



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-23-CRM-0054**
Plaintiff, For: Violation of Sec. 3(c)
of R.A. No. 3019

Present

- versus -

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

SAMUEL ALOYSIUS M. JARDIN,

Accused.

Promulgated:

February 19, 2024

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Samuel Aloysius M. Jardin's *Motion for a Bill of Particulars*,¹ wherein he prays that the prosecution be ordered to submit a bill of particulars on the following:

1. The particular time and place when and where the alleged offense was allegedly committed;
2. The particular administrative and/or official function/s that the accused performed in allegedly committing the alleged offense;
3. The particular acts on how and in what way the alleged offense was allegedly committed by the accused in relation to his office;
4. The particular facts on how the alleged request and receipt was made directly or indirectly;

¹ Dated January 8, 2024; Record, Vol. 2, pp. 29-33

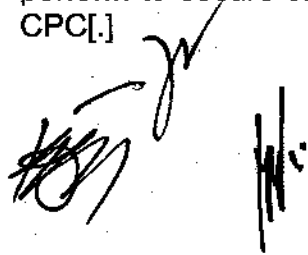
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5. The particular name and address of the alleged "another" for whom the accused allegedly was acting for and why was he ("another") not included as a respondent/accused in the DOTr and OMB cases and in this case?
6. The particular facts from where the alleged amount of PHP 4,600,000.00 was secured or obtained by Michelle Sapangila;
7. The particular kind of assistance, facilitation or help to be given in consideration of the alleged money;
8. The particular name of the alleged third party and the particular arrangement between Michelle Sapangila and the alleged third party;
9. The particular date and time of the filing of the alleged application for Certificate of Public Convenience (CPC) with the Technical Division of the LTFRB, the name of the person filing it, the case number, payment of application fees, clearance of account, inspection report signed by the Technical Division of the LTFRB, notice of hearing issued by the Legal Division of the LTFRB, publication of the notice of hearing by the applicant/s, hearing/s conducted on the franchise application by the Legal Division of the LTFRB, citizenship and financial capacity such as the income tax return/s of the alleged applicant/s, LTO OR/CR of units with year model, operator's data sheet and valid driver's licenses of the authorized drivers; existence and sufficiency of garage, exact location of terminal at both endpoints, the particular route applied for, the LTFRB approval (LTFRB Board Resolution) of said route identified for franchise issuance and its publication of a call for applications for CPC to service the route where the call/invitation states the route, number of units, service quality standards, vehicle specifications, suggested fare and other requirements;
10. The particular route covered by the alleged route measured capacity (RMC) and whether the route is existing or proposed;
11. Which is the alleged consideration? A CPC or a RMC?
12. The particular kind of public utility or transport vehicles, their OR/CR and their respective registered owners;
13. The particular official capacity that the accused will allegedly perform to secure or obtain the issuance by the LTFRB of the CPC[.]



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He further prays that the Information be amended accordingly, and that the arraignment and pre-trial in the present case be held in abeyance pending the resolution of his instant *Motion for a Bill of Particulars*. The accused avers:

1. Assuming that the Information is valid and sufficient, it is vague, ambiguous, indefinite, contains conclusions of law and is lacking in particulars.
2. The prosecution employed a generalized or shotgun approach in alleging the offense allegedly committed by him.
3. In *Tantuico v. Republic*,² it was held that the following allegations are mere conclusions of law:
 - a. "willfully, maliciously, unlawfully, and in a summary and arbitrary manner";
 - b. "an allegation of duty in terms unaccompanied by a statement of facts showing the existence of the duty"; and,
 - c. "that an act was 'unlawful or wrongful'".
4. In *Tantuico*, it was also held that without the particulars prayed for in petitioner's motion for a bill of particulars, the petitioner cannot intelligently prepare his responsive pleading and for trial. The particulars prayed for are material facts that should be clearly and definitely averred in the complaint to inform the defendant of the claims made against him so he may prepare to meet the issues at the trial.
5. The remedy against an indictment that fails to allege the time of the commission of the offense with sufficient definiteness is a motion for a bill of particulars.
6. The real nature of the crime charged is determined not by the title of the complaint, nor by the specification of the provision of law alleged to have been violated, but on the facts recited in the complaint or information.
7. In *Enrile v. People*,³ it was held that the information may be sufficient to withstand a motion to quash, but insufficient to inform the accused of the specific details of the alleged offenses. In such instances, the accused may move for a bill

² G.R. No. 89114, December 2, 1991

³ G.R. No. 213455, August 11, 2015

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of particulars to properly plead and to prepare for, and to avoid surprise at, the trial. The purpose of a bill of particulars is to clarify allegations in the Information that are indefinite, vague, or are conclusions of law to enable the accused to properly plead and prepare for trial.

