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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. Nos. 249564 &
249568-76

Present:

- versus -

PERLAS-BERNABE, S.A.J.,**
HERNANDO,
*Acting Chairperson,****
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

MA. CONSUELO TOROBA
PALMA GIL-ROFLO,* JERICO
O. EBITA, NORMAN JAY
JACINTO P. DORAL, DERRICK
P. ANDRADE, SERGIO U.
ANDRADE and CHONA
ANDRADE TOLENTINO,
Accused-Appellants.

Promulgated:
MAR 21 2022

X-----X

DECISION

HERNANDO, J.:

Before this Court are consolidated appeals¹ filed by accused-appellants Ma. Consuelo T. Palma Gil-Roflo (Roflo), Jerico O. Ebita (Jerico), Norman Jay Jacinto P. Doral (Norman), Derrick P. Andrade (Derrick), Sergio U. Andrade (Sergio) and Chona Andrade Tolentino (Chona), assailing the November 29, 2018 Decision² and August 28, 2019 Resolution³ of the Sandiganbayan in SB-06-CRM-0025 to

* Also referred to as Maria Consuelo Toroba Palma Gil-Roflo in some parts of the records.
** On official leave.
*** Per Special Order No. 2882 dated March 17, 2022.
¹ Rollo, pp. 188-191 and 192-199. Captioned as Notice of Appeal.
² Id. at 4-187. Penned by Presiding Justice Amparo M. Cabotaje-Tang with Associate Justices Bernelito R. Fernandez and Sarah Jane T. Fernandez, concurring.
³ Id. at 416-441.

0029, for violation of Sec. 3 (e), Republic Act No. (RA) 3019,⁴ and SB-06-CRM-0030 to 0034, for Estafa Through Falsification of Public Documents, defined and penalized under Article 315, paragraph (1) (b), in relation to Articles 171 (4) and 48 of the Revised Penal Code (RPC).

Version of the Prosecution:

Raul M. Antopuesto (Antopuesto), a media practitioner in Davao, filed a complaint with the Office of the Ombudsman regarding the alleged ghost employees in the office of Roflo, then a *Sanggunian Panlalawigan* member of the Provincial Government of Davao Oriental, Province of Davao Oriental. Antopuesto claimed that Rosie Bajenting (Bajenting), former Administrative Aide Officer III in the Office of Roflo in Davao Oriental, informed him that accused-appellants Jerico, Norman, Derrick, Sergio, and Chona, are ghost employees of Roflo.⁵

On the strength of Antopuesto's complaint, the Office of the Ombudsman recommended the filing of criminal charges against Roflo with the Sandiganbayan for violation of Section 3(e) of RA 3019, and Estafa Through Falsification of Public Documents. The Information was later amended to include Jerico, Norman, Derrick, Sergio, and Chona, all of whom were allegedly job order employees assigned at the Satellite Office of Roflo located in Davao City, during the period from 2001 to 2003.

The Informations alleged that Roflo, as a member of the *Sanggunian Panlalawigan* Davao Oriental, conspired with Jerico, Norman, Derrick, Sergio, and Chona, by making it appear that they are legitimate job order employees in the office of Roflo, when in truth, they worked as house helpers of Roflo and her family in their houses in Davao City. Bajenting averred that she was instructed by Roflo to submit the names of Jerico, Norman, Derrick, Sergio, and Chona, to the Human Resources Department (HR Department) for the issuance of contracts of services in their favor, representing them to be job order employees of Roflo. Bajenting signed the contract of service of Chona while a certain Bobong Morales (Morales) signed in behalf of Jerico, Norman, Derrick and Sergio.⁶

Bajenting prepared the Daily Time Records (DTR), Accomplishment Reports (AR), time book, payroll and other supporting documents relative to the employment of Jerico, Norman, Derrick, Sergio, and Chona. Similar to the

⁴ Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: August 17, 1960.

⁵ *Rollo*, pp. 27-29.

⁶ *Id.*

contracts of service, Bajenting signed the DTR and AR of Chona while Morales signed for Jerico, Norman, Derrick and Sergio.⁷ Utilizing the falsified DTRs and ARs, Jerico, Norman, Derrick, Sergio, and Chona, were able to collect salaries from the provincial government of Davao Oriental, to the damage and prejudice of the government. Roflo instructed Bajenting to claim the salaries of Jerico, Norman, Derrick, Sergio, and Chona, by virtue of a Special Power of Attorney (SPA) executed by Jerico, Norman, Derrick, Sergio, and Chona, and that a few days after receipt of the said salaries, Roflo would give the same bundle of money back to Bajenting for the latter to deposit it to Roflo's personal bank account at the Mati Branch of the Philippine National Bank.⁸

On cross-examination, Bajenting admitted that Roflo dismissed her (Bajenting) from the service on February 19, 2003, for certain anomalies she committed in the performance of her duties. As a consequence, criminal charges were filed against her for Qualified Theft and Falsification⁹ between March 6-10, 2003. Bajenting filed the instant complaint against Roflo on March 26, 2003, days after the Qualified Theft and Falsification cases were filed against her by Roflo and former Governor Elena Palma-Gil (Palma-Gil).¹⁰

The prosecution also established through the testimony of Carmencita E. Vidamo (Carmencita), Vice President for Students Personnel Service, and concurrent University Registrar of the University of Mindanao in Davao City, that Derrick and Sergio were enrolled in the University of Mindanao for the school year 2002-2003 and 2001-2002, respectively, as evidenced by their transcript of records submitted before the trial court.¹¹

Version of the Defense:

For her defense, Roflo claimed that Jerico, Norman, Derrick, Sergio, and Chona, were legitimate job order employees of the provincial government of Davao Oriental assigned in her (Roflo) Satellite Office in Davao City during the period relevant to the case. The said satellite office was established in 1992 when her mother was still the representative of the first district of Davao Oriental. The purpose of the satellite office was to provide public service to her constituents in Davao City. Specifically, the satellite office gives assistance to the indigent patients of Davao Medical Center requiring financial help, transportation assistance, and medical needs.¹² The satellite office was open 24 hours a day to cater to the needs of their constituents especially in cases of emergency.¹³

⁷ Id. at 31.

⁸ Id.

⁹ Id. at 33.

¹⁰ Id. at 33-35.

¹¹ Id. at 25.

¹² Id. at 50.

¹³ Id. at 51.

As to the functions of Jerico, Norman, Derrick, Sergio, and Chona, Roflo claimed as follows:

1. Sergio acted as a security aide and radio operator in the satellite office;¹⁴
2. Chona managed the satellite office. She was in-charge of the bills and the filing of documents;¹⁵
3. Derrick acted as an alternate security aide and assigned to operate the telephone and fax machine. He also entertained walk-in constituents in the satellite office;¹⁶
4. Norman functioned as researcher and liaison officer. Part of his job was to go to Manila to follow-up on requests for funding for the projects of the province;¹⁷ and
5. Jerico also performed research work for Roflo. In addition, he was designated by Roflo to look for suppliers offering the lowest prices. He also helped in entertaining walk-in constituents in the satellite office.¹⁸

Roflo did not impose specific work hours to Jerico, Norman, Derrick, Sergio, and Chona, because a job order employee is not considered a government employee, hence, is not required to report during the prescribed office hours like regular employees, as long as they rendered work for eight hours a day. Further, they can be assigned any task that they are capable of and may be assigned anywhere, even outside the province.¹⁹

Derrick was a working student who finished only one contract of service because he had difficulty juggling work and studies at the same time.²⁰ Sergio was also a working student. She employed Sergio because she wanted to help him fulfill his dream of becoming a police officer.²¹ Roflo constantly monitored her job order employees especially Derrick and Sergio to make sure that their studies did not interfere with their work in the satellite office. She would regularly call them by phone or through the radio during weekdays to ensure that they were doing their respective tasks. Her job order employees worked even beyond 5:00 p.m., and even during weekends as she would see them personally whenever she is in Davao City since the satellite office was open 24 hours every day.²²

¹⁴ Id. at 50.

