project was completed (Decision dated June 1, 2023, pp. 79 - 81)  
<sup>40</sup> *Supra*, Note 1 at pp. 9 - 11.  
<sup>41</sup> *Id.* at p. 10.  
<sup>42</sup> *Id.* at p. 9.  
<sup>43</sup> *United States v. Acebedo*, G.R. No. L-5799, February 23, 1911.  
<sup>44</sup> *Ang v. Sandiganbayan*, G.R. No. 91886, May 20, 1991.  
<sup>45</sup> G.R. No. 185195, March 17, 2010.  
<sup>46</sup> G.R. Nos. 166967, 166974, 167167, January 28, 2013, 702 Phil. 210, 262.

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*unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and cooperative acts."*<sup>47</sup>

x x x The chain of conspiracy,<sup>48</sup> from the request of co-accused Antonino, up to the release of the amount on the subject transactions, manifested a conscious community of design to commit an offense.

x x x.<sup>49</sup>

The Court's finding of conspiracy rests on firm factual support. Although accused Munsod tried to downplay her participation, stating that she did not benefit from the subject transactions,<sup>50</sup> it is clear as daylight that she had a principal and indispensable role in the consummation of the transactions.

For emphasis, accused Munsod and Mendoza are all heads of their respective offices that perform interdependent functions in the processing and approval of the transactions. Their attitude of buck-passing in the face of the irregularities in the voucher (and the absence of supporting documents), as established by the prosecution, and their indifference to their individual and collective duties to ensure that laws and regulations are observed in the disbursement of PDAF funds can only lead to a finding of conspiracy.

All told, despite the lengthy and repetitious submissions of accused Munsod, all the arguments therein are mere rehashed versions of what she posited before. The Court has patiently given her postulates the corresponding thorough and objective review but, on the real and proper issues completely discussed and resolved by the Court, her obvious convolutions of the same arguments are evidently unavailing. At bottom, no compelling reason or substantial argument can persuade the Court to change the assailed Decision.

**WHEREFORE,** premises considered, the *Motion for Reconsideration* filed by accused Encarnita Cristina P. Munsod is hereby **DENIED** for lack of merit.

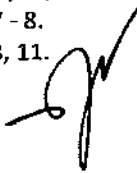


<sup>47</sup> *Macapagal-Arroyo v. Sandiganbayan*, G.R. Nos. 220598 & 220953, July 19, 2016.

<sup>48</sup> *Estrada v. Sandiganbayan*, G.R. No. 148965, February 26, 2002.

<sup>49</sup> *Supra*, Note 2 at pp. 7 - 8.

<sup>50</sup> *Supra*, Note 1 at pp. 8, 11.



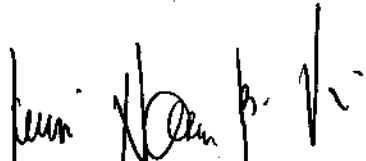
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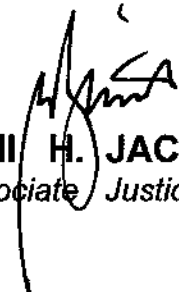
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**SO ORDERED.**

  
**KEVIN NARCE B. VIVERO**  
*Associate Justice*

***We concur:***

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

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