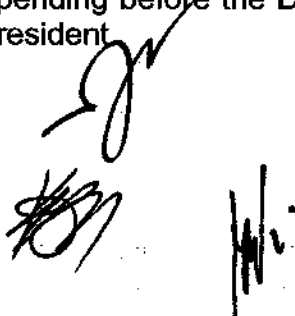
8. The prosecution's exhibits G and series, H and series, I and series, J, K, L, N, O, P, W, X, Y and Z were not presented and formally offered in the DOTr and OMB cases. They are listed as exhibits for the first time in the instant case and the purposes therefor are not stated.
9. Similarly, only Michelle Sapangila and Jinky Balibalos Villon testified in the DOTr case, and they were not presented in the OMB case. The other 19 witnesses listed in the prosecution's pre-trial brief were not presented in the cases before the DOTr and OMB. The summary of their respective testimonies are also not stated in the said pre-trial brief.
10. It cannot be known whether the prosecution's exhibits and the testimonies of the intended witnesses are relevant to the case, and if the witnesses are competent to testify.
11. He filed a Motion to Expunge the prosecution's pre-trial brief from the record of the case for being filed out of time.
 - a. In *Heirs of Antonio Feraren v. Court of Appeals*,⁴ it was held that while the rules of procedure are liberally construed, the provisions on reglementary periods are strictly applied.
 - b. The prosecution disregarded the Court's directive and it does not deserve the relaxation of the technical rules.

During the hearing on January 16, 2024, the prosecution orally opposed the accused's *Motion for a Bill of Particulars*.⁵ It argued:

1. The motion for a bill of particulars is not a ground to suspend the arraignment and pre-trial. Under Sec. 11, Rule 116 of the Rules of Court, the only grounds for the suspension of arraignment are (a) the accused appears to be suffering from an unsound mental condition, (b) there exists a prejudicial question, and (c) there is a petition for review of the resolution of the prosecutor pending before the Department of Justice or the Office of the President.

⁴ G.R. No. 159328, October 5, 2011

⁵ TSN, January 16, 2024, pp. 3-8



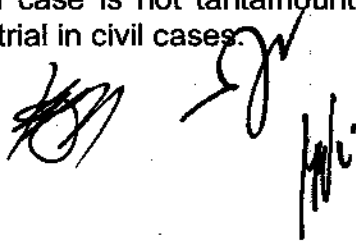
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2. The accused's instant motion is dilatory. The accused received the Court's Resolution denying the prosecution's Motion to Withdraw Information as early as November 21, 2023. However, the accused filed his instant Motion only on January 11, 2024, or more than a month after receiving the said Resolution.
3. The Information sufficiently alleges the ultimate facts constituting the offense. The Information need not state the finer details on why and how the crime was committed. Furthermore, the Information already sufficiently alleges the date of the commission of the offense, the place where it was committed, the person being charged, the position of the person being charged, the acts constituting the offense, the person who gave the money, and the purpose for giving the money.
4. The details being requested by the accused are all evidentiary matters or matters of defense.
5. There is no surprise, as claimed by the accused. He fully participated not only during the preliminary investigation, but also during the formal investigation in the DOTr case. He has copies of the evidence presented in the DOTr case, and in the administrative case and preliminary investigation before the Office of the Ombudsman. The Resolution of the Office of the Office of the Ombudsman is the basis for the filing of the Information.
6. With respect to the accused's *Motion to Expunge*
 - a. As for the accused's *Motion to Expunge* the prosecution's Pre-Trial Brief, it was the prosecution's honest belief that the 15-day period within which to file the pre-trial brief will commence from the lapse of the five-day period within which to file a Motion for Reconsideration of the Court's Resolution denying the Motion to Withdraw Information.
 - b. The prosecution's pre-trial brief was filed 30 days before the scheduled arraignment and pre-trial. The accused had sufficient time to study the same.
 - c. If the prosecution's pre-trial brief is expunged, it will be detrimental to the accused's cause because the prosecution will have an unbridled opportunity to present evidence. Moreover, failure to file the pre-trial brief in a criminal case is not tantamount to failure to appear in the pre-trial in civil cases.