¹⁵ Id. at 55-56.

¹⁶ Id. at 56.

¹⁷ Id. at 57.

¹⁸ Id. at 57-58.

¹⁹ Id. at 47.

²⁰ Id.

²¹ Id. at 49.

²² Id. at 52.

Chona did not work as her house helper; she has a household help in the satellite office in the person of “Nang Ilyang” who had been her nanny when she was still a baby.²³

Anent the DTRs of Jerico, Norman, Derrick, Sergio, and Chona, reflecting their time worked as 8:00 a.m. to 5:00 p.m, these were prepared by her staff stationed in her office in Davao Oriental, but were personally signed by the concerned job order employees, contrary to the claim of Bajenting that she and Morales signed the same. The DTRs were intended merely for the processing of the salaries of the job order employees. Job order employees were not required, as a matter of policy, to submit DTRs as they are not considered government employees pursuant to the provisions of Civil Service Commission (CSC) Resolution No. 02-0790,²⁴ and as provided in their contracts of services as job order employees.²⁵

Admittedly, the DTRs of Jerico, Norman, Derrick, Sergio, and Chona, did not necessarily reflect their true time of arrival and departure because they were practically living in the satellite office as they stayed there 24 hours a day, seven days a week, accused-appellants Sergio, Derrick and Chona in particular.²⁶ They indicated their time of arrival as 8:00 a.m. and time of departure as 5:00 p.m. pursuant to the advice of the HR Department in accord with the agency’s prescribed office hours.²⁷ Moreover, if the job order employee submitted a DTR indicating hours of work other than 8:00 a.m. to 5:00 p.m., the same would be returned to the concerned employee by the Accounting Office. Thus, it has been the practice of each and every job contract employee to indicate their time in and out as 8:00 a.m. and 5:00 p.m, respectively.²⁸

The ARs of Jerico, Norman, Derrick, Sergio, and Chona, were similarly prepared by the staff in her Davao Oriental office but were signed personally by Jerico, Norman, Derrick, Sergio, and Chona. The AR is just a requirement for the processing of the job order employees’ salaries.

From August to September, 2002, Norman was tasked to follow up on Roflo’s office’s request for funding with the House of Representatives in connection with the construction of Davao Oriental’s provincial capitol building. During this time, Norman was reviewing for, and taking the Bar examinations.²⁹

²³ Id. at 56.

²⁴ Entitled “POLICY GUIDELINES FOR CONTRACT OF SERVICES.” Dated June 5, 2002.

²⁵ *Rollo*, p. 47.

²⁶ Id. at 58 and 62.

²⁷ Id. at 60.

²⁸ Id. at 65.

²⁹ Id. at 63.

Roflo pointed out that the complaints against her was ill motivated because she dismissed Bajenting from her employment after she discovered her anomalous transactions, e.g. altered disbursement vouchers for medicines, supplies and hardware, and failed to remit to Roflo her salary for the period of January 16 to 31, 2003.³⁰ Consequently, Bajenting was charged with Qualified Theft and Falsification before the Regional Trial Court (RTC) and Municipal Trial Court (MTC), respectively, of Davao Oriental. This was corroborated by Palma-Gil, former Board Member, Representative, and Governor of Davao Oriental.³¹ In support thereof, Palma-Gil introduced a certified true copy of the Joint Decision dated September 4, 2015 of the MTC of Davao Oriental finding Bajenting guilty of Falsification.³²

Reynaldo T. Bicoy (Bicoy), Human Resources Manager (HR Manager) of the Provincial Government of Davao Oriental, confirmed that there is no rule prohibiting the assignment of job order employees outside the province. Working students were also not disqualified to become job order employees.³³ For job order employees assigned in far-flung municipalities, it has been the practice that their DTRs and ARs are prepared by the designated payroll clerk of the office for convenience, and that the same would only be sent to the concerned job order employees for their signature.³⁴

Bicoy acknowledged that pursuant to Civil Service Resolution No. 020790, the provision in the contracts of service of the province's job order employees which mandated the rendition of service during the agency's prescribed office hours of 8:00 a.m. to 5:00 p.m., was deleted. The Accounting Office would not receive the DTRs or payrolls if the prescribed working hours of 8:00 to 12:00 and 1:00 to 5:00 were not stated.³⁵

Morales, Administrative Assistant III, and a job order employee in the Provincial Health Office, denied having signed the contracts of services, DTRs and ARs of Jerico, Derrick, Sergio and Norman.³⁶ His office was located in a different building from that of Bajenting which is around 100 meters away.

Josephine S. Bandigan (Bandigan) also denied the allegation that she wrote entries in the DTRs of Sergio and Chona. In 2001, Bajenting was assigned in the *Sanggunian Panlalawigan* office while she worked in the Governor's Office. The distance between the two offices was quite far such that it would take around 10 minutes to traverse the same through public mode of transportation.³⁷

³⁰ Id. at 58-59.

³¹ Id. at 72-73.

³² Id. at 73.

³³ Id. at 67.

³⁴ Id. at 68.

³⁵ Id. at 70.

³⁶ Id. at 71.

³⁷ Id.

Jerico, Norman, Derrick, Sergio, and Chona, uniformly corroborated the testimony of Roflo that they were Roflo's legitimate job order employees. Their DTRs and ARs were prepared by the Office of Roflo in Davao Oriental but they signed the same personally. The said documents were brought to them personally by Fidela Toroba (Fidela), the private secretary of former Governor Palma-Gil whenever she visits the satellite office twice or thrice a week to monitor the job order employees. They signed the DTRs reflecting their time in and out as 8:00 o'clock a.m. to 5:00 o'clock p.m. as per the directive of the Accounting Office, and that if they indicated a different time, the same would be rejected and returned to them for correction.³⁸ Otherwise, their salaries will not be processed and paid to them. They believed that they are merely required to render service for 40 hours per week without need to comply with the prescribed official time.³⁹

Moreover, Derrick claimed that their work in the satellite office entailed no specific hours of the day as they were accepting requests for hospitalization, financial assistance, and other miscellaneous requests, day and night, as the need arose.⁴⁰ On the difference of his signatures, Derrick explained that he changed his signature when he applied for coverage with the Social Security System because he just wanted to change it.⁴¹

On the other hand, Sergio testified that although he was a working student at the time he was employed as job order employee, his schedule in school allowed him to perform his job when he had no classes. If his schedule of classes is in the morning, he would work in the afternoon and vice versa. On the issue of his signatures, he admitted that he changed his signature when he applied for a job in the Philippine National Police.⁴²

For her part, Chona denied that she was the nanny of one of the children of Roflo. It was the house helper, Nanay Enyang Bongac, who did the cleaning and maintenance of the satellite office. However, just like any office set-up, Chona also helped.⁴³ She claimed that she was a stay-in employee in the satellite office and that they sometimes worked beyond 5:00 p.m. especially in times of emergency.⁴⁴

Jerico testified that he worked as a Clerical Assistant and Legislative Staff in the satellite office. His tasks included doing research, canvassing of low priced supplies and other errands as assigned by Roflo. He usually reports to the satellite office from 8:00 a.m. to 5:00 p.m. but whenever Roflo is in Davao City, Jerico would render services beyond 5:00 p.m.⁴⁵ When asked about his signatures, Jerico

³⁸ Id. at 76.

³⁹ Id. at 77.

⁴⁰ Id. at 74.

⁴¹ Id. at 76.

⁴² Id. at 78-79.

⁴³ Id. at 80-81.

⁴⁴ Id. at 81.

⁴⁵ Id. at 82.

answered that he changes his signature from time to time, and has not perfected the same even at present.⁴⁶

For his defense, Norman averred that his taking the Bar Examinations in 2002 was not a hindrance in the performance of his functions. The examinations were conducted only every Sunday for the whole month of September, hence, he had the weekdays to follow up the requests for funding with the House of Representatives. The signatures appearing on his Judicial Affidavit, DTRs and ARs were all his. He has three different signatures and would usually change his signatures because they were easy to imitate.⁴⁷

Fidela, the private secretary of Palma-Gil, claimed that she was assigned at the first satellite office of then Representative Palma-Gil in Bajada, Davao City from 1992 to 1998. When the satellite office moved to its new location at Greenheights Garden Village, Diversion, Buhangin, Davao City, she also transferred therein from 1998 to 2001. Her duties and responsibilities included working closely with the other staff in the satellite office in providing assistance to the constituents of the first district of Davao Oriental.⁴⁸ The satellite office was established to receive letters and communications from officials of the government as well as the constituents of Davao City. The office extended financial, medical, funeral, emergency and other assistance to the residents of Davao City, and that the office was open 24 hours a day, seven days a week.⁴⁹

When Palma-Gil was elected Governor of Davao Oriental, Fidela became her (Palma-Gil) private secretary. Fidela was also given a special assignment to continue supervising the satellite office in Davao City from 2001-2007 together with the job order employees of Roflo. This required her to travel to Davao City two to three times a week. Fidela regularly brought the salaries, as well as the DTRs and ARs of Jerico, Norman, Derrick, Sergio, and Chona, for their signature. The signatures of Jerico, Norman, Derrick, Sergio, and Chona, on their contracts of services, DTRs and ARs were not forgeries as she personally witnessed them signing the same in the satellite office. She constantly supervised the subject job order employees whenever she travels to the satellite office.⁵⁰

Ruling of the Sandiganbayan:

In the assailed Decision dated November 29, 2018, the Sandiganbayan found accused-appellants guilty beyond reasonable doubt of the crimes of violation of Sec. 3 (e), RA 3019 and falsification of a public document under Article 171 (4) of the RPC and were sentenced as follows:

⁴⁶ Id. at 83.

⁴⁷ Id. at 85-86.

⁴⁸ Id. at 87-88.

⁴⁹ Id. at 88.

⁵⁰ Id. at 88-90.

WHEREFORE, judgment is hereby rendered as follows:

1. Accused **MARIA CONSUELO "BAMBI" TOROBA PALMA** is found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R.A. No. 3019 in Criminal Cases Nos. 28430 (SB-06-CRM-25), 28431 (SV-06-CRM-26), 28432 (SB-CRM-06-27), 28433 (SB-CRM-06-28), and 28434 (SB-CRM-06-29), and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, for each count, with perpetual disqualification from holding public office; she, along with her co-accused in the afore-mentioned cases, is ordered to jointly and severally reimburse the Provincial Government of Davao Oriental the following amounts, representing the salaries paid, plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid:

Case No.	Amount	Amount in words	Co-accused
SB-06-CRM-0025 (Criminal Case No. 28430)	63,250.00	Sixty Three Thousand Two Hundred Fifty Pesos	Jerico O. Obita
SB-06-CRM-0026 (Criminal Case No. 28431)	46,750.00	Forty Six Thousand Seven Hundred Fifty pesos	Norman Jay Jacinto P. Doral
SB-06-CRM-0027 (Criminal Case No. 28432)	30,250.00	Thirty Thousand Two Hundred Fifty pesos	Derrick P. Andrade
SB-06-CRM-0028 (Criminal Case No. 28433)	96,250.00	Ninety Six Thousand Two Hundred Fifty Pesos	Sergio U. Andrade
SB-06-CRM-0029 (Criminal Case No. 28434)	112,750.00	One Hundred Twelve Thousand Seven Hundred Fifty Pesos	Chona Andrade Tolentino

1.1 Accused **MARIA CONSUELO "BAMBI" TOROBA PALMA GIL-ROFLO** is also found **GUILTY** beyond reasonable doubt of Falsification of a Public Document under Article 171 (4) of the Revised Penal Code in Criminal Cases Nos. 28435 (SB-CRM-06-30), 28436 (SB-CRM-06-31), 28437 (SB-CRM-06-32), 28438 (SB-CRM-06-33), and 28439 (SB-CRM-06-34), and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years of *prision correccional*, as minimum, to eight years and one (1) day of *prision mayor*, as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (₱5,000.00) for each count;

2. Accused **JERICO O. EBITA** is found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. 28430 (SB-06-CRM-25) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office; he, along with **MARIA CONSUELO "BAMBI" TOROBA PALMA GIL-**

ROFLO is ordered to jointly and severally reimburse the Provincial Government of Davao Oriental the amount of **Sixty Three Thousand Two Hundred Fifty Pesos (P63,250.00)** plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid;

2.1 Accused **JERICO O. EBITA** is also found **GUILTY** beyond reasonable doubt of Falsification of a Public Document under Article 171 (4) of the Revised Penal Code in Criminal Case No. 28437 (SB-06-CRM-32) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years of *prision correccional*, as minimum, to eight years and one (1) day of *prision mayor*, as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (₱5,000.00);

3. Accused **NORMAN JAY JACINTO P. DORAL** is found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. 28431 (SB-06-CRM-26) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office; he, along with **MARIA CONSUELO "BAMBI" TOROBA PALMA GIL-ROFLO** is ordered to jointly and severally reimburse the Provincial Government of Davao Oriental the amount [of] **Forty Six Thousand Seven Hundred Fifty Pesos (P46,750.00)** plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid;

3.1 Accused **NORMAN JAY JACINTO P. DORAL** is also found **GUILTY** beyond reasonable doubt of Falsification of a Public Document under Article 171 (4) of the Revised Penal Code in Criminal Case No. 28438 (SB-06-CRM-33) and is hereby sentenced to suffer an indeterminate penalty of imprisonment from six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (₱5,000.00);

4. Accused **DERRICK P. ANDRADE** is found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. 28432 (SB-06-CRM-27) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office; he, along with **MARIA CONSUELO "BAMBI" TOROBA PALMA GIL-ROFLO** is ordered to jointly and severally reimburse the Provincial Government of Davao Oriental the amount of **Thirty Thousand Two Hundred Fifty Pesos (P30,250.00)** plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid;

4.1 Accused **DERRICK P. ANDRADE** is also found **GUILTY** beyond reasonable doubt of Falsification of a Public Document under Article 171 (4) of the Revised Penal Code in Criminal Case [No.] 28439 (SB-06-CRM-34) and is hereby sentenced to suffer an indeterminate penalty of imprisonment from six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (₱5,000.00);

5. Accused **SERGIO U. ANDRADE** is found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. 28433 (SB-06-CRM-28) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office; he, along with accused **MARIA CONSUELO "BAMBI" TOROBA PALMA GIL-ROFLO**, is ordered to jointly and severally reimburse the Provincial Government of Davao Oriental the amount of **Ninety Six Thousand Two Hundred Fifty Pesos (P96,250.00)** plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid;

5.1 Accused **SERGIO U. ANDRADE** is found **GUILTY** beyond reasonable doubt of Falsification of a Public Document under Article 171 (4) of the Revised Penal Code in Criminal Case No. 28436 (SB-06-CRM-31) and is hereby sentenced to suffer an indeterminate penalty of imprisonment from six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (P5,000.00);

6. Accused **CHONA ANDRADE TOLENTINO** is found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of R.A. No. 3019 in Criminal Case No. 28434 (SB-06-CRM-29) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office; she, along with accused **MARIA CONSUELO "BAMBI" TOROBA PALMA GIL-ROFLO** is ordered to jointly and severally reimburse the Provincial Government of Davao Oriental the amount of **One Hundred Twelve Thousand Seven Hundred Fifty Pesos (P112,750.00)** plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid;

6.1 Accused **CHONA ANDRADE TOLENTINO** is also found **GUILTY** beyond reasonable doubt of Falsification of a Public Document under Article 171 (4) of the Revised Penal Code in Criminal Case [No.] 28435 (SB-06-CRM-30) and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, with perpetual disqualification from holding any public office, and to pay a fine of Five Thousand Pesos (P5,000.00);

SO ORDERED.⁵¹

The Sandiganbayan, however, exonerated Roflo from the charge of Estafa with Abuse of Confidence for failure of the prosecution to establish all the elements of the crime.⁵²

The Sandiganbayan found accused-appellants to have conspired with one another in committing the crime of Falsification of Public Documents. The elements of the crime were sufficiently established by the prosecution. *First*, that

⁵¹ Id. at 182-186.

⁵² Id. at 174-175.

Roflo is a public officer at the time material to the case. *Second*, a DTR is a public document that anyone who accomplishes it has the legal obligation to faithfully and truthfully state the data required therein. *Third*, the entries in the DTRS and ARs of Jerico, Norman, Derrick, Sergio, and Chona, which were certified correct by Roflo were absolutely false considering that they did not actually render service. *Fourth*, Despite the non-rendition of work, Jerico, Norman, Derrick, Sergio, and Chona, received salaries to the damage of the government. *Fifth*, Jerico, Norman, Derrick, Sergio, and Chona uniformly claimed that they signed their contracts of services, DTRs and ARs, and admitted that they received their respective salaries.⁵³

The Sandiganbayan found the signatures of Jerico, Norman, Derrick, Sergio, and Chona in their contracts of services, DTRs and ARs as forgeries. Even if it were true that the signatures in the contested documents were genuine, they are still liable for Falsification of a public document for making untruthful statements, given that they admitted the falsity of the time entries in their DTRs, and the trial court's finding that Jerico, Norman, Derrick, Sergio, and Chona never rendered service to the government, contrary to their claim in their ARs.⁵⁴

All the elements of the crime of violation of Section 3(e) of RA 3019 have also been established by the prosecution.

Roflo acted with evident bad faith when she repeatedly signed the DTRs, ARs and contracts of service of Jerico, Norman, Derrick, Sergio, and Chona despite their non-rendition of work. As a result thereof, the Provincial Government of Davao Oriental suffered damage in the total amount of ₱349,250.00 representing the salaries of Jerico, Norman, Derrick, Sergio, and Chona. Moreover, Jerico, Norman, Derrick, Sergio, and Chona's participation in the conspiracy was similarly established by their admission that they received their salaries notwithstanding the fact that they did not actually render work for the government of Davao Oriental.⁵⁵

The separate motions for reconsideration of accused-appellants were denied by the Sandiganbayan in a Resolution⁵⁶ dated August 28, 2019 for lack of merit.

Aggrieved, accused-appellants Roflo⁵⁷ and Jerico, Norman, Derrick, Sergio, and Chona⁵⁸ lodged separate appeals⁵⁹ with the Court.

⁵³ Id. at 176-177.

⁵⁴ Id. at 177-178.

⁵⁵ Id. at 181.

⁵⁶ Id. at 416-441.

⁵⁷ Id. at 188-191.

⁵⁸ Id. at 192-200.

⁵⁹ Id. at 188-191 and 192-199.

Issue

The sole issue before Us is whether accused-appellants are guilty beyond reasonable doubt of violating Section 3(e) of RA 3019 and for Falsification of Public Documents under Article 171 (4) of the RPC.

Our Ruling

We rule in the negative.

Only questions of law should be raised in petitions filed under Rule 45.⁶⁰ This Court is not a trier of facts. It will not entertain questions of fact as the factual findings of the Sandiganbayan are generally conclusive upon this Court.⁶¹

This rule, however, admits of exceptions such as where: (1) the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; and (5) the findings of fact of the Sandiganbayan are premised on a want of evidence and are contradicted by the evidence on record.⁶²

Here, accused-appellants assert that the Sandiganbayan committed a serious misapprehension of facts, and that their findings of fact are premised on a want of evidence, thereby wrongly concluding that accused-appellants are guilty beyond reasonable doubt. They argue that the evidence adduced by the prosecution falls seriously short of the quantum of evidence required to convict them.

With the backdrop of these assertions, We deem it proper to re-evaluate the factual findings and the conclusions reached by Sandiganbayan.

We held in *Layug v. Sandiganbayan*:⁶³

At the outset, it must be stressed that in all criminal prosecutions for offenses under the Revised Penal Code, the prosecution must prove beyond reasonable doubt that the accused had criminal intent to commit the offense charged. As this Court said in *Beradio vs. Court of Appeals*:

Of great weight in Our criminal justice system is the principle that the essence of an offense is the wrongful intent (*dolo*), without which it cannot exist. *Actus non facit ream, nisi mens set rea*, the act itself does not make a man guilty unless his intentions were so.

⁶⁰ Rules of Court, Rule 45, Sec. 1.

⁶¹ *Agullo v. Sandiganbayan*, 414 Phil. 86, 99 (2001).

⁶² *Lee v. Sandiganbayan*, G R. Nos. 234664-67, January 12, 2021.

⁶³ 392 Phil. 691 (2000).

Article 3 of the Revised Penal Code clearly indicates that malice or criminal intent (*dolo*) in some form is an essential requisite of all crimes and offenses defined in the Code, except in those cases where the element required is negligence (*culpa*).⁶⁴

In every criminal case where the accused enjoys the presumption of innocence, an acquittal is warranted unless the accused's guilt is shown beyond reasonable doubt.⁶⁵

Forgery was not substantiated by clear, positive and convincing evidence.

The Sandiganbayan convicted the accused-appellants for violation of Sec. 3(e), RA 3019 and for Falsification of Public Documents citing as basis the ruling of this Court in *People v. Macalaba*,⁶⁶ wherein We decreed that:

Where the negative of an issue does not permit of direct proof, or where the facts are more immediately within the knowledge of the accused, the *onus probandi* rests upon him. Stated otherwise, it is not incumbent upon the prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which, if untrue, could readily be disproved by the production of documents or other evidence within the defendant's knowledge or control. For example, where a charge is made that a defendant carried on a certain business without a license (as in the case at bar, where the accused is charged with the selling of a regulated drug without authority), the fact that he has a license is a matter which is peculiarly within his knowledge and he must establish that fact or suffer conviction.⁶⁷

The Sandiganbayan thus excused the prosecution from presenting evidence that will prove the guilt of accused-appellants beyond reasonable doubt for the criminal charges filed against them ratiocinating that the charge of failure to render work is a negative averment which does not permit direct proof. As such, the burden of proof lies upon the defense to prove that they actually rendered work.

Using the above as yardstick, the Sandiganbayan found that accused-appellants failed to discharge the burden of proving that they indeed rendered service to the provincial government of Davao Oriental.

We are not persuaded.

⁶⁴ Id. at 705, citing *Beradio v. Court of Appeals*, 191 Phil. 153, 163 (1981).

⁶⁵ *People v. Claro*, 808 Phil. 455, 457 (2017).

⁶⁶ 443 Phil. 565 (2003).

⁶⁷ Id. at 576.

We find that accused-appellants were able to adduce sufficient evidence to prove that they truly worked in the satellite office of Roflo in Davao City.

The defense submitted Jerico, Norman, Derrick, Sergio, and Chona's contracts of services showing that they were engaged by the Provincial Government of Davao Oriental as job order employees from 2001 to 2003. Their DTRs and ARs were likewise presented to substantiate the submission that they rendered work in Roflo's satellite office in Davao City during the time material to the case. Finally, their service records, as certified by the HR Department, were adduced to prove that they indeed worked as job order employees in the Provincial Government of Davao Oriental.

However, to support its finding that Jerico, Norman, Derrick, Sergio, and Chona did not actually render work, the Sandiganbayan took upon itself to examine their signatures in their contracts of services, DTRs and ARs, and went on to conclude that these were forged, thus, could not conclusively prove their rendition of work. In short, the Sandiganbayan relied primarily on the alleged forged signatures of Jerico, Norman, Derrick, Sergio, and Chona in convicting them for violation of Section 3 (e) of RA 3019.

It is settled that the prosecution must establish the fact of falsification or forgery by clear, positive, and convincing evidence, as the same is never presumed.⁶⁸

Under Rule 132, Section 22 of the Rules of Court, the genuineness of handwriting may be proved in the following manner: (1) by any witness who believes it to be the handwriting of such person because he has seen the person write; or he has seen writing purporting to be his upon which the witness has acted or been charged; (2) by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party, against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. Corollary thereto, jurisprudence states that the presumption of validity and regularity prevails over allegations of forgery and fraud.

In *Lamsen v. People*,⁶⁹ We decreed that “[a]s against direct evidence consisting of the testimony of a witness who was physically present at the signing of the contract, and who had personal knowledge thereof, the testimony of an expert witness constitutes indirect or circumstantial evidence at best.”

As can be gleaned from the above-cited rule and jurisprudence, it is clear that the testimony of a witness who was physically present at the signing of the questioned document prevails over the comparison made by a witness or the court of the alleged forged handwriting or signature against the writings admitted to be genuine.

⁶⁸ *Lamsen v. People*, 821 Phil. 651, 660 (2017).

⁶⁹ *Id.* at 660-661.

Here, Fidela testified affirmatively that she personally witnessed Jerico, Norman, Derrick, Sergio, and Chona sign their contracts of services, DTRs and ARs. Fidela categorically declared under oath that the signatures thereon were not forgeries as she was physically present at the time of signing thereof.⁷⁰ Juxtaposed with the comparison made by the Sandiganbayan of the subject signatures, which is considered only as circumstantial evidence, Fidela's testimony constitutes direct evidence as to the genuineness of the subject signatures on the subject documents. Accordingly, the plain comparison of the questioned signatures made by the Sandiganbayan cannot prevail over the direct evidence of Fidela, accused-appellants' witness, who testified affirmatively that she was physically present during the signing of the subject documents and thus, has personal knowledge thereof.

It is also worthy to stress that Morales and Bandigan denied under oath the allegation of Bajenting that they signed for and wrote the entries in the subject DTRs.⁷¹

Moreover, in the light of accused-appellants' claim that their questioned signatures are their genuine signatures albeit they changed the same in the passage of time, coupled with the straightforward testimony of Fidela, a disinterested witness, that the subject signatures are not forgeries, the prosecution should have resorted to an independent expert witness who could ascertain the authenticity of the subject signatures, and who has the ability to declare with authority and objectivity that the questioned signatures are forged. Unfortunately, the records are bereft of any such analysis or even any attempt to have the signatures examined.

At any rate, the subject contracts of services were notarized, and it is a well-settled principle that a duly notarized contract enjoys the *prima facie* presumption of authenticity and due execution, as well as the full faith and credence attached to a public instrument. To overturn this legal presumption, evidence must be clear, convincing, and more than merely preponderant to establish that there was a forgery that gave rise to a spurious contract.⁷² Here, no such evidence was presented.

Not only did the prosecution fail to present an expert witness to prove its allegation of forgery; it also utterly failed to present countervailing evidence to the defense's direct evidence consisting of Fidela's testimony that she personally saw Jerico, Norman, Derrick, Sergio, and Chona sign the subject documents. In sum, the prosecution failed to present clear, positive, convincing,

⁷⁰ *Rollo*, pp. 88-89.

⁷¹ *Id.* at 70-71.

⁷² *Gatan v. Vinarao*, 820 Phil. 257, 267 (2017).

and more than preponderant evidence to overcome the presumption of authenticity and due execution of the notarized contracts of services, and to prove that the signatures appearing thereon are forgeries.

Further, an examination of the signatures of Chona and Sergio reveals that there is a color of truth to their claims that they changed their signatures after their employment with Roflo. With respect to Chona, it appears that she got married after her contracts of service had expired, justifying her change of signatures. In her contracts of service, DTRs and ARs, Chona was still using Andrade. But after Chona got married to a Tolentino, it is understandable that she would change her signature to reflect her spouse's name.⁷³

As regards Sergio, the signature in the Deposit for Bail greatly differs from the signature in the Judicial Affidavit. The signature in the Deposit for Bail appears to be the same with the signatures in the contracts of service, DTRs and ARs while the Judicial Affidavit contains a different signature.⁷⁴ But Sergio maintained that these two are his genuine signatures. It is also incredible that Morales, the person who allegedly forged the signature of Sergio in the subject contracts of service, DTRs and ARs, again forged Sergio's signature in the Deposit for Bail which was executed in 2009, some eight years after the job order employment.⁷⁵ In spite of this, the Sandiganbayan made a sweeping declaration that the signatures of Jerico, Norman, Derrick, Sergio, and Chona in their contracts of services, DTRs and ARs, were all forged without considering the above findings of this Court.⁷⁶ This We cannot countenance.

We find it apropos to echo the following pronouncement of the Court in *Domingo v. Domingo*⁷⁷ (*Domingo*) where We held that:

The passage of time and a person's increase in age may have decisive influence in his handwriting characteristics. Thus, in order to bring about an accurate comparison and analysis, the standards of comparison must be as close as possible in point of time to the suspected signature. As correctly found by the appellate court, the examination conducted by the PC-INP Crime Laboratory did not conform to the foregoing standard. Recall that in the case, the signatures analyzed by the police experts were on documents executed several years apart. **A signature affixed in 1958 or in 1962 may involve characteristics different from those borne by a signature affixed in 1970.** Hence, neither the trial court nor the appellate court may be faulted for refusing to place any weight whatsoever on the PC-INP questioned document report.⁷⁸ (Emphasis ours)

⁷³ *Rollo*, p. 151.

⁷⁴ *Id.* at 153.

⁷⁵ *Id.*

⁷⁶ *Id.* at 150.

⁷⁷ 495 Phil. 213 (2005).

⁷⁸ *Id.* at 221.

Likewise, as proclaimed by the Court in *Cogtong v. Kyoritsu*,⁷⁹ “the standards should, if possible, have been made at the same time as the suspected document. The standards should embrace the time of the origin of the document, so that one part comes from the time before the origin and one part from the time after the origin.”⁸⁰

In this case, the Sandiganbayan used as standards of comparison the signatures in three documents, namely: contracts of services, DTRs and ARs executed between 2001 to 2003. We stress that these documents precede by six to eight years the Deposit for Bail of Jerico, Norman, Derrick, Sergio, and Chona, which were executed in 2009, and by 13 to 15 years their Judicial Affidavits which were executed in 2016. In short, the Deposit for Bail and Judicial Affidavits had been executed long after the execution of the questioned contracts of services, DTRs and ARs, and thus, the possibility of altering their signatures is not remote. Accordingly, as in the case of *Domingo*, this circumstance makes the Sandiganbayan’s finding of forgery questionable.

There being no clear, positive and convincing evidence to substantiate the claim of forgery, the Sandiganbayan clearly erred when it refused to consider the service records of Jerico, Norman, Derrick, Sergio, and Chona, as certified by HR Manager Bicoy, stating that they actually rendered services in the Provincial Government of Davao Oriental.

Falsification of a public document was not sufficiently established by the prosecution.

On the finding that Jerico, Norman, Derrick, Sergio, and Chona are guilty of Falsification of a Public Document, the Sandiganbayan enunciated that they made untruthful statements when they indicated in their DTRs that they reported from 8:00 a.m. to 5:00 p.m. when in truth, they did not. As regards Roflo, her complicity in the crime of Falsification of Public Documents consisted of her signing and certifying as true and correct the entries in the DTRs despite the same being false.

In holding accused-appellants guilty of Falsification of a Public Document, the Sandiganbayan noted that the presumption of regularity in the performance of official duties accorded to Roflo was successfully rebutted by the following pieces of evidence suggesting irregularity:

- (i) Finding of the Sandiganbayan of forgery of Jerico, Norman, Derrick, Sergio, and Chona’s signatures on their DTRs, ARs and contracts of services;

⁷⁹ 555 Phil. 302 (2007).

⁸⁰ *Id.* at 307.

- (ii) The incomplete and inaccurate entries in their ARs;
- (iii) The false entries in their DTRs; and
- (iv) The testimonial and documentary evidence submitted to prove that Sergio and Derrick were working students during the subsistence of their contracts of services, and Norman's admission that he was reviewing for and took the Bar examinations from August to September 2002.⁸¹

We do not agree.

As amply discussed above, the allegation of forgery was not sufficiently established by the prosecution.

We shall then delve into accused-appellants' culpability for Falsification of public documents on the basis of the alleged false entries in their DTRs.

Falsification of Public Documents has the following elements: 1) the offender is a public officer, employee, or notary public; 2) the offender takes advantage of his or her official position; and 3) the offender falsifies a document by committing any of the acts enumerated in Article 171 of the Revised Penal Code. To warrant a conviction for Falsification of Public Documents by making untruthful statements in a narration of facts under Article 171, paragraph 4 of the Revised Penal Code, the prosecution must establish beyond reasonable doubt the following elements: 1) the offender makes in a public document untruthful statements in a narration of facts; 2) he or she has a legal obligation to disclose the truth of the facts narrated by him or her; and 3) the facts narrated are absolutely false.⁸²

In Falsification of Public Documents, the offender is considered to have taken advantage of his or her official position in making the falsification when (1) he or she has the duty to make or prepare or, otherwise, to intervene in the preparation of a document; or (2) he or she has the official custody of the document which he falsifies.⁸³

Settled is the rule that Falsification of Public Documents is an intentional felony committed by means of "*dolo*" or "*malice*" and could not result from imprudence, negligence, lack of foresight or lack of skill.⁸⁴ Intentional felony requires the existence of *dolus malus* - that the act or omission be done willfully,

⁸¹ *Rollo*, pp. 135-158.

⁸² *Fullero v. People*, 559 Phil. 524, 539 (2007).

⁸³ *Id.*

⁸⁴ *Id.*

maliciously, with deliberate evil intent, and with malice aforethought.⁸⁵ This felony falls under the category of *mala in se* offenses that requires the attendance of criminal intent.⁸⁶ In fine, criminal intent is required in order to incur criminal liability under Article 171 of the RPC.

In this case, the element of malicious intent on the part of accused-appellants is sorely wanting.

As sufficiently established by the uniform testimonies of the defense witnesses, Roflo's satellite office in Davao City had been operating since 1992 to cater to the needs of the constituents of former Representative Palma-Gil in Davao City for convenience. This has been the constituents' go-to-place to ask for help. Said satellite office is open 24 hours a day, seven days a week to entertain requests for financial, medical, hospitalization, and other needs of the residents of Davao City, who do not have the means to travel to Davao Oriental to obtain the help that they need. It bears stressing that this fact had not been rebutted nor denied by the prosecution. In fact, Bicoy testified that the maintenance of satellite offices outside the provincial capitol of Davao Oriental and the assignment of job order employees outside the province is not prohibited, but in fact is already an established practice.⁸⁷

Bicoy cited concrete examples of job order employees who did not strictly follow the prescribed office hours of 8:00 a.m. to 5:00 p.m. in the rendition of work. For instance, doctors on job order status may report for duty for only two days straight equivalent to 48 hours and thereafter, they would no longer be required to report in the succeeding days of the week as they are deemed to have complied with the 40 working hours requirement.⁸⁸ The same is true with jail guards who were permitted to render work for more than eight hours per day.⁸⁹

Bicoy's and the defense witnesses' testimonies that job order employees have no prescribed working hours is further strengthened by CSC Resolution No. 020790 dated June 5, 2002 which effectively removed the requirement mandating job order employees to render service only during the agency's prescribed office hours of 8:00 a.m. to 5:00 p.m.⁹⁰

In this regard, Sections 1 and 3 of CSC Resolution No. 020790 dated June 5, 2002, the rule prevailing at the time of the subject contract of services pertinently provides:

⁸⁵ *Villareal v. People*, 680 Phil. 527, 565 (2012).

⁸⁶ See *Id.*

⁸⁷ *Rollo*, p. 67.

⁸⁸ *Id.* at 69.

⁸⁹ *Id.*

⁹⁰ *Id.* at 68-69.

Section 1. Definitions. x x x

a. **Individual Contract of Services/Job Order**—refers to employment described as follows:

1. **The contract covers lump sum work or services** such as janitorial, security, or consultancy **where no employer-employee relationship exists between the individual and the government;**

x x x x

3. The contract of services and job order are not covered by Civil Service law, rules and regulations, but covered by Commission on Audit (COA) rules;

4. The employees involved in the contract or job order do not enjoy the benefits enjoyed by government employees, such as PERA, ACA and RATA.

5. **The services rendered thereunder are not considered government service.**

x x x x

Section 3. The contract of services, MOA or job order **shall not** contain the following provisions:

a. The employee performs work or a regular function that is necessary and essential to the agency concerned or work also performed by the regular personnel of the hiring agency;

b. The employee is required to report to the office and render service during the agency's prescribed office hours from 8:00 am to 5:00 pm or for forty hours per week;

c. The employee is entitled to benefits enjoyed by government employees such as ACA, PERA and RATA and other benefits given by the agency such as mid-year bonus, productivity incentive, Christmas bonus and cash gifts.

d. The employee's conduct shall be under the direct control and supervision of the government agency concerned.

e. The employee's performance shall be evaluated by the government agency.
(Emphasis supplied)

A plain reading of the foregoing provisions of CSC Resolution No. 020790 shows that workers hired under job orders are not government employees. They do not enjoy the same benefits as government employees and their services rendered are not considered government service. More importantly, they are not, as a matter of course, required to work during the agency's regular hours. This is evident from Section 3(b) of CSC Resolution No. 020790. Since there is no rule proscribing the rendition of work outside the agency's prescribed office hours, the logical conclusion is that they are permitted to work beyond 8:00 a.m. to 5:00 p.m., as long as they complied with the 40 hours weekly requirement.

This was confirmed by HR Manager Bicoy, a disinterested witness, who categorically testified based on personal knowledge that job order employees are not required to report during the agency's prescribed office hours, for as long as they completed the 40 hours per week of service.⁹¹ According to Bicoy, the provincial government of Davao Oriental permitted this working arrangement such that all job order employees therein were under the impression that this guideline was correct and that they were allowed to adopt it.

Nevertheless, the government, through the CSC, COA and the Department of Budget (DBM) deemed it necessary to clarify the guidelines governing the hiring of workers under job contracts considering that the proliferation thereof gave rise to the following issues: a) lack of social protection for the workers and inequality in benefits, and b) obscure accountability of Job Order/Contract of Service workers due to lack of employee-employer relationship with the hiring agency.⁹² Hence, the passage of CSC-COA-DBM Joint Circular No. 1, series of 2017. Paragraph 7.0 thereof provides:

7.0 Limitations

7.1 Hiring under contract of service shall be limited to consultants, learning service providers, and/or other technical experts to undertake special project or job within a specific period. The project or job is not part of the regular functions of the agency, or the expertise is not available in the agency, or it is impractical or more expensive for the government agency to directly undertake the service provided by the individual or institutional contractor.

x x x x

7.4 The services of the contract of service and job order workers are not covered by Civil Service law and rules thus, not creditable as government service. They do not enjoy the benefits enjoyed by government employees, such as leave, PERA, RATA and thirteenth month pay.

Verily, the CSC-COA-DBM Joint Circular No. 1 reiterated that no employer-employee relationship exists between the government and job order employees, and that the services they render are not considered government service. In fact, they are not covered by Civil Service law, rules and regulations.

⁹¹ Id. at 69.

⁹² Item 1.0 of CSC-COA-DBM Joint Circular No. 1, series of 2017, provides:

However, the proliferation of individual Job Order and Contract of Service workers in the government and their involvement even in the performance of regular agency functions have been observed.

This situation gave rise to the following issues: a) lack of social protection for the workers and inequality in benefits, and b) obscure accountability of JO/COS workers due to lack of employee-employer relationship with the hiring agency.

In view of the foregoing, there is a need to clarify the guidelines on availing of the services of COS and Job Order workers.

Bicoy's testimony stating that the job order employees are not required to work during the agency's regular office hours, and that if their DTRs did not reflect the official time of 8:00 a.m. to 5:00 p.m., the same would not be accepted by the accounting office, was however, rejected by the Sandiganbayan on the ground that he was an incompetent witness to testify on this matter.

We beg to differ.

Bicoy is the HR Manager of the Provincial Government of Davao Oriental. As such, his office is responsible in the preparation of the contracts of services of workers under job contracts. He straightforwardly testified that they deleted the provision in the contracts of services which required the rendition of work from 8:00 a.m. to 5:00 p.m. pursuant to Section 3(b) of CSC Resolution No. 020790. As HR Manager, Bicoy has personal knowledge of this guideline, thus, was competent to testify on this matter especially because he signed as a witness to the contracts of services of Jerico, Norman, Derrick, Sergio, and Chona.⁹³

Accused-appellants cannot be held criminally culpable for Falsification of Public Documents by making untruthful statements in a narration of facts in the absence of a clear showing that they acted with malicious intent when they affixed their signatures on the contested documents. To be sure, Jerico, Norman, Derrick, Sergio, and Chona, were acting in good faith and in the honest belief that they were permitted to work outside the agency's prescribed office hours pursuant to CSC Resolution No. 020790, and as confirmed by the HR Department.

In addition, they cannot be faulted for indicating in their DTRs that they worked from 8:00 a.m. to 5:00 p.m. because this was the directive of the accounting office, otherwise, their salaries would not be processed. While it is true that the defense failed to present a witness from the Accounting Office to confirm this statement, We cannot just simply ignore the fact that accused-appellants consistently testified to this, which testimonies were sufficiently corroborated by HR Manager Bicoy.

Moreover, the Sandiganbayan's reliance in the Resolution of the Court in *Ombudsman v. Elipe*⁹⁴ (*Elipe*) is clearly misplaced. The respondent in *Elipe* was not a job order employee. Thus, she was required to report in the office during the agency's prescribed office hours. Based on the respondent's travel records obtained from the Bureau of Immigration, she left the country on October 25, 2013 and arrived back in the Philippines only on October 30, 2013. However, in her questioned DTRs, it was indicated that she reported for work on October

⁹³ Exhibits AA, GG, KK, T and W.

⁹⁴ G.R. No. 239188 (Notice), November 14, 2018.

W

25, 29 and 30, 2013. Considering that the respondent was out of the country during such period, the Court held that it was physically impossible for her to have reported for and rendered work at that time. The Court also rejected the respondent's defense that she was only acting under the assumption that the act of falsifying one's DTR has ripened into practice. On this score, the Court enunciated that wrong does not cease to be wrong just because it has been adopted by the majority.

This case, however, is different from *Elipe*. For one, Jerico, Norman, Derrick, Sergio, and Chona are job order employees who are not required to work during the regular office hours. For another, no such direct evidence, (i.e., travel records from the Bureau of Immigration), was presented in this case that will show that it was physically impossible for them to have rendered work in the satellite office, especially in the case of Chona and Jerico.

On the part of Derrick and Sergio who were admittedly enrolled in University of Mindanao at the same time they were employed as job order employees, We find that it was not physically impossible for them to render work because in contrast with *Elipe*, University of Mindanao is located only within the same locality where the satellite office is situated. Besides, they were stay-in workers in the satellite office, thus, it was not impossible for them to work before or after their classes. Surely, they are not at school all the time. An examination of their class schedules reveals that their classes in one semester were split into two terms.

For Derrick, his schedule for the first term of the first semester of school year 2002-2003 started from 8:00 a.m. and ended at 2:30 p.m., from Mondays to Fridays. During the second term, his class schedule was only in the morning from 7:00 a.m. to 12:00 noon. In the first term of the second semester, his schedule was from 7:00 a.m. to 3:30 p.m. only.⁹⁵ Considering that the satellite office was open 24/7, it was not improbable that Derrick performed his duties after his classes. Further, Derrick's claim that he only completed one service contract from July 16 to December 31, 2002⁹⁶ because it was difficult for him to juggle work and studies at the same time, lends more credence to the fact that he actually rendered work in the satellite office.

The same is true with Sergio. Records show that Sergio's class schedules were mostly in the afternoon usually from 2:30 p.m. up to 8:30 p.m. It was only during the first term of the first semester of school year 2001-2002 that he had morning classes but the same ended at 1:30 p.m.⁹⁷ According to Sergio, if he had classes in the morning, he would render work in the afternoon and vice-

⁹⁵ Exhibits 00-1 and 00-2; *rollo*, pp. 147-148.

⁹⁶ Exhibit NN.

⁹⁷ Exhibits RR-1 and RR-2; *rollo*, pp. 148-150.

versa.⁹⁸ Thus, working while at the same time studying was not unattainable for Derrick and Sergio.

With respect to Norman, testimonial and documentary evidence were adduced to support the claim that he has rendered work for Roflo even while he was reviewing for and taking the Bar Examinations in 2002. Records show that Norman was assigned in Manila from August to September, 2002 to follow up on the budgetary matters of the provincial government of Davao Oriental, particularly requests for financial assistance from the House of Representatives to fund the projects of the province.⁹⁹ In support thereof, Norman submitted Certifications¹⁰⁰ from the Offices of Representative Apolinario L. Lozada, Jr. (Representative Lozada, Jr.) and Representative Belma A. Cabilao (Representative Cabilao), certifying that Norman indeed made follow ups in their respective offices during the time indicated. Unfortunately, the Sandiganbayan rejected the said documentary evidence for being a mere afterthought and for having apparent doubtful intentions.

We do not agree.

The Certifications were issued by Representatives Lozada, Jr. and Cabilao in their official capacities as then members of the House. Thus, such certifications are considered as *prima facie* evidence of the facts stated therein, and are therefore presumed to be truthful in the light of the prosecution's failure to present any plausible proof to rebut its truthfulness. The trustworthiness consists in the presumption of regularity of performance of official duty by a public officer.¹⁰¹

Another circumstance distinguishing *Elipe* from this case is the fact that respondent therein admitted that the act of falsifying one's DTR has ripened into practice such that they thought that the adoption thereof by the majority has already validated the unlawful act. Here, the practice of indicating the time of arrival as 8:00 a.m. and the time of departure as 5:00 p.m. was not adopted by the job order employees at their own accord. Again, at the risk of sounding repetitive, the same was mandated by the Accounting Office of the Provincial Government of Davao Oriental such that non-compliance thereto would result in the non-processing and non-release of the job order employees' compensation. Simply stated, Jerico, Norman, Derrick, Sergio, and Chona had no choice but to comply therewith, otherwise, they would not be paid their salaries.

⁹⁸ *Rollo*, p. 78.

⁹⁹ *Id.* at 84.

¹⁰⁰ *Id.*

¹⁰¹ *Fullero v. People*, *supra* note 82 at 544.

Anent the inaccurate or lack of details in the ARs of Jerico, Norman, Derrick, Sergio, and Chona, Roflo explained that the AR was merely an additional requirement imposed for the processing of the payroll. The job order employees were not the ones who prepared their respective ARs, they were merely asked to sign them in order to expedite the process.

HR Manager Bicoy again corroborated this when he testified that as a matter of practice, the ARs were prepared by the designated payroll clerk of the office and not by the job order employees themselves. The practice in their province was for the job order employees to write only general statements in the ARs such as “doing assigned jobs,” “doing clerical works,” or “doing driving jobs.”¹⁰² Meaning, such general statements were already sufficient compliance in the preparation of ARs. Bicoy was competent to testify in this regard because he also maintained job order employees in his office, thus, he has personal knowledge thereof.

Accordingly, no criminal intent may be imputed against accused-appellants for merely relying on previous practice. To reiterate, these customs or processes were already in place in the provincial government of Davao Oriental when Jerico, Norman, Derrick, Sergio, and Chona joined the agency. There is likewise no reason for them to distrust or to suspect the directives of the HR Department and the Accounting Office simply because they are authorities in this aspect.

Besides, workers under job contracts are not government employees and are not covered by Civil Service law, rules and regulations. In fact, Section 3(d) of CSC Resolution No. 020790 provides that they are not under the direct control and supervision of the government agency concerned. Having no power of control over job order employees, the concerned agency cannot dictate the manner by which these employees should discharge their duties. Notably, they were not required to observe definite working hours, provided that they rendered at least 40 hours of service per week. To stress, job contract workers are not entitled to the benefits due to regular government employees, thus, it would be the height of injustice to require them to strictly comply with the rules governing government employees when they do not enjoy the same benefits given to regular employees.¹⁰³

Roflo did not act in evident bad faith when she signed the contracts of services, DTRs and ARs of Jerico, Norman, Derrick,

¹⁰² Rollo, p. 68.

¹⁰³ See *Lopez, et al. v. Metropolitan Waterworks and Sewerage System*, 501 Phil. 115, 140 (2005).

Sergio, and Chona; neither did Jerico, Norman, Derrick, Sergio, and Chona act in evident bad faith when they received their respective salaries.

With regard to the charge of violation of Section 3(e) of RA 3019, the Sandiganbayan held that Roflo acted in evident bad faith when she repeatedly signed the DTRs, ARs, and contract of services despite their non- rendition of work which resultantly caused undue damage to the government

“Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.”¹⁰⁴ Moreover, “evident bad faith” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes.¹⁰⁵

We do not agree with the finding of the Sandiganbayan that Roflo acted in evident bad faith when she signed the DTRs, ARs, and contracts of services of Jerico, Norman, Derrick, Sergio, and Chona. As sufficiently established by the evidence on record, they were actually engaged by the provincial government of Davao Oriental under job contracts as evidenced by their service records and the testimony of Bicoy who signed as a witness to their contracts of services. Thus, they were legitimate job order employees of the agency.

Anent their contested DTRs, Roflo signed the same under the honest belief that the entries therein are what the Accounting Office require for the processing of the salaries of the concerned job order employees. Similarly, she signed their ARs on the notion that the statements therein were accurate and all that are required to support the claim of job order employees for compensation. Clearly then, Roflo’s actions do not necessarily reflect fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. If what is proven is mere judgmental error on the part of the person committing an act, no malice or criminal intent can be rightfully imputed to him.¹⁰⁶

¹⁰⁴ *Fuentes v. People*, 808 Phil. 586, 593 (2017).

¹⁰⁵ *Id.* at 594.

¹⁰⁶ *Layug v. Sandiganbayan*, supra note 63 at 709.

Similarly, Jerico, Norman, Derrick, Sergio, and Chona did not act in bad faith when they received their salaries from the provincial government of Davao Oriental. Having rendered actual services in the satellite office, they were clearly entitled to their salaries. Thus, there could be no manifest deliberate intent on their part to do wrong or to cause damage to the government agency.

In *Ysidoro v. Leonardo-De Castro*,¹⁰⁷ the Court upheld Mayor Ysidoro's acquittal of violation of Section 3(e) of RA 3019 for the prosecution's failure to discharge its burden of proving that Ysidoro acted in bad faith, and the presence of the exculpatory proof of good faith. The Court held that the presence of badges of good faith on the part of Mayor Ysidoro negated the alleged bad faith.

Similarly, in *People v. Bacaltos*,¹⁰⁸ the Court exonerated Bacaltos from the charge of violation of Section 3(e) of RA 3019 for failure of the prosecution to establish that evident bad faith or manifest partiality or gross inexcusable negligence, and on account of the exculpatory proof of good faith.

All told, We find that the prosecution utterly failed to prove accused-appellants' guilt beyond reasonable doubt for the crimes charged thereby warranting their acquittal. While it is true that the trial court cannot dictate what particular evidence the parties must present in order to prove their respective cases, the fact remains that prosecution is still bound to present evidence that will support a finding of guilt beyond reasonable doubt.¹⁰⁹ We find and so hold that the prosecution clearly failed to discharge this burden.

WHEREFORE, the appeal is **GRANTED**. The Decision and Resolution dated November 29, 2018 and August 28, 2019, respectively, of the Sandiganbayan in SB-06-CRM-0025 to 0029 and SB-06-CRM-0030 to 0034, are hereby **REVERSED** and **SET ASIDE**.

Accused-appellants Ma. Consuelo Toroba Palma Gil-Roflo, Jerico O. Ebita, Norman Jay Jacinto P. Doral, Derrick P. Andrade, Sergio U. Andrade and Chona Andrade Tolentino, are **ACQUITTED** of the crimes of violation of Section 3(e) of Republic Act No. 3019, and Falsification of Public Documents under Article 171 (4) of the Revised Penal Code.


Let entry of judgment be immediately issued.

¹⁰⁷ 681 Phil. 1, 18 (2012).

¹⁰⁸ G.R. No. 248701, July 28, 2020.


¹⁰⁹ *Yap v. Lagtapon*, 803 Phil. 652, 666 (2017).

SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official leave.
ESTELA M. PERLAS-BERNABE
Senior Associate Justice


RODIL V. ZALAMEDA
Associate Justice


RICARDO P. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

A T T E S T A T I O N

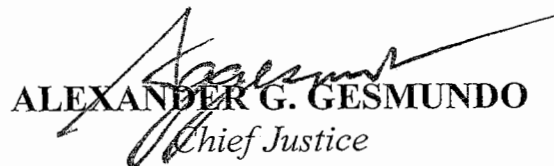
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice