



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES

Plaintiff,

- versus -

EFRAIM C. GENUINO, et al.,

Accused.

Criminal Cases Nos. SB-13-CRM-0605, 0608, 0610, 0612, 0614, 0616, 0618, 0620, 0622, 0624, 0626, 0628, 0630, 0632, 0634, 0636, 0638, 0640, 0642

*For: Violation of Section 3 (e),
in relation to Section 3 (g),
of Republic Act No. 3019*

Criminal Cases Nos. SB-13-CRM-0606, 0607, 0609, 0611, 0613, 0615, 0617, 0619, 0621, 0623, 0625, 0627, 0629, 0631, 0633, 0635, 0637, 0639, 0641, 0643

*For: Malversation of Public
Funds or Property Defined
and Penalized Under
Article 217 of the Revised
Penal Code*

Present:

CABOTAJE-TANG, P.J.,

Chairperson,

FERNANDEZ, B., J. and

MORENO, J.

Promulgated:

SEPTEMBER 13, 2023

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution is accused Efraim C. Genuino's "*Motion for Reconsideration*" dated July 26, 2023.¹

THE MOTION

Accused-movant Genuino prays that [1] the Court reconsider its *Resolution* promulgated on July 20, 2023, which denied his *Motion for Inhibition* dated June 19, 2023; [2] the members of the Third Division of this Court voluntary inhibit themselves from further handling the present cases; and, [3] the said cases be re-raffled to another Division of this Court.²

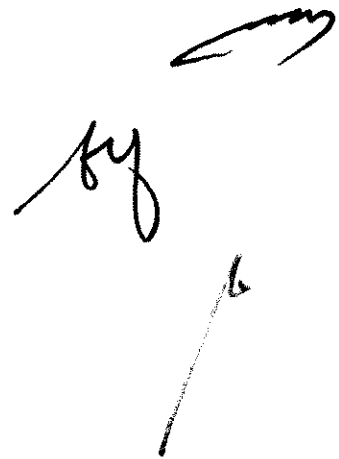
In support of his prayers, the said accused-movant relies on the following grounds, to wit:

A. THIS HONORABLE DIVISION'S CONVICTION OF ACCUSED GENUINO IN SB-16-CRM-[0]327 (THE "PASA CASE"), AND ITS FAILURE TO ADDRESS THE ARGUMENTS IN HIS "MOTION FOR RECONSIDERATION" DATED 15 MARCH 2023 (THE "MOTION FOR RECONSIDERATION"), ARE SUFFICIENT TO JUSTIFY THIS HONORABLE DIVISION'S INHIBITION FROM PRESIDING OVER AND DECIDING THESE CASES.

B. THIS HONORABLE DIVISION'S PREJUDGMENT OF ACCUSED GENUINO'S GUILT IN SB-17-CRM-1637 to 1648, ENTITLED "PEOPLE OF THE PHILIPPINES V. ESTELA P. RAMOS" (THE "RAMOS CASES"), WHEREIN

¹ pp. 769-819, Vol. XXXVII, Record

² *Id.*, at p. 781

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**HE WAS NOT EVEN A PARTY, CONSTITUTES
SUFFICIENT CAUSE TO INHIBIT FROM HIS REMAINING
CASES.³**

Accused-movant Genuino submits that the Supreme Court has recognized that there is no hard and fast rule in the voluntary inhibition of judges, and each case should be treated differently and decided based on its peculiar circumstances, with the issue of voluntary inhibition being primarily a matter of conscience on the part of the judges.⁴

He insists that a perusal of the Court's *Resolution* promulgated on June 8, 2023, in the "PASA case" shows "*that there is nothing therein which even considers, much less, categorically rules, on the exculpatory evidence and arguments which accused Genuino highlighted in his Motion for Reconsideration.*"⁵ According to him, the Court "*disregarded*" the following points which are "*highly material*" to his defense, namely:

- A. Plaintiff failed to present proof that accused Genuino affixed the signatures appearing in the checks and check vouchers. A side-by-side comparison of the signatures appearing the said checks and check vouchers *vis-à-vis* the signature appearing above his name in the minutes show that the signatures are not the same.
- B. This Honorable Division's ruling in SB-16-CRM-0328 that affixing of signatures on check cannot lead to criminal liability under Section 3 (h) of R.A. No. 3019, together with the undisputed fact that accused Genuino inhibited himself from any decision of the PAGCOR Board as regards PASA, warrants the same finding of reasonable doubt in favor of accused Genuino in the PASA Case.

³ *Id.*, at pp. 769-770

⁴ *Id.*, at pp. 770-771

⁵ *Id.*, at p. 772

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- C. Plaintiff failed to prove that accused Genuino personally received any of the letters from PSC, PASA and then PSC President Mr. Mark Joseph, or had personal knowledge thereof, prior to their inclusion in the agenda of the PAGCOR Board's meetings.
- D. In G.R. No. 235965-66, the Supreme Court ruled that the unexplained delay of three (3) years and three (3) months, from the time of the filing of the complaint until the Ombudsman's issuance of its joint resolution finding probable cause against Rene C. Figueroa ("Figueroa") in OMB-C-C-11-0351-F and OMB-C-C-11-0358-F which warranted the filing of the PASA Case before this Honorable Court, violates his right to speedy disposition of cases.

Since accused Genuino is also one of the respondents in OMB-C-C-11-0351-F and OMB-C-C-11-0358-F, the Supreme Court's findings regarding the violation of Figueroa's right to speedy disposition of cases in G.R. No. 235965-66 should also be applicable to him, in accordance with his constitutional right to equal protection and speedy disposition of cases.⁶

Moreover, accused-movant Genuino maintains that the Court "*failed to rule on the obvious difference*" between the signatures appearing on the check and check vouchers in the "PASA case," and his "*genuine signatures*" as appearing in the Minutes of the PAGCOR Board meetings; the said checks, check vouchers, and minutes all form part of the plaintiff's evidence in the said case; and, despite the fact that none of the plaintiff's witnesses identified and authenticated the signatures appearing on the said checks and check vouchers, the Honorable Court "*unjustly concluded*" that the said signatures belong to him, and rendered a judgment of conviction.⁷

⁶ *Id.*, at p. 773

⁷ *Id.*, at p. 774

Accused-movant Genuino further avers that the above acts of the members of the Third Division of this Court indicates arbitrariness, and suggests that it will not render a fair and unbiased decision in these cases considering that the “PASA case” and these cases involve the same parties, factual circumstances, and legal issues. He also submits that the Court’s denial of his *motion for inhibition*, using as basis the Court’s *Resolution* promulgated on June 8, 2023, in the “PASA case” further induces him to believe that this Division will also find him guilty in these cases.⁸

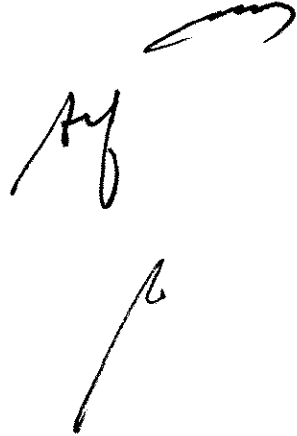
The accused-movant likewise stresses that the Court’s “*prejudgment*” of his guilt in the “Ramos case” constitutes sufficient cause for the members of this Division to inhibit themselves from further trying these cases.⁹ He alleges that the Court’s pronouncement in the said case regarding his participation in the alleged criminal acts, “*clearly constitute*” a circumstance that may result in an unconscious bias against him in these cases. He points out that he was not a party to the “Ramos case;” and, he was never given an opportunity to confront and cross-examine the plaintiff’s witnesses therein. Thus, the Court “*disregarded*” his constitutional rights to be presumed innocent; to have an impartial trial; and, to meet the witnesses face-to-face in the said case.¹⁰

To further bolster his argument that the members of this Division are biased against him, the said accused-movant points out that prosecution witness Pedro Michael M. Cendaña testified in the “Baler cases” that [1] the purchase of the Baler movie tickets is part of the PAGCOR’s corporate social responsibility (CSR) program; as such, it is one of the transactions chargeable against the PAGCOR’s operational expenses (OPEX) fund; [2] PAGCOR’s OPEX fund is separate from the 50% share of the government in the PAGCOR’s income; [3] there was nothing irregular in the issuance and processing of the Request for Payment, Accounts

⁸ *Id.*, at p. 775

⁹ *Id.*, at p. 775

¹⁰ *Id.*, at p. 778

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Payable Voucher and PAGCOR memoranda for the Baler transactions.¹¹

He contends that he cited the said statements of Cendaña in his “*Motion for Leave to File Demurrer to Evidence*” dated June 23, 2021, and October 23, 2018, in the BIDA and Baler cases, respectively, but the Court “*outrightly denied*” the said *motions* without stating the facts and law on which it based its ruling. On the other hand, the records of the Ramos cases show that the Court “*relied heavily*” on the said testimony of Cendaña in granting accused Ramos’ *demurrer to evidence*. Thus, the Court’s “*indifference*” to the Cendaña testimonies shows the pre-judgment of the Court against him in these cases.¹²

Finally, he invokes the ruling of the Supreme Court in the case of *Palang v. Zosa*¹³ and argues that judges are directed not only to be impartial, but also appear to be impartial, for appearance is an essential manifestation of reality; otherwise, their decisions, whether right or wrong, will always be under the suspicion of irregularity, thus:

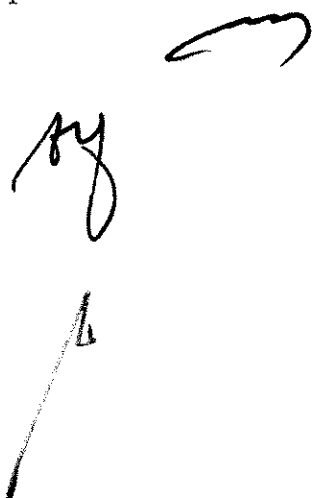
This voluntary inhibition by respondent Judge is to be commended. He has lived up to what is expected of occupants of the bench. The public faith in the impartial administration of justice is thus reinforced. ***It is not enough that they decide cases without bias and favoritism. It does not suffice that they in fact rid themselves of prepossessions. Their actuation must inspire that belief. This is an instance where appearance is just as important as the reality [sic]. Like Ceasar’s wife, a judge must not only be pure but beyond suspicion.*** At least, that is an ideal worth striving for. What is more, there is deference to the due process mandate.¹⁴

¹¹ *Id.*, at p. 779

¹² *Id.*, at pp. 779-780

¹³ 58 SCRA 776 (1974)

¹⁴ *Id.*, at p. 781; Emphasis supplied by the accused-movant.

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THE PROSECUTION'S COMMENT/OPPOSITION

In its "*Comment/Opposition*" dated August 7, 2023, the prosecution submits that accused-movant Genuino did not offer any new grounds in his present *motion for reconsideration* that should sway the Court to reverse its assailed *Resolution* promulgated on July 20, 2023.¹⁵

It points out that the argument raised by the accused-movant in his present *motion* appears to be a "*second motion for reconsideration* PASA cases." It submits that the Court, in its assailed *Resolution* promulgated on July 20, 2023, reiterated that it had passed upon each issue raised by the accused-movant; the accused-movant's dissatisfaction of his conviction in the PASA cases, and the denial of his *motion for reconsideration* therein may be appealed or be subject of a *petition for certiorari* with the Supreme Court; and, the adverse ruling of the Court in the said case is not a proper ground for a *motion for inhibition* of the members of the Third Division of this court in these cases.¹⁶

The prosecution adds that had the members of the Third Division of this Court been biased or partial against the said accused-movant, then he would not have been acquitted in Criminal Case No. SB-16-CRM-0328.¹⁷

It further argues that accused-movant Genuino "*desperately tries*" to connect the "Ramos cases" to the present cases. In support of its argument, it relies on the pronouncement of the Court in its questioned *Resolution* and avers that the mere mention of the names of the accused-movant and his co-accused in the Ramos cases do not automatically result in a finding of their innocence or guilt in the present cases.¹⁸

¹⁵ *Id.*, at p. 866

¹⁶ *Id.*, at p. 867

¹⁷ *Id.*, at p. 867

¹⁸ *Id.*, at p. 867

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Also, the prosecution adds that the allegations in the *Informations*, and the circumstances surrounding the “Ramos cases” are different from those of the “BIDA cases,” such that the Court found reason to deny accused-movant Genuino’s *motion for leave to file demurrer to evidence* and instead allowed him to amplify his defense. It further mentions that accused-movant Genuino was given the choice on whether to proceed with the filing his *demurrer* without leave of court but he opted to present evidence in these cases.¹⁹

The prosecution also alleges that the present *motion for inhibition* filed by accused-movant Genuino stemmed from the denial of his *motion to reopen the presentation of evidence* in Criminal Cases Nos. SB-13-CRM-0608 to 0643. Thus, the said accused-movant now insists that when a judge’s action incites a party’s state of mind to perceptions of partiality, the judge has no choice but to inhibit himself/herself voluntarily.²⁰

Lastly, the prosecution submits that it subscribes to [1] the pronouncement of the Court in its assailed *Resolution* that “*voluntary inhibition is discretionary, the sitting judge is in the best position to decide on whether to hear the case which should be respected in the interest of justice and equity, and public interest,*” and [2] the fact that the said accused-movant failed to demonstrate the bias or partiality of the members of the Third Division of this Court against him.²¹

THE RULING OF THE COURT

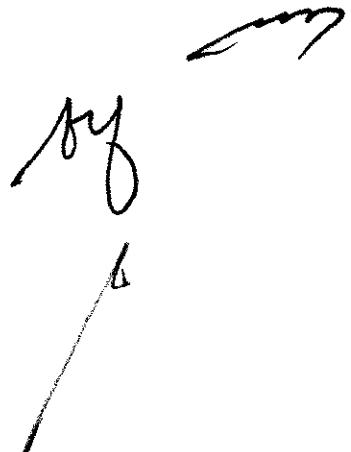
The Court finds the subject *motion* unmeritorious.

In his present *motion for reconsideration*, accused-movant Genuino maintains that the members of the Third Division of this Court are biased and/or partial against him because they allegedly

¹⁹ *Id.*, at p. 867

²⁰ *Id.*, at p. 867-868

²¹ *Id.*, at p. 868

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[1] “*failed to address*” the arguments that he raised in his *Motion for Reconsideration* dated March 15, 2023, in Criminal Cases Nos. SB-16-CRM-0327 to 0328, and [2] “*pre-judged*” his guilt in these cases in view of the Court’s pronouncements in Criminal Cases Nos. SB-17-CRM-1637 to 1648 entitled “*People v. Estela P. Ramos.*”

To be sure, the same arguments were already raised by the accused-movant in his *Motion for Inhibition* dated June 19, 2023.²² These arguments were squarely passed upon by the Court in its assailed *Resolution* promulgated on July 20, 2023.²³ Therein, the Court quoted portions of its pronouncement in its *Resolution* promulgated on June 8, 2023,²⁴ *vis-à-vis* the issues raised by accused-movant Genuino in his present *motion for inhibition* and demonstrated that the said arguments were resolved by the Court using as guide the established facts in the said cases, applicable laws and settled jurisprudence.

At the risk of being repetitive, portions of the ruling of the Court in its assailed *Resolution* promulgated on July 20, 2023, citing its pronouncements in its *Resolution* promulgated on June 8, 2023,²⁵ in Criminal Cases Nos. SB-16-CRM-0327 to 0328, are reproduced anew hereunder to set at naught the reiterations made by the accused-movant in his present *motion for reconsideration*, to wit:

I. The prosecution evidence proved that accused Genuino acted with manifest partiality and evident bad faith in Criminal Case No. SB-16-CRM-0327.

. . .

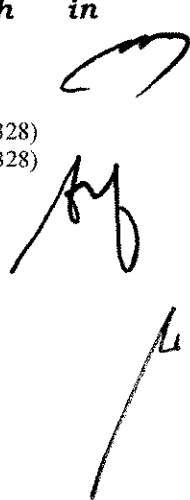
b. Accused Genuino, Francisco, and Ramirez, acted with manifest partiality and evident bad faith in

²² pp. 318-676, Vol. XXXVII, Record

²³ *Id.*, at pp. 735-760

²⁴ pp. 35-36, Vol. VII, Record (SB-16-CRM-0327 to 0328)

²⁵ pp. 35-36, Vol. VII, Record (SB-16-CRM-0327 to 0328)



**allowing the direct release
of PAGCOR funds to PASA.**

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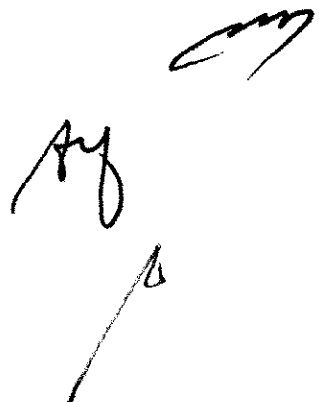
. . .

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.

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.**²⁶

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)

²⁶ Footnote omitted.

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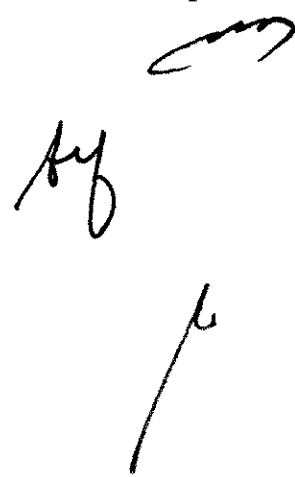
months.²⁷ This began when PSC Chairman Ramirez wrote a letter addressed to PAGCOR Chairman Genuino authorizing PAGCOR to deduct from the PSC's legislated monthly income share the amounts due to PASA for the expenses incurred by the national athletes who are undergoing training. This was in direct contravention 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,²⁸ 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 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

²⁷ Footnote omitted.

²⁸ Footnote omitted.

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development program shall be covered by an annual appropriation passed by Congress.²⁹

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.³⁰

. . .

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.

. . . ³¹

II. The prosecution evidence sufficiently proved that accused Genuino committed an overt criminal act in Criminal Case No. SB-16-CRM-0327.

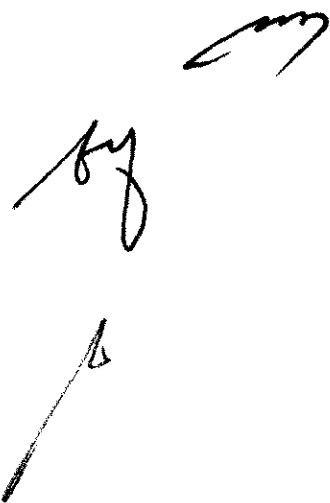
. . .

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 PSC's income share from PAGCOR to PASA through their separate individual acts – Francisco and Genuino as members of the

²⁹ Footnote omitted.

³⁰ Footnote omitted.

³¹ Footnote omitted.



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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.³²

. . . .³³

III. Accused-movant Genuino's insistence in Criminal Case No. SB-16-CRM-0327 that he merely acted in good faith in directly remitting the funds in issue to PASA is puerile.

. . . .

Accused-movants Francisco and Genuino's insistence that they "merely acted in good faith" in directly remitting the subject funds to the PASA because they simply relied on the Letter dated August 1, 2007, of accused Ramirez is puerile.³⁴

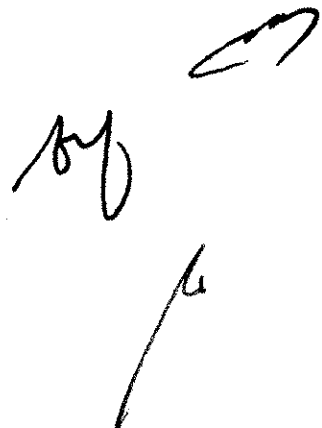
Indeed, such insistence of accused-movants Francisco and Genuino indubitably shows that they completely disregarded the existing laws and rules. In its assailed *Decision* promulgated on March 3, 2023, the Court noted that as high-ranking officials of PAGCOR, "it should have been apparent to them that 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

³² Footnote omitted.

³³ Footnote omitted.

³⁴ Footnote omitted.

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percent (5%) of PAGCOR's gross income to PASA was a blatant violation of the explicit provision of the law.³⁵

IV. Accused Genuino's claim in Criminal Case No. SB-16-CRM-0327 that he has no personal knowledge of the disbursements made by the PAGCOR to PASA is unsubstantiated.

. . .

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 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.³⁶**



³⁵ Footnote omitted.

³⁶ Footnote omitted.



V. Contrary to the claim of accused-movant Genuino, the Court squarely applied the ruling of the Supreme Court in the case of *Genuino v. Commission on Audit* and found that his insistence that “no public funds were disbursed in Criminal Case No. SB-16-CRM-0327” is misplaced.

. . . .

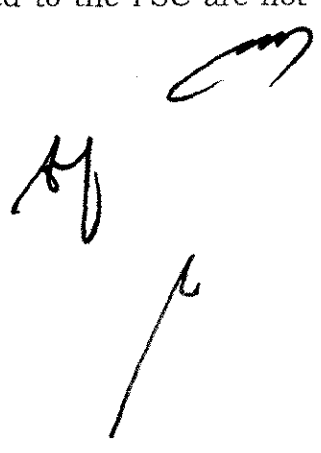
Furthermore, the accused-movants maintain that the funds subject of these cases are not public funds because the said funds were not sourced from the 5% franchise tax or the 50% share of the government in PAGCOR’s income.

To be sure, the same issue was also tackled by the Court in its *Decision* promulgated on March 3, 2023. Therein, the Court explained that [1] the pronouncement of the Supreme Court in *Genuino v. Commission on Audit*³⁷ 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*,³⁸ 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

³⁷ Footnote omitted.

³⁸ Footnote omitted.

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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.

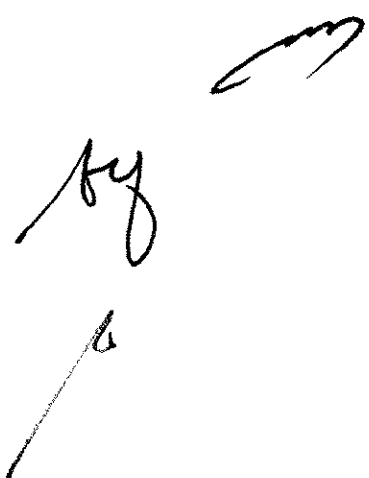
Indeed, it is unequivocal that the audit jurisdiction of the COA over the PAGCOR is limited to the 5% franchise tax and the 50% share of the government. However, this does not mean that the 5% share of the PSC is regarded as private funds.

First. The Supreme Court never made a categorical declaration that only the 5% franchise tax and 50% share 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.³⁹ 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

³⁹ Footnote omitted.

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audit the 5% remittance of the PAGCOR to the PSC twice under two (2) different government agencies.⁴⁰

VI. A plain reading of the case of *Figueroa v. Sandiganbayan*⁴¹ shows that there was no pronouncement made by the Supreme Court that there was inordinate delay regarding the proceedings in Criminal Cases Nos. SB-16-CRM-0327 to 0328.

. . .

Even the case of *Figueroa v. Sandiganbayan*⁴² 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 accused-movants reliance on the above-mentioned case is highly misplaced.⁴³

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.⁴⁴

. . .

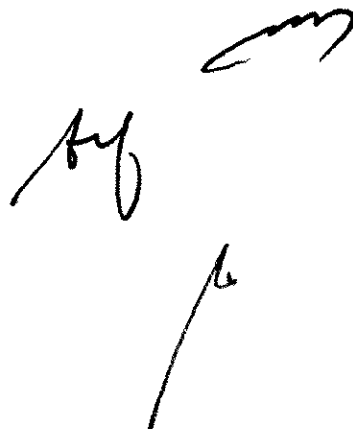
⁴⁰ Footnote omitted.

⁴¹ Footnote omitted.

⁴² Footnote omitted.

⁴³ Footnote omitted.

⁴⁴ Footnote omitted.

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Lastly, accused-movant Genuino alleges in his present *motion* that there are “*doubts*” on the ability of the members of this Division to render a fair and just ruling in these cases considering the findings of this Court in Criminal Cases Nos. SB-17-CRM-1637 to 1648 entitled “*People of the Philippines v. Estela Pelayo Ramos*.”

The Court is unpersuaded.

Again, jurisprudence provides that mere imputation of bias or partiality is not enough ground for inhibition; mere suspicion is not enough.⁴⁵ Indeed, aside from his bare allegation that the ruling of the Court in the above-mentioned case casts “*doubts*” on this Court’s ability to render a fair ruling in these cases, the said accused-movant miserably failed to sufficiently show that the pronouncement of the Court therein was arbitrary or capricious.

In fact, contrary to his claim in his present *motion*, a reading of the *Resolution* promulgated on November 11, 2022,⁴⁶ in Criminal Cases Nos. SB-17-CRM-1637 to 1648, reveals that **the Court made no categorical pronouncement regarding any criminal liability that was supposedly incurred by accused-movant Genuino in the said criminal cases. To be clear, the findings of the Court therein were only in relation to the cases against the sole accused Estela Pelayo Ramos. Certainly, the mere mention of the names of the accused-movant and his co-accused in the said cases do not automatically result in a finding of their innocence or guilt in the present cases.**⁴⁷

As above shown, the accused-movant cannot tenably claim that the arguments he raised in his *Motion for Reconsideration* dated March 15, 2023, in Criminal Cases Nos. SB-16-CRM-0327 to 0328, and *Motion for Inhibition* dated June 19, 2023,⁴⁸ were “*ignored*” by the Court considering that the records of these cases

⁴⁵ Footnote omitted.

⁴⁶ pp. 183-314, Vol. IX, Record

⁴⁷ pp. 745-758, Vol. XXXVII, Record; pp. 11-24, Resolution; Emphasis supplied.

⁴⁸ pp. 318-676, Vol. XXXVII, Record



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show otherwise. He now relies on the same arguments in his present *motion for reconsideration*, and the Court had another occasion to pass upon the soundness thereof. However, the Court does not find any substantiating proof to his contention that the Court had been biased and/or partial against him because it allegedly “*ignored*” his arguments.

Moreover, accused-movant Genuino claims that the reliance by the Court’s questioned *Resolution* promulgated on July 20, 2023, on the findings in its *Resolution* promulgated on June 8, 2023, in Criminal Cases Nos. SB-16-CRM-0327 to 0328, further “*induces him to believe*” that the members of the Third Division of this Court will also find him guilty in these cases.

The claim is sheer speculation.

To begin with, the records clearly show that in his *Motion for Inhibition* dated June 19, 2023, in these cases, it was accused-movant Genuino who alleged that the Court “*ignored*” the arguments that he raised in his *Motion for Reconsideration* dated March 15, 2023, in Criminal Cases Nos. SB-16-CRM-0327 to 0328.⁴⁹ Naturally, the Court reviewed the records of Criminal Cases Nos. SB-16-CRM-0327 to 0328 and cited its findings in its *Resolution* promulgated on June 8, 2023, to show that the allegation of the accused-movant lacks merit.

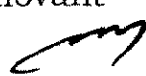
The accused-movant likewise claims that this Court is biased against him because it “*outrightly denied*” the two (2) *motions for leave to file demurrer to evidence* that he filed in these cases.

The claim is utterly baseless.

It must be underscored that in two (2) separate cases⁵⁰ both entitled “***Efrain C. Genuino v. Sandiganbayan, Third Division, and the People of the Philippines***,” the Supreme Court dismissed the *petitions for certiorari*, filed by accused-movant

⁴⁹ pp. 318-676, Vol. XXXVII, Record

⁵⁰ G.R. No. 245356-57, March 2, 2022, and G.R. No. 257848 and 257872-906, dated July 18, 2022.



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Genuino, assailing the *Resolutions*⁵¹ of this Court which denied the said *motions for leave to file demurrer to evidence*. Therein, the High Tribunal held that [1] the petitioner (now accused-movant Genuino) availed of an improper remedy when he prematurely filed a *petition for certiorari* with the Supreme Court before the Sandiganbayan could hand down its final verdict in these cases,⁵² and [2] **the Sandiganbayan, Third Division, did not commit any grave abuse of discretion, amounting to excess or lack of jurisdiction in rendering its assailed Resolutions.**⁵³

In the same vein, in the consolidated cases of **Efraim C. Genuino and Edward F. King v. Sandiganbayan, Third Division**,⁵⁴ the Supreme Court rejected the contention of accused-movant Genuino that the Sandiganbayan gravely abused its discretion in denying his *motion for leave to file demurrer to evidence* in Criminal Cases Nos. SB-16-CRM-0326 to 0328 because it allegedly failed to explain the factual and legal grounds for the denial. The High Tribunal held that the Sandiganbayan's questioned *Resolution* is an interlocutory order and it need not explain in full its factual and legal bases.⁵⁵ Citing its ruling in the case of **Jalandoni v. Office of the Ombudsman**,⁵⁶ the Supreme Court reiterated that the constitutional requirement that the court must clearly and distinctly express the basis of its ruling in fact and in law only refers to decisions.⁵⁷ The requirement does not apply to incidental matters,⁵⁸ to wit:



The constitutional requirement that the court must clearly and distinctly express the basis of its ruling in fact and in law only refers to decisions. The requirement does not apply to incidental matters. In any case, minute resolutions are

⁵¹ Resolution promulgated on November 8, 2018, in Criminal Cases Nos. SB-13-CRM-0605 to 0606; Resolution promulgated on July 9, 2021, in Criminal Cases Nos. SB-13-CRM-0608 to 0643.

⁵² p. 4, **Genuino v. Sandiganbayan, Third Division, and People**, G.R. No. 245356-57, March 2, 2022.

⁵³ p. 6, **Genuino v. Sandiganbayan, Third Division and People**, G.R. No. 257848 and 257872-906, dated July 18, 2022.

⁵⁴ G.R. Nos. 235265-66 and G.R. Nos. 251252-53, July 5, 2023.

⁵⁵ *Id.*, at p. 30

⁵⁶ G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, May 10, 2021.

⁵⁷ p. 31, **Genuino and King v. Sandiganbayan, Third Division**, G.R. Nos. 235265-66 and G.R. Nos. 251252-53, July 5, 2023.

⁵⁸ *Id.*



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“adjudication on the merits of the controversy” and are as valid and effective as a full-length decision. Courts are not obligated to follow a definite and stringent rule on how its judgment must be framed.

Here, the Minute Resolution denying the Motions is merely an interlocutory order. The Sandiganbayan was not required to issue a full-blown decision distinctly explaining the facts and the law on which the denial was based. Thus, it did not gravely abuse its discretion in issuing the summary denial.⁵⁹

The above-mentioned pronouncements of the Supreme Court absolutely negate the accused-movant’s allegation that the Court was biased and/or partial against him when it denied his *motions for leave to file demurrer to evidence* in these cases.

Furthermore, the case of *Palang v. Zosa*⁶⁰ being invoked by the accused-movant in his present *motion* shows that it does not actually help his cause.

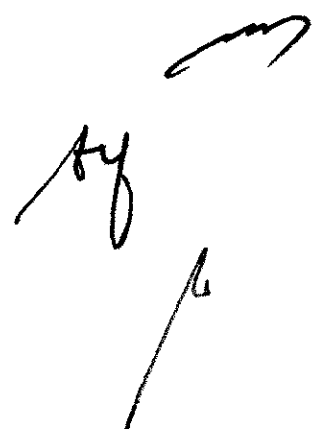
In *Palang*, the respondent Judge Mariano Zosa rendered a decision acquitting Julieta P. Herrera of the crime of estafa. In the same decision, the said judge made statements in his opinion that the charge against Herrera “*was nothing but a ‘clear concocted story;’ the testimonies being rehearsed and rehashed, therefore, maliciously presented by the [offended party, now petitioner] causing great damage and prejudice [to Herrera’s moral and social] standing and a destruction of [his] image as well as [his] character.*”⁶¹

Thereafter, respondent Herrera filed an action for damages against then complainant Basilio S. Palang. Palang sought the voluntary inhibition of Judge Zosa in hearing the said civil case using as basis the above-mentioned language used by the said respondent judge in the acquittal of Herrera. Herrera filed a

⁵⁹ *Id.*, at p. 31; Emphasis supplied.

⁶⁰ *Palang v. Zosa*, 58 SCRA 776 (1974)

⁶¹ p. 777, *Palang v. Zosa*, 58 SCRA 776 (1974)

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comment thereon maintaining that there was no basis for disqualification.⁶² However, when the case was ready for decision, Herrera filed a *motion to withdraw opposition*. Thus, the respondent judge voluntarily inhibited himself from further trying the said civil case in view of the above-mentioned withdrawal filed by Herrera.

The Supreme Court commended the said inhibition by the respondent judge and held that *"he has lived up to what is expected of occupants of the bench; [i]t is not enough that they decide cases without bias and favoritism; [i]t does not suffice that they in fact rid themselves of prepossessions; [t]heir actuation must inspire that belief; [t]his is an instance where appearance is just as important as the reality [sic]."*⁶³

In this case, the accused-movant plainly failed to positively show any pronouncement made by this Court in these cases that demonstrates the Court's alleged bias against him. Also, the prosecution has maintained its opposition to the accused-movant's *motion for inhibition*.

Jurisprudence teaches that ***mere imputation of bias or partiality is not enough ground for inhibition, especially when the charge is without basis; acts or conduct clearly indicative of arbitrariness or prejudice must be shown.***⁶⁴

To be sure, in its questioned *Resolution* promulgated on July 20, 2023,⁶⁵ the Court, relying on settled jurisprudence, held that the opinions formed in the course of judicial proceedings, even if erroneous, as long as they are based on the evidence presented and conduct observed by the judge, do not prove personal bias or prejudice on the part of the judge.⁶⁶ Extrinsic evidence is required to establish bias, bad faith, malice, or corrupt purpose, in addition to the palpable error which may be inferred from the decision of order itself.⁶⁷

⁶² *Id.*, at p. 777

⁶³ *Id.*, at p. 778

⁶⁴ See *Metropolitan Bank and Trust Company v. Luna II*, G.R. No. 253573, December 7, 2020

⁶⁵ pp. 735-760, Vol. XXXVII, Record

⁶⁶ *Id.*, at p. 759; See also *Espejon v. Lorredo*, A.M. No. MTJ-22-007, March 9, 2022.

⁶⁷ *Id.*, at p. 759; See also *Dipatuan v. Mangotara*, 619 SCRA 48 (2010)

After a second hard look at the records of these cases, the Court fails to find any concrete proof adduced by the accused-movant that would demonstrate the alleged bias and/or prejudice against him by the members of this Court. Indeed, it is important to note that jurisprudence provides that the concept of voluntary inhibition ***leaves to the sound discretion of judges/justices concerned whether to sit in a case for other just and valid reasons, with only their conscience as guide.***⁶⁸ Certainly, the sitting judge is in the best position to decide on whether to hear the case which should be respected in the interest of justice and equity, and public interest.⁶⁹

In sum, the Court does not find any valid ground that would warrant the grant of the accused-movant's *motion for reconsideration*.

WHEREFORE, the Court **DENIES** accused Efraim C. Genuino's "*Motion for Reconsideration*" dated July 26, 2023,⁷⁰ for utter lack of merit and for being *pro-forma*.

SO ORDERED.

Quezon City, Metro Manila.


AMPARO M. CABOTAJE-TANG

Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ

Associate Justice


RONALD B. MORENO

Associate Justice

⁶⁸ *Id.*

⁶⁹ *Metropolitan Bank and Trust Co., v. Luna II*, G.R. No. 253573, December 7, 2020.

⁷⁰ pp. 769-819, Vol. XXXVII, Record