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During the same hearing,⁶ the accused averred in reply:

1. Under Sec. 9, Rule 116 of the Rules of Court, the motion for a bill of particulars may be filed before arraignment. Furthermore, the grounds under Sec. 11, Rule 116 are not exclusive. It is implied that the arraignment may be suspended during the pendency of a motion to quash or for a bill of particulars, or for other causes.
2. He filed his *Motion for a Bill of Particulars* because there were several documents and witnesses not presented in the cases before the Ombudsman and the DOTr.
3. In the *Enrile* case and other related cases, it was held that one of the purposes of the bill of particulars is to allow the accused to properly plead. He will not be able to do so if the Information is vague, ambiguous, or contains conclusions of law.

By way of rejoinder, the prosecution argued that the accused failed to show that his Motion was not dilatory in nature, and that his motion to suspend the arraignment is a prohibited motion under the *Revised Guidelines for Continuous Trial of Criminal Cases*.⁷

THE COURT'S RULING

Sec. 9, Rule 116 of the Rules of Court provides for the bill of particulars in criminal cases. To wit:

Sec. 9. Bill of particulars. – The accused may, before arraignment, move for a bill of particulars to enable him to properly plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired.

In *Enrile v. People*,⁸ the Supreme Court explained that the bill of particulars presupposes a valid information, or one that presents all the elements of the crime charged, albeit under vague terms. The purpose of a bill of particulars is to supply vague facts or allegations in the information to enable the accused to properly plead and prepare for trial.

⁶ TSN, January 16, 2024, pp. 8-11

⁷ TSN, January 16, 2024, p. 11

⁸ G.R. No. 213455, August 11, 2015



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Enrile also instructs that in determining whether the details being sought are proper subjects for a bill of particulars, the court must determine whether each detail is an ultimate or evidentiary fact, taking into account the elements of the offense charged.

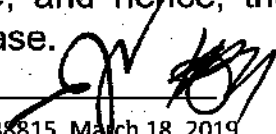
Thus, in determining whether the accused is entitled to the details sought in his *Motion for a Bill of Particulars*, the Court must consider the elements of the offense charged. In *Lucman v. People*,⁹ it was held that the elements of Violation of Sec. 3(c) of R.A. No. 3019 are as follows:

As may be gleaned from above, the elements of the crime charged are as follows: (1) the offender is a public officer; (2) he [or she] has secured or obtained, or would secure or obtain, for a person any government permit or license; (3) he [or she] directly or indirectly requested or received from said person any gift, present or other pecuniary or material benefit for himself/[herself] or for another; and (4) he [or she] requested or received the gift, present or other pecuniary or material benefit in consideration for help given or to be given.

The Court already ruled on the sufficiency of the allegations in the Information in its Resolution dated June 13, 2023,¹⁰ denying the accused's *Motion to Quash and Motion to Suspend Proceedings*, and in the Resolution dated July 4, 2023,¹¹ denying the accused's *Motion for Reconsideration*. The Court, however, finds that certain allegations in the Information need some specificity to enable the accused to properly plead and prepare for trial. Hence, the Court resolves to partially grant the accused's *Motion for a Bill of Particulars* for the reasons below:

The particular time and place when and where the alleged offense was committed


Indeed, in *Rocaberte v. People*,¹² the Supreme Court held that the remedy when the indictment fails to allege the time of the commission of the offense with sufficient definiteness is a motion for a bill of particulars. However, the present case is not on all fours with *Rocaberte*, and hence, the ruling therein cannot be applied to the present case.


⁹ G.R. No. 238815, March 18, 2019

¹⁰ Record, Vol. 1, pp. 339-355

¹¹ Record, Vol. 1, pp. 418-429

¹² G.R. No. 72994, January 23, 1991



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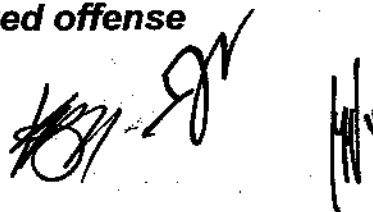
In *Rocaberte*, it was alleged that the offense charged was committed “on or about the period from 1977 to December 28, 1983.” In contrast, the Information in the present case alleges that the offense charged was committed “on or about 27 March 2019, or sometime prior or subsequent thereto.” In *Rocaberte*, there was a need to specify the particular time of the commission of the crime because the period alleged spans more than 2,500 days. Here, the alleged date of the commission of the offense is on or about a single date. In short, the date of the alleged commission of the offense is already alleged with particularity.

It must also be noted that *Rocaberte* stated the general rule that it is not necessary to state in the information the precise time at which the offense was committed except when time is a material ingredient of the offense. As seen from the elements of Violation of Sec. 3(c) of R.A. No. 3019, time is not a material ingredient of the offense, and thus, it is not necessary to allege the precise time in the Information.

Likewise, it is not necessary to allege the specific place where the offense was allegedly committed. Where the place alleged is not an essential element of the crime charged, conviction may be had on proof of the commission of the crime, even if it appears that the crime was not committed at the precise place alleged, provided that the specific crime charged was in fact committed at a place within the jurisdiction of the court.¹³

Although the specific time and place when and where the crime was allegedly committed need not be alleged in the Information, the Court nonetheless resolves to grant the accused's *Motion* with respect to the above detail to enable him to properly plead and prepare for trial.

***The particular administrative and/or official function/s
that the accused performed in allegedly committing
the alleged offense***



¹³ Please see *People v. Purazo*, G.R. No. 133189, May 5, 2003, citing *United States v. Arcos*, G.R. No. 3879, November 4, 1908

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The particular acts on how and in what way the alleged offense was allegedly committed by the accused in relation to his office

The particular official capacity that the accused will allegedly perform to secure or obtain the issuance by the LTFRB of the CPC

These details are not proper subjects for a bill of particulars. Indeed, the Information alleges that the accused committed the offense in relation to his office, and the prosecution may present evidence to prove that the accused's acts were allegedly done in relation to his office. However, it is unnecessary to specify how the alleged acts were related to the performance of his official functions because it is not one of the elements of Violation of Sec. 3(c) of R.A. No. 3019. Furthermore, Sec. 3(c) of R.A. No. 3019 provides:

Sec. 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

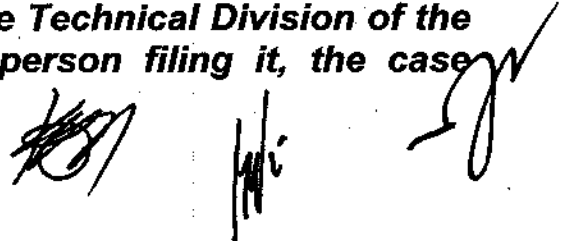
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(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given, without prejudice to Section thirteen of this Act.

(underscoring supplied)

As seen in the aforequoted provision, the public officer's act of securing or obtaining any Government permit or license may be in any manner or capacity. An accused may be convicted of the said offense if it is proved beyond reasonable doubt that all elements are present, regardless of whether the accused's act was done in relation to his or her official functions.

The particular date and time of the filing of the alleged application for Certificate of Public Convenience (CPC) with the Technical Division of the LTFRB, the name of the person filing it, the case



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number, payment of application fees, clearance of account, inspection report signed by the Technical Division of the LTFRB, notice of hearing issued by the Legal Division of the LTFRB, publication of the notice of hearing by the applicant/s, hearing/s conducted on the franchise application by the Legal Division of the LTFRB, citizenship and financial capacity such as the income tax return/s of the alleged applicant/s, LTO OR/CR of units with year model, operator's data sheet and valid driver's licenses of the authorized drivers; existence and sufficiency of garage, exact location of terminal at both endpoints, the particular route applied for, the LTFRB approval (LTFRB Board Resolution) of said route identified for franchise issuance and its publication of a call for applications for CPC to service the route where the call/invitation states the route, number of units, service quality standards, vehicle specifications, suggested fare and other requirements

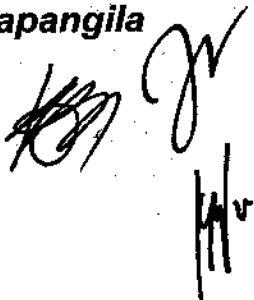
The particular route covered by the alleged route measured capacity (RMC) and whether the route is existing or proposed

The particular kind of public utility or transport vehicles, their OR/CR and their respective registered owners

The accused is entitled to the particulars of the application for a CPC. He may have acted on other such applications, and may not be able to adequately prepare his defense if the application involved in this case is not sufficiently specified.

The particular facts on how the alleged request and receipt was made directly or indirectly

The particular facts from where the alleged amount of PHP 4,600,000.00 was secured or obtained by Michelle Sapangila

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The particular name of the alleged third party and the particular arrangement between Michelle Sapangila and the alleged third party

These matters will merely establish the ultimate fact that the accused allegedly requested and received the amount of PHP 4.6 million from Michelle Sapangila. The details of the manner the alleged request and receipt of money, as well as whether Sapangila had the capacity to give the said amount to the accused, may be passed upon during the trial on the merits.

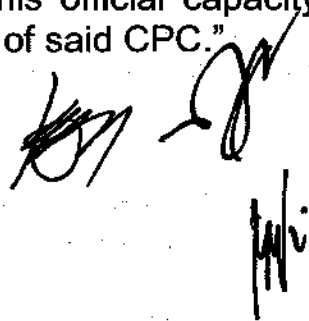
The particular name and address of the alleged "another" for whom the accused allegedly was acting for and why was he ("another") not included as a respondent/accused in the DOTr and OMB cases and in this case?

The said detail will merely establish the ultimate fact that the accused allegedly requested and received the amount of PHP 4.6 million also for another person, in addition to allegedly requesting and receiving the said amount for himself. The Information does not allege that such person conspired with the accused, and hence, there is no need to identify and to include such person as an accused in the Information. The identity of the said person may be passed upon during the trial on the merits.

The particular kind of assistance, facilitation or help to be given in consideration of the alleged money;

Which is the alleged consideration? A CPC or a RMC?

The accused is not entitled to a bill of particulars on the first detail above. The said detail will merely establish the ultimate fact that the consideration for the alleged request and receipt of money is his alleged assistance, facilitation or help in securing or obtaining the CPC. For the second detail, the Information already alleges that "x x x in consideration for the assistance, facilitation or help to be given by the accused x x x, in his official capacity will secure or obtain the issuance by the LTFRB of said CPC."

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Next, the Court denies the accused's prayer to amend the Information because the bill of particulars becomes a part of the Information.

Rule 12, Sec. 6 of the 2019 Amended Rules of Court provides that "a bill of particulars becomes part of the pleading for which it is intended." The said provision under the *1997 Rules of Civil Procedure, as Amended*, may be suppletorily applied to the present criminal case, considering that there is no provision under the *Revised Rules of Criminal Procedure* that squarely applies to the matter at hand, and further considering that a bill of particulars, whether in civil or criminal proceedings, has the same general function of guarding against surprises during trial.¹⁴

Also in *Enrile*, it was implied that the bill of particulars becomes a part of the Information because it supplements the latter. The Supreme Court held:

A bill of particulars guards against the taking of an accused by surprise by **restricting the scope of the proof; it limits the evidence to be presented by the parties to the matters alleged in the Information as supplemented by the bill.** It is for this reason that the failure of an accused to move for a bill of particulars deprives him [or her] of the right to object to evidence which could be lawfully introduced and admitted under an information of more or less general terms which sufficiently charges the defendants with a definite crime.

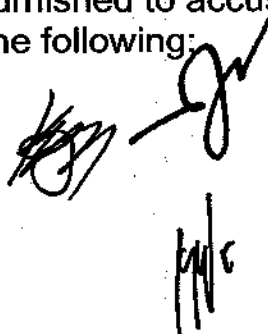
Finally, the parties raised matters pertaining to the accused's *Motion to Expunge Prosecution's Pre-Trial Brief From the Record of the Case.*¹⁵ The said motion will be the subject of a separate resolution.

ACCORDINGLY, accused Jardin's *Motion for a Bill of Particulars* is hereby **PARTIALLY GRANTED**.

The prosecution is **DIRECTED** to submit, within 10 days from receipt of this Resolution, with copy furnished to accused Jardin, a bill of particulars specifically containing the following:

¹⁴ *Enrile v. People*, G.R. No. 213455, August 11, 2015

¹⁵ Dated December 13, 2023; Record, Vol. 2, pp. 20-27

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1. The particular time and place when and where the alleged offense was committed;
2. The particular date of the filing of the alleged application for Certificate of Public Convenience (CPC) with the Technical Division of the LTFRB, the name of the applicant, the case number, the application number, if any, the details of payment of application fees, the particular route applied for; and,
3. The particular route covered by the alleged route measured capacity (RMC).

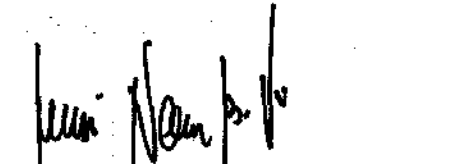
All particulars prayed for that are not included in the above are hereby **DENIED**. Accused Jardin's prayer for the amendment of the Information is likewise **DENIED**.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice