

Republic of the Philippines
SANDIGANBAYAN
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

SB-21-A/R-0001 to 0030
For: Violation of Section 3(e) of
Republic Act No. 3019

-versus-

LEOMAR "OMAR" BASUEL
y BERNAL,
Accused-Appellant.

Present:
Quiroz, J. *Chairperson*
Pahimna, J. &
Jacinto, J.

Promulgated: 2022

APR 27 2022

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DECISION

PAHIMNA, J.:

This is an appeal from the Joint Decision¹ of the Regional Trial Court of Quezon City, Branch 88, dated September 8, 2020, finding accused-appellant **Leomar "Omar" Basuel** (Basuel) guilty beyond reasonable doubt of thirty (30) counts of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended. The dispositive portion of the Joint Decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused Leomar "Omar" Basuel y Bernal **GUILTY** beyond reasonable doubt of thirty (30) counts of violating Section 3 (e) of Republic Act No. 3019 and he is hereby sentenced to suffer for each count an indeterminate penalty of imprisonment ranging from one (1) year and one (1) day as minimum to four (4)

years and one (1) day as maximum, with perpetual disqualification from public office.

Accused Leomar "Omar" Basuel y Bernal is further adjudged to pay private complainant Philippine Veterans Affairs Office the amount of Php1,141,682.91 as actual damages.

SO ORDERED."

FACTUAL ANTECEDENTS

These cases stemmed from the Complaint-Affidavit filed by the Philippine Veterans Affairs Office (PVAO) against accused-appellant Basuel before the Office of the Ombudsman upon finding of unauthorized encoding of entries in the Supplementary Table of PVAO's database system through a series of computer manipulations which resulted in the printing of the subject checks and led to the unauthorized payment thereof. The Office of the Ombudsman then recommended the filing of Informations against accused-appellant Basuel in the proper court in a Resolution² dated October 29, 1998.

Accused-appellant Basuel was charged with thirty (30) counts of violation of Section 3(e) of R.A. No. 3019 before the Regional Trial Court of Quezon City, Branch 88 (RTC). The accusatory portion of the thirty (30) Informations were similarly worded except as to the date of the check, name of payee, check number, claim number and amount, to wit:

"That on or about December 1, 1995, or for sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, **Leomar B. Basuel**, a public officer, being then an employee of the Management Information System Group (MISG) of the Philippine Veterans Affairs Office (PVAO), while in the performance of his official and administrative function, and acting with evident bad faith, did then and there wilfully, unlawfully and criminally encode and print the pension Check No. 3836471 of Europa A. Basuel based on claim number OA-MCO-93-619086, without any legal basis or authority, in the

²Id., pp. 8-12

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amount of P24,991.67, thereby causing undue injury and prejudice to the government in the same amount.

CONTRARY TO LAW."

Hereunder are the details in the Informations charged against accused-appellant, namely, the date of the commission of the offense, the check number, the name of the payee, the claim number and the amount:

Case No.	Date	Payee Name	PVAO Claim No.	Check No.	Amount
98-80081	December 1, 1995	Europa A. Basuel	OA-MCO-93-619086	3836471	P24,991.67
98-80082	April 12, 1997	Europa A. Basuel	OA-MCO-93-619086	8495715	P27,000.00
98-80083	January 12, 1997	Jay Carl Sacbibit	TC-MCO-93-637347	4244448	P22,750.00
98-80084	January 28, 1997	Ildefonso A. Naval	OV-MCO-92-102214	8001337	P24,991.67
98-80085	October 28, 1997	Antonio Abayan	OV-MCO-92-093908	8002003	P16,475.00
98-80086	February 19, 1997	Francisco Garcia	OV-MCO-93-540785	8245963	P26,750.00
98-80087	March 3, 1997	Reynold Bauna	TC-MCO-94-318878	8247098	P21,750.00
98-80088	April 7, 1997	Carmen Saura	OW-MCO-94-066319	8249923	P22,500.00
98-80089	April 23, 1997	Florencio Abayan/ or Flor Abayan	OV-MCO-93-114088	8495810	P34,500.00
98-80090	May 6, 1997	Saura Reynold (sic)	TC-MCO-94-318878	8496667	P29,700.00
98-80091	May 22, 1997	Praxidio Alcanzo	OV-MCO-93-500045	8497825	P8,250.00
98-80092	July 11, 1997	Victoria Perey or Efigncia Diaz	OW-MCO-93-974347	8499377	P20,000.00
98-80093	July 17, 1997	Jennifer Saura	TM-MCO-94-318880	8499549	P38,375.00
98-80094	July 24, 1997	Petra G. de Tasa/ Petra Ne	OA-MCO-93-601388	8499825	P55,375.00
98-80095	August 7, 1997	Segundo Perez	OV-MCO-92-103709	8988617	P28,736.66
98-80096	August 7, 1997	Antiguela Macasieb (sic)	TS-MCO-93-646158	8988633	P4,750.00
98-80097	August 21, 1997	Ildefonso A. Naval	OV-MCO-92-102214	8988984	P48,366.00
98-80098	September 5, 1997	Rita Uce (sic)	OW-MCO-96-777644	8989296	P48,858.33
98-80099	September 5, 1997	Petronila del Mundo or Del Nila	OA-MCO-93-616182	8989309	P69,741.66
98-80100	September 9, 1997	Christopher Llabres or Jaime Llabres	DA-MCO-93-655371	8989478	P48,375.00

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98-80101	September 11, 1997	Monica Ablao	TS-MCO-95-322647	8989872 (sic)	P48,375.00
98-80102	September 16, 1997	Florencio Abayan	OV-MCO-93-114088	8989762	P69,941.67
98-80103	October 2, 1997	Jaime Antonio Naval or Jaime Naval	DA-MCO-93-655371	9730257	P69,375.00
98-80104	October 14, 1997	Melita M. Diamada	OW-MCO-94-066158	9730691	P52,500.00
98-80105	October 21, 1997	Rosario Del Rosario Ruiz or Rosario Ruiz	OA-MCO-93-601388	9730769	P69,499.91
98-80106	November 4, 1997	Imelda Naval	OA-MCO-93-629405	9731153	P64,941.67
98-80107	November 17, 1997	Apolonio R. Basuel	OV-MAO-93-119802	9731185	P41,967.00
98-80108	November 11, 1997	Jennifer M. Saura	TC-MCO-94-318880	9731199	P38,500.00
98-80109	December 2, 1997	Domingo N. Magat	OV-MCO-92-097286	9731593	P44,971.67
98-80110	January 5, 1998	Jose G. Tanghal	OV-MCO-93-114492	9732264	P34,000.00

On April 19, 2000, accused-appellant Basuel posted bail bond for the instant cases in the reduced amount of Six Hundred Thousand Pesos (P600,000.00) for his provisional liberty, through BF General Insurance Company, Inc.³

On April 25, 2000, accused-appellant Basuel, with the assistance of counsel, pleaded "Not Guilty" to the offenses charged against him.⁴

During pre-trial, the following stipulation of facts were entered into by the prosecution and the defense:⁵

1. The person of Omar Basuel y Bernal is the same person charged in the thirty (30) Informations pending before the court;
2. The Chief of the Management Information System Group (MISG) Division of the Philippine Veterans Affairs Office (PVAO) personally knew a certain Mel Citao and Remy de Belen;

³ Id., p. 115

⁴ Id., p. 117

⁵ Id., p. 125

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3. The database file of the PVAO, MISG Division is created for the purpose of encoding and printing pension checks;
4. Mr. Romeo Gonzales and the MISG have 19 staff members at the time of the incident alleged in the Information;
5. Mr. Gonzales, Chief of the MISG, PVAO, knows a certain Lilia Lizarondo; and
6. Mr. Gonzales is no longer the Chief of the MISG Division at present.

In seeking the reversal of the Joint Decision, accused-appellant filed a Notice of Appeal on December 2, 2020. Thereafter, the records of these cases have been forwarded to this Court, which has exclusive appellate jurisdiction over these cases, hence, this appeal.

EVIDENCE FOR THE PROSECUTION

Before the lower court, the prosecution presented the following evidence:

"In open court, **Romeo Gonzales** testified that sometime in December 1995, he was the Officer-in-Charge (OIC) of the Management Information System Group (MISG) of the Philippine Veterans Affairs Office (PVAO). Among the functions of the MISG are the printing of pension checks and updating of the pensioner's computer file. He expounded that prior to the printing of a pension check, the MISG must first receive the corresponding Memorandum from the Financial and Management Division or the Accounting Office. Indicated in the Memorandum is the specific amount or the coverage of payment to be made to a pensioner. The details indicated in the Memorandum will be encoded in the system by an encoder of the MISG. Gonzales stated that without the Memorandum, there is no authority to print checks for any pensioner. While he was the OIC of the MISG, accused Leomar "Omar" Basuel y Bernal was among the staff of the MISG tasked to update the files of the pensioners, such as, any change of address, or status as deceased, terminated, or suspended.

Sometime in January 1998, Chief Accountant Penelope Pamittan, summoned Gonzales to her office to inform the latter of the discovery of two (2) unauthorized checks - particularly, Checks Nos. 9731185 for Php41,967.00 (*Exhibit "A"*) and 9731184 for

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Php41,967.00 (*Exhibits "B" & "GG-31"*) - issued to Apolonio Basuel for payment of arrears. These two (2) checks were unauthorized because they were not covered by the proper Memorandum. Upon verification and audit of the two (2) unauthorized checks, it appeared from the computer files that the accused encoded the updated data. Gonzales confronted the accused, and the latter admitted that he encoded the entries thus causing the issuance of the supplementary checks in favor of his uncle Apolonio Basuel, sans any Memorandum. Gonzales thereafter issued Memorandum Letter dated January 15, 1998 addressed to the accused (*Exhibit "D"*), directing the latter to explain in writing the details of how the supplementary payments were initiated without the proper Memorandum of payment from the Financial and Management Division. The accused immediately responded through his Letter dated January 15, 1998 (*Exhibit "E"*). Thereafter, Gonzales reported the incident to the Administrator of PVAO as evidenced by the Memorandum Letter dated January 15, 1998 (*Exhibit "C"*).

After his meeting with the Chief Accountant, Gonzales called Assistant Chief Lilia Lizarondo, Programmer Janet Nabos, and the rest of the staff, to audit all transactions. During the audit, they discovered that there were thirty-one (31) checks entered in the Supplementary Table of the system that were not covered by any Memorandum. They found that the names of some pensioners were changed, either shortened or interchanged. Thus, the names indicated in some of the unauthorized checks were fictitious names of pensioners. They also found that accounts of deceased pensioners were reactivated, thus causing the issuance of checks in their favor despite their deceased status. Further, some pensioners who were completely paid were issued supplementary checks. Upon verification with the Philippine Veterans Bank, it was confirmed that the unauthorized checks were already negotiated and encashed. In the course of the audit, the MISG discovered that it was accused Leomar "Omar" Basuel y Bernal who caused the issuance of the thirty-one (31) unauthorized checks as his name appeared in the system indicating the person who encoded the entries in the unauthorized checks - specifically "*Updated by: OMAR*". Gonzales elucidated that the encoder can be easily identified because the entry of their personal passwords in the system in order to physically encode updates, automatically allows the system to indicate their names which would appear in the particular entry they have encoded.

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Gonzales stated that the entries which caused the issuance of the above-mentioned checks were encoded by the accused per computer printouts of the supplementary checks (*Exhibits "GG-18" to "GG-33"*). He explained that the entries of the accused in the

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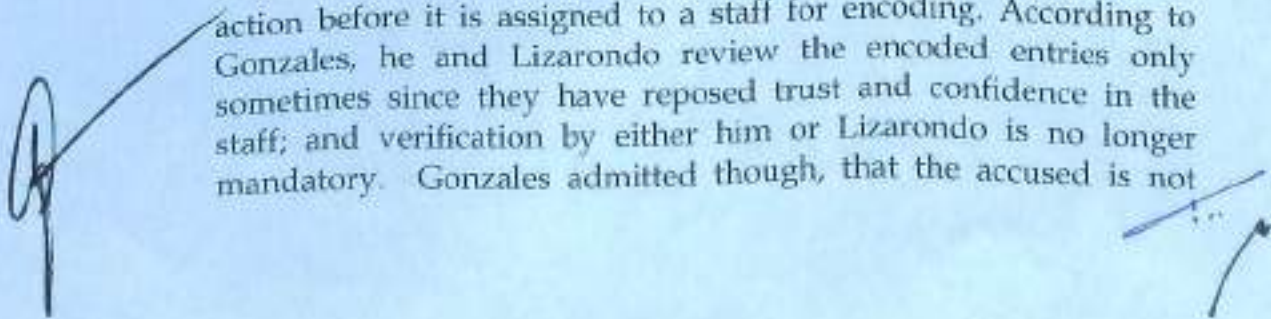
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system were unauthorized as the control numbers used by him are not found in the Logbook which tracks all incoming Memorandum for payment issued by the Financial and Management Division. Thus, any payment under a control number which is not found in the Logbook of the Financial and Management Division, and is not covered by a Memorandum, is unauthorized and illegal. According to Gonzales, upon receipt of a Memorandum from the Financial and Management Division, a staff named Susan Cuarteros will enter the corresponding details in the Logbook. This Memorandum from the Financial and Management Division indicates the amount to be paid, the period covered, and the name of payee. When asked of the possibility that a different person could have encoded the unauthorized entries and caused the indication of the name of the accused, Gonzales said that the password of each encoder is exclusive and confidential as it is personally created by him. It is only a particular encoder who can open the specific module/computer assigned to him. Gonzales elaborated that if an encoder leaves the service, the password leaves with him. He is not required to divulge it.

The findings in the audit conducted by Gonzales and the MISG were reduced in writing as evidenced by the Memorandum dated February 19, 1998 (*Exhibit "II"*). In the course of his testimony, Gonzales identified the person of the accused.

On cross-examination, Gonzales relayed his uncertainty if there have been similar anomalies that occurred in the PVAO. As Head and Officer-in-Charge of the MISG, Gonzales said that he has the overall supervision of the staff, and he constantly advises the Administrator of the PVAO on the technical aspect of the work in the MISG. Gonzales testified that all the pertinent Memoranda are prepared and approved by the Financial and Management Division; that once the checks are printed out by the Printing Section of the MISG, it will go directly to the Warrant Section for mailing; and all that the staff at the MISG encodes, though there are only two (2) authorized printers - namely, Ghie Nacional and Janet Nabos. Gonzales confirmed that the MISG keeps the pensioner's data and prints their checks; that aside from the Memorandum for payments, instructions in relation to the suspension, death, termination, and change of address of pensioners originate from the Accounting Department; that documents coming from the Accounting Department are received by the MISG through its staff named Susan Cuarteros, who will forward the same to Assistant Chief Lilia Lizarondo; then the latter will put some notation of action before it is assigned to a staff for encoding. According to Gonzales, he and Lizarondo review the encoded entries only sometimes since they have reposed trust and confidence in the staff; and verification by either him or Lizarondo is no longer mandatory. Gonzales admitted though, that the accused is not



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involved in the printing of checks. He said that while printouts would be the only way through which the output of the encoders is checked, it is not required due to the voluminous transactions; and the encoders have the discretion whether to print their output or not. Gonzales also claimed that the existing procedure is that after checks are printed, it no longer passes through him for review. The checks will go directly to the Warrant Section of the Accounting Department, for mailing. He admitted that sometimes, before the printed check is forwarded to the Warrant Section, he reviews the same if they are priority checks, which are the special requests of prominent persons such as the Administrator, military officials and congressmen. Gonzales further admitted that Checks Nos. 8495715, 4244448, 8001337, 8002003, 8245963, 8247098, 8249923 and 8495810, subject matters of Criminal Cases Nos. Q-98-80081 to Q-98-80089 can no longer be retrieved.

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Upon thorough questioning, Gonzales claimed that the final review of printed checks is done by the Financial Management Unit since he has nineteen (19) staff, and he is always called by the Administrator. Gonzales maintains that after the checks are printed by the MISG, it will go directly to the Warrant Section for mailing, which also includes the review of the checks. Although they monitor the trail of the transactions in their office, the thirty (30) checks subject matter of the instant cases may not have been reviewed by him or his subordinates before the same were forwarded to the Warrant Section because of the necessity of their release especially so when the printing of the checks had already been delayed. Gonzales insisted that it is not necessary for him to review the printed checks because the Warrant Section will review the same. While the Financial and Management Division can detect an anomalous check since they have the pensioner's data, he claimed that it is the responsibility of the Warrant Section to ensure that no check is issued spuriously. Stated differently, the main function of the MISG is to print the checks for client-veterans, but the Warrant Section should check the authenticity of the check before they mail or release the same to the payee. Gonzales acceded that some of the subject checks do not bear the signature of the accused or that they were endorsed or encashed by somebody else.

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Vicente Davantes was the second witness for the prosecution. He testified that he is a Special Investigator at the PVAO, tasked to conduct fact finding investigations on administrative cases and those pertaining to pension and benefits claims, as directed by the Chief of the Legal and Investigation Division. Davantes recalled that sometime in 1998, he and Al G. Villagrancia were assigned by their Chief, Atty. Dennis P. Dinglasan, to conduct an investigation regarding the irregularities

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encountered by Penelope Pamittan of the Accounting Office. According to Davantes, Pamittan discovered that there were some pension checks issued without the authority from the Accounting Office. He recounted that in the course of their investigation, they examined the records of the Accounting Office and the MISG, and inquired on the procedure and manner on how the checks were prepared, printed, and issued. Then, they compared the checks issued without authority with the data on hand, and traced said checks from the computers controlled by the accused and Marison C. Basuel, wife of the accused. Davantes testified on the procedure for the issuance of a pension check, wherein the Accounting Office of the Financial and Management Division must first issue the necessary Memorandum, which is recorded. The name of the payee and the corresponding amount to be paid are indicated in the Memorandum. After providing the necessary details, the MISG will encode the details in the system and print the checks. However, in these cases, Davantes stated that the subject checks were not in the record of checks to be issued, thus, they are classified as "unauthorized". On the basis of the printouts of the computer activities relating to the unauthorized checks, they concluded that it was the accused who encoded in the system leading to the issuance of the subject checks. Davantes expounded that the accused was assigned to encode supplementary checks at the MISG; that an encoder has the exclusive access to his file in the computer system of the PVAO, through his personal password; and that no other personnel can access the file assigned to a particular personnel. Upon verification with the Philippine Veterans Bank, Davante and his team were informed that the unauthorized checks have been negotiated, thus debited from the account of the PVAO, per the Letter dated September 28, 1998 issued by Ms. Nimfa S. Espero of the Philippine Veterans Bank (*Exhibits "GG-4" to "GG-16"*). Davantes further declared that the accused made himself scarce during the investigation, hence, they gathered the necessary data and information from other personnel who knew about the matter.

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On cross-examination, Davantes stated that he just assumed employment at the PVAO and the investigation was already ongoing when he joined the investigation team. The investigation team was tasked to determine the extent of the anomaly and the number of checks printed without authority, to gather the report of the MISG, to get the statements of Romeo Gonzales, Lilia Lizarondo, Penelope Pamittan, and the accounting personnel, and to coordinate with the Philippine Veterans Bank to determine whether the subject checks were negotiated. The progress of their investigation was reviewed regularly by their Chief Atty. Dinglasan. Davantes learned that Romeo Gonzales was the new



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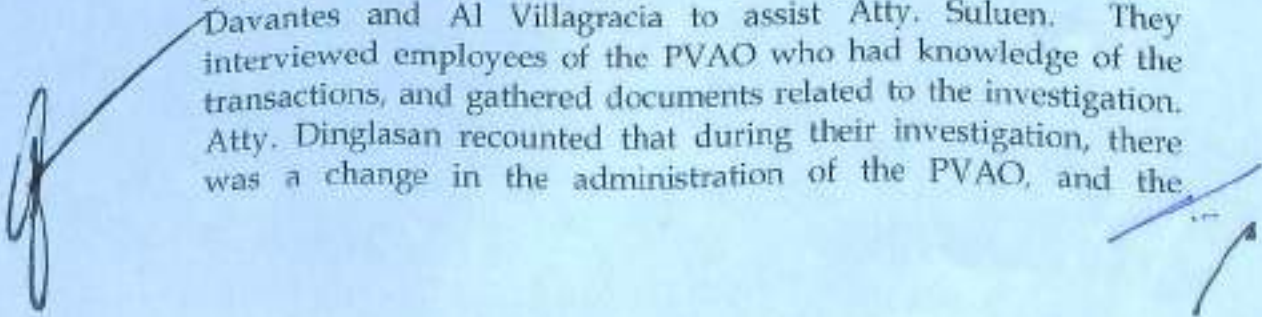
Chief of the MISG, replacing Lilia Lizaronda who was demoted, but Davantes did not go through the details as they focused their investigation to the checks printed without authority. Davantes relayed that in the course of their investigation, they inquired into the internal procedure of the MISG and their findings were based on the statements of Romeo Gonzales and the other personnel of the MISG, who may have a hand in the irregular activities, which included Lilia Lizarondo.

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According to Davantes, their Complaint Affidavit is based only on the data they have gathered, and so far, the investigation team has no basis to speculate that Romeo Gonzales had a hand in the anomaly. Davantes said that the crux of their investigation is to determine the person who entered or encoded the data in the system that led to the printing of the check, and not the person who physically printed the check. Thus, upon investigation, they were able to verify and confirm that the irregularities passed through the computer of the accused. Anent the procedure after the issuance of the Memorandum by the Accounting Office, Davantes explained that the MISG puts on record every Memorandum transmitted to it in a Logbook. Then, Romeo Gonzales would review and distribute the Memorandum to the encoders for encoding in the system. After the encoding, checks will then be printed. Davantes further narrated that when Romeo Gonzales and Lilia Lizarondo were interviewed, they said that they were unaware of the unauthorized checks issued. No one contested their statements.

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The third witness for the prosecution was **Atty. Dennis Dinglasan**. He testified that he was the Chief of the Legal and Investigation Division of the PVAO, which investigates cases referred by the Office of the Administrator of the PVAO. Upon referral, if the case referred to them involved claims, he and his investigators would interview the claimants; and if the case required the investigation of a PVAO employee, then they would conduct a fact finding investigation. Sometime in 1998, Atty. Dinglasan was tasked by the Administrator to extend legal and investigation assistance to Atty. Mark L. Suluen, who was designated as the Investigating Officer, in the probe involving the accused on account of the latter's implication in the unauthorized encoding and printing of pension checks, per Office Order dated January 21, 2008 (*Exhibit "JJ"*). Atty. Dinglasan assigned Vicente Davantes and Al Villagracia to assist Atty. Suluen. They interviewed employees of the PVAO who had knowledge of the transactions, and gathered documents related to the investigation. Atty. Dinglasan recounted that during their investigation, there was a change in the administration of the PVAO, and the



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documents they gathered during the investigation were forwarded to the Office of the Administrator. Atty. Dinglasan was then instructed by the new Administrator to prepare a Complaint Affidavit (*Exhibit "FF"*) and forward the documents gathered in the investigation to the Office of the Ombudsman.

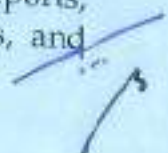
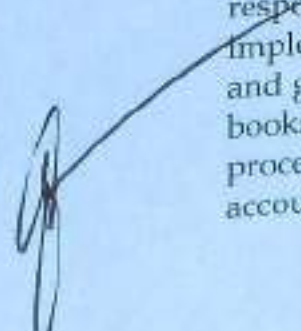
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On cross-examination, Atty. Dinglasan stated that he did not see the report of Atty. Suluen and he based his Complaint Affidavit on the official records gathered by Special Investigators Vicente Davantes and Al Villagracia. When asked if he actually assisted in the investigation, Atty. Dinglasan said that Davantes and Villagracia reported to him the progress of the investigation from time to time. According to Atty. Dinglasan, the investigation team led by Chief Investigator Atty. Suluen was not able to prepare a final investigation report, but they were able to gather documents. Atty. Dinglasan confirmed that his office received a copy of the *Ganting Salaysay (Exhibit "8")* and *Rejoinder (Exhibit "9")* executed by the accused in response to the Complaint Affidavit filed against him before the Office of the Ombudsman. When asked why he did not investigate Lilia Lizarondo, Mel Citao, and Remy de Belen, Atty. Dinglasan replied that the Office Order authorized them to look into the acts of the accused only. They had no authority to investigate other individuals. In relation to the thirty (30) checks subject of these cases, Atty. Dinglasan requested for assistance from the Accounting Office and the MISG in order to interpret the subject checks. Their investigation was focused only on the participation of the accused in the printing of the checks, and they have no authority to go after the persons who encashed said subject checks.

On re-direct examination, Atty. Dinglasan presented the Memorandum dated January 19, 1998 issued by Ms. Lydia M. Lazo, Acting Director III of the PVAO (*Exhibit "NN"*), to show that the Legal and Investigation Division was designated to assist the Acting Director II in the investigation of the case of the accused in order to expedite the process of investigation.

Thereafter, the prosecution presented **Penelope Pamittan** as its fourth witness.

Ms. Pamittan testified that she was the Former Chief of the Accounting Division of the PVAO. Among her duties and responsibilities were to supervise the recording of transactions and implementation of accounting policies, and to provide instructions and guidance to the supervisor and staff on the maintenance of the books of account, preparation of financial statements, and proper processing of payments. She likewise signed financial reports, accounting memorandum, disbursement vouchers, payrolls, and



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other payables. Pamittan explained that an Accounting Memorandum emanates from the Accounting Division, specifically the Pension Benefit and Disbursement Unit, and the same serves as basis for the payment of pension. The Accounting Memorandum contains the period covered and the amount of pension to be received by the pensioner, which has to be certified by the Chief of Accounting Division, recommended for approval by the Chief of the Financial and Management Division, and approved by the Administrator of the PVAO. Thereafter, the Accounting Memorandum is forwarded to the MISG for check printing. Pamittan recounted that sometime in the 2nd week of January 1998, she first encountered the name of the accused when an Accounting Memorandum relating to pensioner Apolonio Basuel was prepared for her signature. When she verified in the system to check whether there was basis to print the check, she discovered that two (2) checks in the name of Apolonio Basuel - specifically, Checks Nos. 9731184 for Php41,967.00 (*Exhibit "GG-31"*) and 9731185 for Php41,967.00 (*Exhibit "A"*) - were already printed, and yet, the Memorandum was still to be signed by her. Pamittan immediately informed Romeo Gonzales, Chief of the MISG, of her discovery. It was found that the accused committed the unauthorized encoding. In the course of her testimony, Pamittan identified the person of the accused.

On cross-examination, Pamittan averred that the Accounting Division is under the Financial and Management Division, headed by Mr. Heriberto Ruanto. The MISG is a separate and different office from the Accounting Division. When Pamittan discovered the two (2) printed checks without a signed Memorandum, she immediately called the attention of Romeo Gonzales. When asked if Romeo Gonzales may be involved in the anomaly, Pamittan responded that she cannot answer the question because she has no basis. Pamittan further stated that she was called and informed by the Administrator that instructions have been given to Romeo Gonzales to download all data regarding all unauthorized encodings that led to the issuance of checks. During the investigation, Pamittan was interviewed by Atty. Suluen on the circumstances of her discovery. Based on their records, Checks Nos. 9731184 and 9731185 are related to the account of the accused.

As earlier stated, the testimony of **Al Villagracia** was stipulated on by the parties to corroborate the testimony of Vicente Davantes.

Moises Carpio was the fifth prosecution witness to testify. He is a Branch Manager of the Philippine Veterans Bank, and his predecessor to the position was former Branch Manager Ms. Nimfa Espero. According to Carpio, the PVAO is a client of the Philippine Veterans Bank, which maintains a deposit account with them.

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Carpio explained that when a check issued by the PVAO is presented and negotiated, it is either for encashment by the payee or for deposit in the payee's account. The corresponding amount is then deducted from the account of the PVAO. Carpio presented the following six (6) checks issued by the PVAO that have been negotiated:

Name of Payee	Check No.	Exhibit	Amount	Status
Jennifer Mondigo Saura	8499549	"GG-42"	Php38,375.00	Encashed
Reynold Mondigo Saura	8247098	"GG-44"	21,750.00	Encashed
Florencio Abayan	8495810	"GG-5"	34,500.00	Deposited
Antiquela Macasieb	8988633	"GG-41"	4,750.00	Deposited
Marieta Padama Usi	8989296	"GG-40"	48,858.33	Encashed
Melita Magno Diamada	9730691	"GG-43"	52,500.00	Deposited

After the checks were either encashed or deposited, the corresponding amounts were debited or deducted from the account of the PVAO. When Check No. 9731185 (*Exhibit "A"*) was shown to Carpio, he testified that based on the markings or endorsement on the dorsal portion of the check, the same had been deposited to Far East Bank. Anent the other subject checks, the same have been returned to the PVAO. Carpio stated that a request was made with the Philippine Clearing House ("PCH") for photocopies of the subject checks, since the PCH retains photocopies of negotiated checks. However, the PHC sent a Letter dated February 15, 2012 (*Exhibit "GG-45"*), stating that they can no longer provide "photocopies of items processed for the year 1997 and 1998 as microfilm records of the same were already destroyed". "PCHC shall keep microfilm/electronic images and duplicate lists of the items processed for a period of five (5) years from the date of clearing."

Carpio further testified that the following checks issued by the PVAO have likewise been negotiated:

Name of Payee	Check No.	Amount	Exhibit
Reynold Mondigo Saura	8496667	Php29,700.00	"CC-6"
Petra G De Tasa	8499825	55,375.00	"GG-7"
Segundo Magpayo Fernandez (Alias Segundo Fernandez)	8988617	28,736.66	"GG-8"
Ildefonso Abella Naval	8988984	48,366.00	"GG-9"
Petronila Del Mundo	8989309	69,741.66	"GG-10"
Christopher H Llabres	8989478	48,375.00	"GG-11"
Jaime Antonio Naval	9730257	69,375.00	"GG-12"
Rosario del Rosario Ruiz	9730769	69,499.91	"GG-13"
Imelda H Naval	9731153	64,941.67	"GG-14"
Jennifer Mondigo Saura	9731199	38,500.00	"GG-15"
Jose Gatmaitan Tanghal	9732264	34,000.00	"GG-16"

The last witness of the prosecution was **Janet Nabos**. She was an Administrative Assistant at the PVAO, assigned at the MISG, and she was in charge of printing checks. The accused was a co-worker at the MISG. She recalled that sometime in the 2nd week of January 1998, Romeo Gonzales, the Head of the MISG, instructed her to generate the list of supplementary entries of the accused.

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She then verified from the list if he was authorized to enter payment and she discovered several unauthorized entries made by the accused. Nabos classified the unauthorized entries committed by the accused into four (4) categories, *viz*: (i) deceased pensioners but were issued supplementary checks, (ii) activated deceased pensioners but were issued supplementary checks, (iii) pensioners with complete payment but were issued supplementary checks, and (iv) fictitious names created and issued supplementary checks.

The following are checks issued belonging to the first category - deceased pensioner but were issued supplementary checks:

1. Pensioner Antonio Abayan under Claim No. OV-MCO-92-093908 was reported deceased on May 19, 1996. However, Check No. 8002003 dated January 28, 1997 for Php16,475.00 (*Exhibit "GG-20"*) was later issued;
2. Pensioner Flor E. Abay under Claim No. OV-MCO-93-114088 was reported deceased on May 19, 1994. However, accused caused the issuance of two (2) supplementary checks using the claim number of the late Flor E. Abay - particularly, Check No. 8495810 dated April 23, 1997 for Php334,500.00 (*Exhibits "GG-5" & "GG-22"*) under the fictitious name "Flor G. Abayan" and Check No. 8989762 for Php69,941.67 (*Exhibit "GG-29"*) under the fictitious name "Florencio Abayan"; and,
3. Pensioner Petronila Del Mundo under Claim No. OA-MCO-93-6161682 was reported deceased on May 1995. The accused used her claim number under the fictitious name "Nila Del" (*Exhibits "GG-27" & "GG-37"*) to cause the issuance of Check No. 8989309 for Php69,741.66, which was inadvertently issued in the name of "Petronila Del Mundo" (*Exhibits "GG-10", "GG-34" & "GG-37"*).

The second category is activated deceased pensioners but were issued supplementary checks. The accused issued checks to pensioners who were reported "*RTS deceased*" and have yet to report back to the PVAO for resumption of payment. Upon review, Nabos found that the accused prepared the supplementary checks, using claim numbers of legitimate pensioners but he changed their names. She expounded that the claim number of the pensioner is the basis in printing supplementary checks. Nabos illustrated the unauthorized activities of the accused as follows: The claim number of legitimate pensioner Jaime Antonio Naval is Claim No. DA-MCO-93-655371. He was reported deceased in November 1994 and his account was resumed only in January 1998. The accused caused the issuance of two (2) checks using his claim number - specifically, Check No. 8989478 dated September 9, 1997 for Php48,375.00 (*Exhibits "GG-11" & "GG-28"*) under the fictitious name "Christopher H. Llabres" and Check No. 9730257 for Php69,375.00

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dated October 2, 1997 (*Exhibits "GG-12" & "GG-29"*) in the name of Jaime Antonio Naval. Pensioner Petra De Tasa under Claim No. OA-MCO-93-601388 was reported deceased in March 1997. She reported to resume her account in January 1998. Using her claim number, the accused caused the issuance of two (2) checks - particularly, Check No. 8499825 dated July 24, 1997 for Php55,375.00 (*Exhibit "GG-7"*) under the fictitious name "Petra G. Ne" (*Exhibit "GG-25"*) and Check No. 9730769 dated October 21, 1997 for Php69,499.91 (*Exhibits "GG-13" & "GG-30"*) under the fictitious name "Rosario Del Rosario Ruiz".

The third category is pensioners with complete payments but were issued supplementary checks. The following are pensioners whose pensions have been completely paid, but the accused still issued supplementary checks:

Name of Payee	Check No.	Amount	Exhibit
Europa A Basuel	3836471	Php24,991.67	"GG-18"
Europa A Basuel	8495715	27,000.00	"GG-18"
Jay Carl Sachibit	4244448	22,750.00	"GG-19"
Ildelfonso A Naval	8001337	24,991.67	"GG-19"
Ildelfonso Abella Naval	8988984	48,366.00	"GG-9" & "GG-26"
Francisco M Garcia	8245963	26,750.00	"GG-21"
Reynold Mondigo Saura	8247098	21,750.00	"GG-44" & "GG-21"
Reynold Mondigo Saura	8496667	29,700.00	"GG-6" & "GG-23"
Carmen Mondigo Saura	8249923	22,500.00	"GG-22"
Praxidio San Andres Alcanzo	8497825	8,250.00	"GG-23"
Efigenia Angat Diaz	8499377	5,375.00	"GG-24"
Jennifer Mondigo Saura	8499549	38,375.00	"GG-42" & "GG-24"
Jennifer Mondigo Saura	9731199	38,500.00	"GG-15" & "GG-32"
Segundo Magpayo Perez	8988617	28,736.66	"GG-8" & "GG-25"
Antiquela Masieb	8988633	4,750.00	"GG-41" & "GG-26"
Marieta Padama Usi	8989296	48,858.33	"GG-40" & "GG-27"
Monica Nigos Ablao	8989872	48,375.00	"GG-28"
Melita Magno Diamada	9730691	52,500.00	"GG-43" & "GG-30"
Apolonio Basuel	9731185	41,967.00	"A" & "B"
Domingo N Magat	2631549	10,366.67	-
Domingo N Magat	9731593	44,971.67	"GG-47" & "GG-32"
Jose Gatmaitan Tanghal	9732264	34,000.00	"GG-16" & "GG-33"

The accused also used Claim No. OA-MCO-93-629405 of legitimate pensioner Paulina Viray to cause the issuance of two (2) supplementary checks - particularly, Check No. 4241572 for Php23,375.00 and Check No. 9731153 for Php64,941.67 (*Exhibits "GG-14" & "GG-31"*) under the fictitious name "Imelda H. Naval".

In the course of her testimony, Nabos identified the person of the accused and the Memorandum dated February 19, 1998 issued by Mr. Romeo Gonzales (*Exhibit "II"*).

On cross-examination, Nabos declared that she generated the list of supplementary entries of the accused in 1998, after the Accounting Division discovered that there were double entries of payments made upon pensioner Apolonio Basuel who turned out

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to be the grandfather of the accused. Nabos was instructed to bring out all the records of entries and retrieve the list from the system. They compared the list of entries with the record, eliminated entries that were authorized and unearthed unauthorized entries that led to double payments. Nabos explained the process that in order for a veteran member to receive pension, he or she must first apply for pension; then, said application must be approved by the Claims Division and the Administrator; thereafter, the list of approved claims is forwarded to the MISG for encoding, and for printing of the check. After the encoding and printing, the checks are transmitted to the Mailing Section for releasing and mailing. A mailed check with the annotation "RTS" are punctured and entered as such in the system. And once a pensioner reappears, the punctured check is replaced by a supplementary check.

According to Nabos, the accused is a member of the staff of MISG, but she could not recall who supervises the accused. He only encodes entries relating to supplementary checks in the system, while the printing of the checks is the duty of Nabos. They use biometrics to enter the office, thus, anyone from the office can enter beyond office hours. Nabos said that every employee in the MISG has his own computer activated by his own password. Once the password is entered, the name of the employee will appear in the system, as well as in the entries; and then the same will be forwarded to the check printer. According to Nabos, once the entries are received, they proceed to print the checks, and they no longer verify the legitimacy of the check. In this case, when they checked the system, the unauthorized entries were logged under the name of the accused. Nabos was asked on cross-examination, how she was able to see the name of the accused, and she explained that one can see the name of the person who caused the entry in the "Query". While Nabos may not have actually seen the accused enter the data for the supplementary check, the name "OMAR" appeared in the system as the person responsible for the entry. Nabos averred that the entries in the system cannot be changed, and even the Head of the MISG can only access the system through the "Query". Nabos confirmed that the subject checks are for the payee's account and the name of the accused does not appear in said checks.

On re-direct examination, Nabos underscored that the database can only be accessed by other people through the "Query", and the entries therein cannot be edited. Similarly, the supervisors of the encoders can access the system only through the "Query", whereas the encoder can access his computer through his password.

On re-cross examination, Nabos added that should an employee be absent, another employee may use the same

computer, but he shall enter his own personal password, and his entries shall be under his own name.”⁶

DOCUMENTARY EVIDENCE FOR THE PROSECUTION

In the Orders dated January 22, 2016⁷ and May 13, 2020⁸, the RTC admitted the prosecution Exhibits “A” to “E”, “GG” to “GG-3”, “GG-5” to “GG-9”, “GG-12”, “GG-18” to “GG-33”, “GG-40” to “GG-45”, “HH”, “JJ”, “LL” and “NN”, including the submarkings.

EXHIBIT	DESCRIPTION
“A”	Philippine Veterans Affairs Office (PVAO) Check No. VA-0009731185 to Apolonio Basuel in the amount of P41,967.00
“B”	Computer printout of the check issued to Apolonio Basuel
“C”	Memorandum letter dated January 15, 1998 of Mr. Romeo Gonzales addressed to the Administrator of PVAO regarding “Unauthorized Supplementary Encoding”
“C-1”	Page 2 of the said letter
“C-2”	Signature of Mr. Gonzales
“D”	Memorandum letter dated January 15, 1998 of R. Gonzales to the Accused regarding “Unauthorized Supplementary Encoding”
“D-1”	Signature of Mr. Gonzales
“E”	Letter dated January 15, 1998 of accused addressed to Mr. Romeo Gonzales
“GG”	Reply-Affidavit executed by Messrs. Vicente M. Davantes, Al G. Villagracia and Atty. Dennis P. Dinglasan
“GG-1” to “GG-3”	Page 2 to 4 of the affidavit
“GG-5”	Copy of PVAO Check No. VA 00084995810 in the

⁶ Supra Note 1, pp. 629-645
⁷ Id, p. 567
⁸ Id., p. 619

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	amount of P34,500.00 with Florencio Abayan as payee
"GG-6"	Copy of PVAO Check No. VA 0008496667 in the amount of P29,700.00 with Mr. Reynold Mondigo Saura as payee
"GG-6-a"	Signature appearing on the dorsal portion of the check showing that it was negotiated with the bank
"GG-7"	Copy of PVAO Check No. VA 0008499825 in the amount of P55,375.00 with Ms. Petra de Tasa as payee
"GG-7-a"	Signature appearing on the dorsal portion of the check indicating that it was negotiated and encashed with the bank
"GG-8"	Copy of PVAO Check No. VA 0008988617 in the amount of P28,736.65 with Segundo Magpayo Fernandez (Alias Segundo Fernandez) as payee
"GG-8-a"	Signature appearing on the dorsal portion of the check indicating that it was negotiated and encashed with the bank
"GG-9"	Copy of PVAO Check No. VA 0008988984 in the amount of P48,366.00 with Ildefonso Abella Naval as payee
"GG-9-a"	Signature appearing on the dorsal portion of the check indicating that it was negotiated and encashed with the bank
"GG-12"	Copy of PVAO Check No. VA 0009730257 in the amount of P69,375.00 with Jaime Antonio Naval as payee
"GG-12-a"	Signature appearing on the dorsal portion of the check indicating that it was negotiated and encashed with the bank
"GG-18"	Computer Printout of the supplementary checks (Check Nos. 0003836471 and 0008495715) issued to Europa Basuel
"GG-19"	Computer Printout of the supplementary checks - Check No. 0004244448 to Jay Carl Sacbibit and Check No. 0008001337 to Ildefonso Naval

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"GG-20"	Computer Printout of the supplementary Check No. 0008002003 issued to Antonio Abayan
"GG-21"	Computer Printout of the supplementary checks - Check No. 0008245963 to Francisco Garcia and Check No. 0008247098 to Reynold Mondigo Bauna (sic)
"GG-22"	Computer Printout of the supplementary checks - Check No. 0008249923 to Carmen Mondigo Saura and Check No. 0008495810 to Flor Abayan
"GG-23"	Computer Printout of the supplementary checks made by the accused - Check No. 0008496667 to Reynold Saura and Check No. 0008497825 to Praxidio S. Alcanzo
"GG-24"	Computer Printout of the supplementary checks made by the accused - Check No. 0008499377 to Efigencia Diaz and Check No. 0008499549 to Jennifer Saura
"GG-25"	Computer Printout of the supplementary checks made by the accused - Check No. 0008499825 to Ne Petra and Check No. 0008988617 to Segundo Perez
"GG-26"	Computer Printout of the supplementary checks made by the accused - Check No. 0008988633 to Antiquela Macasieb and Check No. 0008988984 to Ildelfonso Naval
"GG-27"	Computer Printout of the supplementary checks made by the accused - Check No. 0008989296 to Rita Uce and Check No. 0008989306 (sic) to Nila Del
"GG-28"	Computer Printout of the supplementary checks made by the accused - Check No. 0008989478 to Christopher Llabres and Check No. 0008989672 Monica Ablao
"GG-29"	Computer Printout of the supplementary checks made by the accused - Check No. 0008989762 to Florencio Abayan and Check No. 0009730257 to Jaime Naval
"GG-30"	Computer Printout of the supplementary checks made by the accused - Check No. 0009730691 to Melita Magno Diamada and Check No. 0009730769 to Rosario Ruiz
"GG-31"	Computer Printout of the supplementary checks made by the accused - Check No. 0009731153 to

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	Imelda Naval and Check No. 0009731184 to Apolonio Basuel
"GG-32"	Computer Printout of the supplementary checks made by the accused - Check No. 0009731199 to Jennifer Saura and Check No. 0009731593 to Domingo Magat
"GG-33"	Computer Printout of the Supplementary Check No. 0009732264 made by the accused to Jose Gatmaitan (sic)
"GG-40"	Copy of PVAO Check No. VA 0008989296 in the amount of P48,858.33 with Marieta Padama Usi as payee
"GG-41"	Copy of PVAO Check No. VA 0008988633 in the amount of P4,750.00 with Antiquela Macasieb as payee
"GG-42"	Copy of PVAO Check No. VA 0008499549 in the amount of P38,375.00 with Jennifer Mondigo Saura as payee
"GG-43"	Copy of PVAO Check No. VA 0009730691 in the amount of P52,500.00 with Melita Magno Diamada as payee
"GG-44"	Copy of PVAO Check No. VA 0008247098 in the amount of P21,750.00 with Reynold Mondigo Saura as payee
"GG-45"	Letter dated February 15, 2012 addressed to Mr. Evangelo B. Savellano, Jr., Head-Clearing Operations of the Philippine Veterans Bank by Mr. Anthony Joe Manongas
"HH"	1 st Indorsement of the Office of the Ombudsman
"HH-1"	Resolution dated October 29, 1998 of the Evaluation and Preliminary Investigation Bureau of the Office of the Ombudsman
"JJ"	Office Order dated January 21, 1998 designating Atty. Mark Suluen as the investigating officer tasked to determine the involvement of the accused in the anomalous encoding and printing of old age pension checks
"JJ-1"	Signature of Umberto A. Rodriguez, DirGen PNP (Ret.) Administrator
"LL"	Letter-confession dated March 6, 2008 of the

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	accused
"NN"	Memorandum dated January 19, 1998 addressed to PVAO administrator from Acting Director III Lydia Lazo

EVIDENCE FOR THE DEFENSE

For his defense, accused-appellant presented himself as sole witness. He testified that he was hired as a contractual clerk of the Philippine Veterans Affairs Office (PVAO) in 1994. His duties include the encoding of the information in the computer which is provided by his superior, Mr. Romeo Gonzales. He was just informed of the termination of his employment by Mr. Noel Pamittan without knowing its cause. Thereafter, he learned from the Head of the Administrative Department, Ms. Violeta Mariano, that a case was filed against him before the Ombudsman.⁹

Accused-appellant further explained that his duties include the updating of the status of the veterans and encoding of the approved checks of the veterans from a list, either in the form of a note or those given verbally by Romeo Gonzales. The latter would then ask him to do the unpaid checks of the veterans. Accused-appellant clarified that there are different encoders who are tasked in the preparation of the unpaid checks.¹⁰

Accused-appellant identified the *Ganting Salaysay* (Exhibit "8") and Rejoinder (Exhibit "9") as well as the documents attached thereto.¹¹

On cross-examination, accused-appellant averred that the data stated in the master list are the details of the pensioner's accounts such as the updated status of veterans and their unpaid pensions. After encoding the data, the printouts will be transmitted to the Manager. He also confirmed that he was the one who printed the printouts marked as Exhibits GG-18 to GG-27 and there are no

⁹ TSN dated October 4, 2016

¹⁰ TSN dated February 14, 2018

¹¹ TSN dated October 31, 2018

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evidence presented to prove that he was authorized to encode the data stated in the said documents.¹²

On redirect examination, accused-appellant attested that he was assigned as Clerk II based on the Plantilla of Casual Appointment, an attachment in his Rejoinder Affidavit.¹³

On recross-examination, accused-appellant stated that there must be a request before encoding the entries.¹⁴

Exhibits "8", "9", "9-E", "10" and "11" were offered as documentary evidence for the defense and admitted by the RTC in its Order dated May 13, 2020. Exhibits "12" to "15", which are common exhibits being marked as Exhibits "GG-7" to "GG-9" and "GG-12" for the prosecution, were likewise admitted.¹⁵

DOCUMENTARY EVIDENCE FOR THE DEFENSE

EXHIBIT	DESCRIPTION
"8"	<i>Ganting Salaysay</i> dated 16 September 1998
"8-A"	Signature of the accused
"9"	<i>Sinumpaang Salaysay</i> (Rejoinder) dated 26 September 1998
"9-E"	Plantilla of Casual Appointment <i>(This exhibit is a common exhibit with the Prosecution marked as Exhibit GG-39-B which may be found on p. 554 of the court records.)</i>
"10"	PVAO Check No. VA-0008495810
"10-A"	Signature of Florencio G. Abayan
"10-B and C"	Signatures <i>(The foregoing exhibits are common exhibits with the Prosecution marked as Exhibit GG-5 which may be found on p. 515 of the court records.)</i>

¹² TSN dated March 20, 2019

¹³ Id., pp. 5-6

¹⁴ Id., pp. 6-7

¹⁵ Supra note 8

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"11"	PVAO Check No. VA-0008496667
"11-A"	Signature of Reynold M. Saura
"11-B and C"	Signatures of Carmen M. Saura <i>(The foregoing exhibits are common exhibits with the Prosecution marked as Exhibit GG-6 which may be found on p. 516 of the court records.)</i>
"12"	PVAO Check No. VA-0008499825
"12-A"	Signatures
"12-B"	Signature of Petra G. Tasa <i>(These exhibits are common exhibits with the Prosecution marked as Exhibit GG-7 which may be found on p. 517 of the court records.)</i>
"13"	PVAO Check No. VA-0008988617
"14"	PVAO Check No. VA-0009730257
"15"	PVAO Check No. VA-0008988984

PROCEEDINGS BEFORE THE SANDIGANBAYAN

In a Minute Resolution¹⁶ dated January 20, 2021, accused-appellant was directed to file an Appellant's Brief within thirty (30) days from notice of the resolution, while the appellee was directed to file an Appellee's Brief within thirty (30) days from receipt of the appellant's brief.

On March 25, 2021, accused-appellant Basuel filed his Appellant's Brief.¹⁷ Accused-appellant Basuel contended that the prosecution failed to prove that he acted with manifest partiality, evident bad faith or inexcusable negligence as the testimonies of the prosecution witnesses with respect to the internal procedure of PVAO in the preparation and issuance of the checks were not supported by evidence to prove the existence of said procedure. There is also no proof that accused-appellant was aware of the existence of such procedure.

¹⁶ Records, pp. 129-130

¹⁷ Id., pp. 145-157

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On the other hand, the plaintiff-appellee filed a Manifestation and Motion to Admit its Appellee's Brief on October 27, 2021.¹⁸ It averred that the Regional Trial Court did not commit any reversible error in convicting accused-appellant for thirty (30) counts of violation of Section 3(e) of R.A. No. 3019 by giving credence to the testimonies of the prosecution witnesses which were supported by documentary evidence on record.

It maintained that accused-appellant, with evident bad faith, took advantage of his position when he encoded entries in the Supplementary Table without the required Memorandum of payment or authority from the Financial and Management Division and caused the issuance of the subject unauthorized checks as his name appeared in the computer printouts as the person who encoded the entries in the system. Accused-appellant disregarded the policy of PVAO which requires that the entries to be encoded in the database system must be pursuant to an Accounting Memorandum. Such act of accused-appellant has caused undue injury and damage to the government as public funds were disbursed in favor of the payees who were not authorized and not entitled to receive the proceeds of the pension checks.

ISSUE

Whether or not the RTC correctly convicted accused-appellant Basuel for thirty (30) counts of violation of Section 3(e) of R.A. No. 3019, as amended.

RULING OF THE COURT

Accused-appellant Basuel is charged with violation of Section 3(e) of R.A. No. 3019 which provides:

Section. 3. *Corrupt practices of public officers.* - In addition to acts or omissions of public officers already penalized by

¹⁸ Id., pp. 211-250

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existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

For a person to be held liable under said provision, the prosecution must sufficiently establish the following elements:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. The accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. That the accused's action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his/her functions.¹⁹

As to the first element, it is undisputed that accused-appellant Basuel is a public officer discharging official and administrative functions as he was employed as Clerk II of the Philippine Veterans Affairs Office at the time material to the instant cases.

With respect to the second element, accused-appellant Basuel allegedly acted in bad faith when he encoded the entries in the subject pension checks without any legal basis and/or authority. The

¹⁹ Cabrera v. Sandiganbayan, G.R. Nos. 162314-17. October 25, 2004

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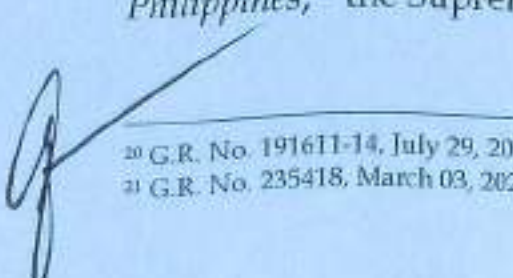
entries in the Supplementary Table in the database of its pensioners were claimed to be encoded by accused-appellant which caused the printing of the Supplemental Pension Checks.

As held by the Supreme Court in the case of *Cabrera v. People of the Philippines*,²⁰ the second element provides the modalities by which a violation of Section 3(e) of R.A. No. 3019 may be committed. It must be stressed that these three modes, namely "manifest partiality," "evident bad faith," or "gross inexcusable negligence" are not separate offenses, and proof of the existence of any of these three in connection with the prohibited acts committed, is sufficient to convict. As explained by this Court:

x x x There is "manifest partiality" when there is clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "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. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected. (*Citations omitted*)

Here, the Informations filed against accused-appellant Basuel alleged only one of the said modalities which was evident bad faith.

In the recent case of *Suba v. Sandiganbayan and People of the Philippines*,²¹ the Supreme Court explained:

 ²⁰ G.R. No. 191611-14, July 29, 2019

²¹ G.R. No. 235418, March 03, 2021

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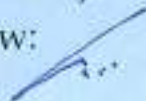
“Jurisprudence instructs that bad faith referred to under Section 3(e) of RA. No. 3019 does not simply connote bad judgment or negligence but of having a palpably and patently fraudulent and dishonest purpose to do some moral obliquity or conscious wrongdoing for some perverse motive, or ill will. It connotes a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. It is a breach of sworn duty through some motive or intent or ill will and partakes of the nature of fraud.”

The prosecution has sufficiently adduced evidence showing the fraudulent intention of accused-appellant in encoding the entries in the computer database of Philippine Veterans Affairs Office.

Preliminarily, the knowledge of the accused over the internal process of the Management Information System Group as to the need of an Accounting Memorandum before encoding the entries in the Supplementary Table will be under consideration.

In his Appellant's Brief, the accused adamantly refused to acknowledge knowing such procedure before encoding and releasing a check in his disposal.

Nevertheless, a Letter marked as Exhibit (“E”) was put under the perusal of the Court where the accused contended that he only did the alleged acts of making supplementary checks without any memorandum order because he only wanted to help his Uncle. In other words, he knew for a fact that an Accounting Memorandum is required before encoding the entries in the Supplementary Table which caused the printing of the subject supplementary pension checks. Said evidence is shown below:



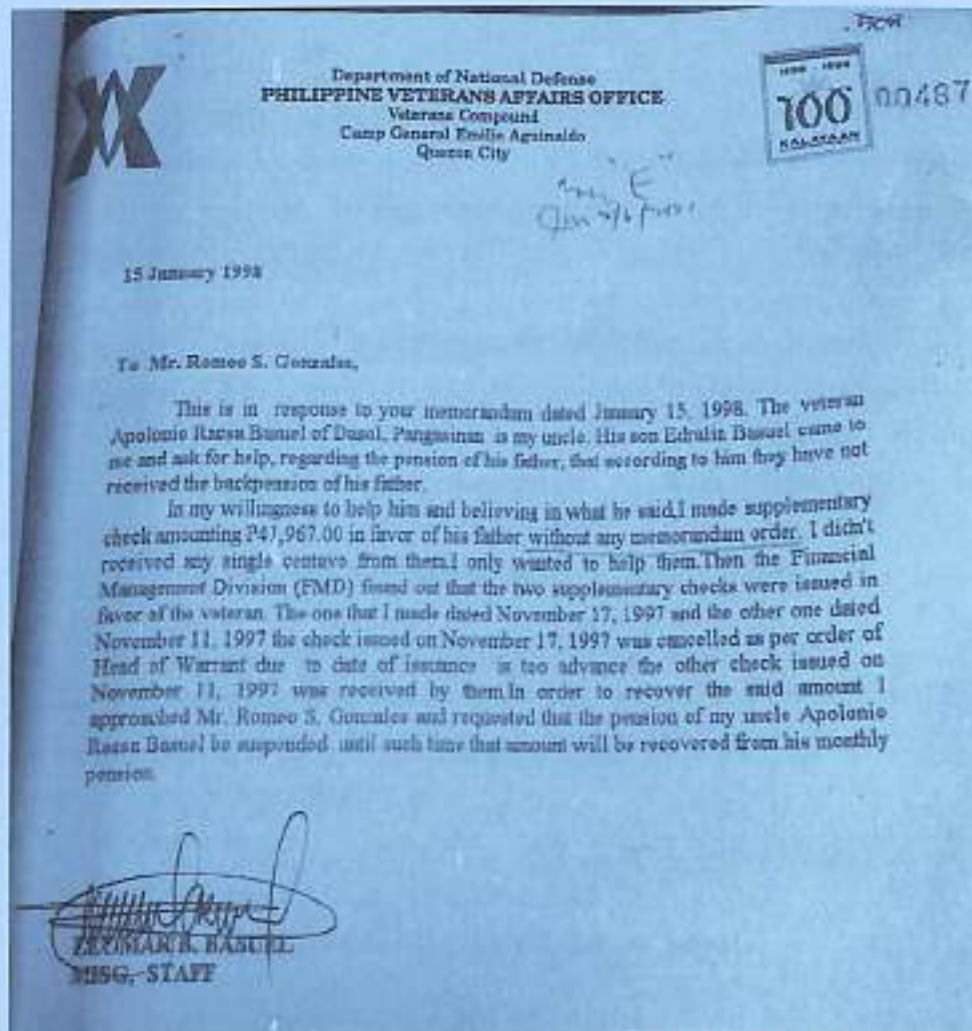
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Through the evidence at hand, the Court is of the view that the accused admitted to have knowledge over such process before printing and releasing the checks. The affirmative defense of the accused for doing such act of issuing the checks only to help his relative was an admission of the offense in dispute without any room for doubt. Accused-appellant knew that an Accounting Memorandum issued by the Financial and Management Division is needed to encode entries in the subject checks. Otherwise, the checks would not be perfectly issued and such will not fulfill its purpose of aiding his relatives.

Additionally, plaintiff-appellee's witness Penelope Pamittan explained the process of preparing a memorandum, which tells us that there exists an internal procedure which pertains to the necessity of an Accounting Memorandum as basis for the encoding of data in the computer database of their office, to wit:

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"Pros. Torrijos:

Q: Now I heard that one of your duties pertains to the preparation of accounting memos. Is that correct?

A: Yes, sir.

Q: Can you specifically elucidate on that? What do you mean by preparation of accounting memo?

A: The preparation of an accounting memo emanates from the accounting section specifically the Pension Benefit and Disbursement Unit. So they prepare that accounting memo as basis for payment of the pension. If ever there are back pensions for pensioners, that is the basis for the MISG to pay the checks. In accounting memo, it contains the period of computations of how much is to be received by the pensioner. And it has to be certified by the Chief of Accounting Section. Recommend approval by the Chief Financial Management Division and to be approved by the Administrator of PVAO.

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Q: Can you please clarify to us, Madam Witness? Is it necessary that the accounting memo be approved first before the printing of the check or it can be done simultaneously?

A: It must be approved first by the proper authority.

Q: Which must be approved first?

A: The accounting memo because it establish (sic) the basis as to the validity and correctness of the computation and as to whether it should have to be paid or not and whether there are no payments yet."²²

As correctly found by the lower court, accused-appellant caused the issuance of the subject pension checks because of his unauthorized encoding. The lower court categorized the subject checks encoded by accused appellant, to wit:

"Checks Nos. 3836471 (*Exhibit "GG-18"*), 8495715 (*Exhibit "GG-18"*), 4244448 (*Exhibit "GG-19"*), and 8001337 (*Exhibit "GG-19"*) are included in the category of pensioners with complete payments but were issued supplementary checks.

Pensioner Antonio Abayan under Claim No. OV-MCO-92-093908 was reported deceased on May 19, 1996. However, Check No. 8002003 dated January 28, 1997 for Php16,475.00 (*Exhibit "GG-20"*) was issued.

²² TSN dated May 12, 2010, pp. 4-5

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Checks Nos. 8245963 (*Exhibit "GG-21"*), 8247098 (*Exhibits "GG-44" & "GG-21"*), and 8249923 (*Exhibit "GG-22"*), are also included in the category of pensioners with complete payments but were still issued supplementary checks.

Pensioner Flor E. Abay under Claim No. OV-MCO-93-114088 was reported deceased on May 19, 1994. However, using the claim number of the late Flor E. Abay, the accused caused the issuance of Check No. 8495810 dated April 23, 1997 for Php34,500.00 (*Exhibits "GG-5" & "GG-22"*) under the fictitious name "Flor G. Abayan".

Checks Nos. 8496667 (*Exhibit "GG-6" & "GG-23"*), 8497825 (*Exhibit "GG-23"*), 8499377 (*Exhibit "GG-24"*), and 8499549 (*Exhibit "GG-42" & "GG-24"*) are also included in the category of pensioners with complete payments but were still issued supplementary checks.

Pensioner Petra De Tasa under Claim No. OA-MCO-93-601388 was reported deceased in March 1997. She was reported to have resumed her account in January 1998. However, with the use of her claim number, the accused caused the issuance of Check No. 8499825 dated July 24, 1997 for Php55,375.00 (*Exhibit "GG-7"*) under the fictitious name "Petra G. Ne" (*Exhibit "GG-25"*).

Checks Nos. 8988617 (*Exhibit "GG-8" & "GG-25"*), 8988633 (*Exhibit "GG-41" & "GG-26"*), 8988984 (*Exhibit "GG-9" & "GG-26"*), and 8989296 (*Exhibit "GG-40" & "GG-27"*) are also included in the category of pensioners with complete payments but were still issued supplementary checks. With the use of Claim No. OW-MCO-96-777644 of Marieta Padama Usi, the accused caused the issuance of Check No. 8989296 for Php48,858.33 (*Exhibit "GG-40"*) under the fictitious name "Rita Uce" (*Exhibit "GG-27"*).

Pensioner Petronila Del Mundo under Claim No. OA-MCO-93-6161682 was reported deceased in May 1996. The accused used her claim number under the fictitious name "Nila Del" (*Exhibit "GG-27" & "GG-37"*) to cause the issuance of Check No. 8989309 for Php69,741.66, which was inadvertently issued in the name of "Petronila Del Mundo" (*Exhibit "GG-10", "GG-34" & "GG-37"*).

The claim number of legitimate pensioner Jaime Antonio Naval is Claim No. DA-MCO-93-655371. He was reported deceased on November 1994 (sic), and he reported to resume his account only in January 1998. With the use of his claim number, the accused caused the issuance of Check No. 8989478 dated September 9, 1997 for

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Php48,375.00 (*Exhibit "GG-11" & "GG-28"*) under the fictitious name "Christopher H. Llabres".

Check No. 8989872 (*Exhibit "GG-28"*) is also included in the category of pensioners with complete payments but were issued supplementary checks.

Pensioner Flor E. Abay with Claim No. OV-MCO-93-114088 was reported deceased on May 19, 1994. However, the accused used his claim number and caused the issuance of Check No. 8989762 for Php69,941.67 (*Exhibit "GG-29"*) under the fictitious name "Florencio Abayan".

The claim number of pensioner Jaime Antonio Naval is Claim No. DA-MCO-93-655371. He was reported deceased on November 1994 (sic), and he resumed his account only in January 1998. With the use of his claim number, the accused caused the issuance of Check No. 9730257 for Php69,375.00 dated October 2, 1997 (*Exhibits "GG-12" & "GG-29"*) under the name of Jaime Antonio Naval.

Check No. 9730691 (*Exhibits "GG-43" & "GG-30"*) is also included in the category of pensioners with complete payments but were still issued supplementary checks.

Pensioner Petra De Tasa under Claim No. OA-MCO-93-601388 was reported deceased in March 1997 and she resumed her account only in January 1998. With the use of her claim number, the accused caused the issuance of Check No. 9730769 dated October 21, 1997 for Php69,499.91 (*Exhibits "GG-13" & "GG-30"*) under the fictitious name "Rosario Del Rosario Ruiz".

The accused used Claim No. OA-MCO-93-629405 of pensioner Paulina Viray under the fictitious name "Imelda H. Naval" to cause the issuance of Check No. 9731153 for Php64,941.67 (*Exhibits "GG-14" & "GG-31"*).

Checks Nos. 9731185 (*Exhibit "A"*), 9731199 (*Exhibits "GG-15" & "GG-32"*), 9731593 (*Exhibits "GG-47" & "GG-32"*), and 9732264 (*Exhibits "GG-16" & "GG-33"*) are likewise included in the category of pensioners with complete payments but were also issued supplementary checks."

Indeed, accused-appellant Basuel encoded the entries with a furtive design and not by mistake as he deliberately failed to observe

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the regular internal procedure of the Management Information System Group of the Philippine Veterans Affairs Office that an Accounting Memorandum is necessary before encoding entries in the computer database which serves as the basis for the payment of pension of the veterans. Accused-appellant also encoded such entries knowing that some of the pensioners are already deceased, and that he even made fictitious names as payees in the subject checks. His acts were tantamount to evident bad faith as he orchestrated a wrongdoing with a fraudulent intent.

Anent the last element, the plaintiff-appellee alleged that accused-appellant Basuel caused undue damage and injury to the government when he encoded and printed the subject pension checks without any authority to do so.

The case of *Cabrera v. People of the Philippines*²³ expounded that "the third element refers to two (2) separate acts that qualify as a violation of Section 3(e) of R.A. No. 3019. An accused may be charged with the commission of either or both. The use of the disjunctive term "or" connotes that either act qualifies as a violation of Section 3(e) of R.A. No. 3019.

The first punishable act is that the accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be "some reasonable basis by which the court can measure it." Aside from this, the loss or damage must be substantial. It must be "more than necessary, excessive, improper or illegal."

The second punishable act is that the accused is said to have given unwarranted benefits, advantage, or preference to a private party. Proof of the extent or quantum of damage is not thus essential. It is sufficient that the accused has given "unjustified favor or benefit to another."

²³Supra Note 20

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The instant cases fall within the first punishable act of the third element for violation of Section 3 (e) of R.A. No. 3019.

Based on the evidence presented by the plaintiff-appellee, there are several checks which were proven to be negotiated and encashed, in which, the amount of the checks were debited from the account of Philippine Veterans Affairs Office, *viz*:

Exhibit "A" - PVAO Check No. VA-0009731185 in the amount of Forty One Thousand Nine Hundred Sixty Seven Pesos (P41,967.00) payable to Apolonio Basuel

Exhibit "GG-5" - PVAO Check No. VA 00084995810 in the amount of Thirty Four Thousand Five Hundred Pesos (P34,500.00) with Florencio Abayan as payee

Exhibit "GG-6" - PVAO Check No. VA 0008496667 in the amount of Twenty Nine Thousand Seven Hundred Pesos (P29,700.00) with Reynold Mondigo Saura as payee

Exhibit "GG-7" - PVAO Check No. VA 0008499825 in the amount of Fifty Five Thousand Three Hundred Seventy Five Pesos (P55,375.00) with Petra G. De Tasa as payee

Exhibit "GG-8" - PVAO Check No. VA 0008988617 in the amount of Twenty Eight Thousand Seven Hundred Thirty Six Pesos and Sixty Six Centavos (P28,736.66) with Segundo Magpayo Perez as payee

Exhibit "GG-9" - PVAO Check No. VA 0008988984 in the amount of Forty Eight Thousand Three Hundred Sixty Six Pesos (P48,366.00) with Ildefonso Abella Naval as payee

Exhibit "GG-12" - PVAO Check No. VA 0009730257 in the amount of Sixty Nine Thousand Three Hundred Seventy Five Pesos (P69,375.00) with Jaime Antonio Naval as payee

Exhibit "GG-40" - PVAO Check No. VA 0008989296 in the amount of Forty Eight Thousand Eight Hundred Fifty Eight Pesos and Thirty Three Centavos (P48,858.33) with Marieta Padama Usi as payee.

Exhibit "GG-41" - PVAO Check No. VA 0008988633 in the amount of Four Thousand Seven Hundred Fifty Pesos (P4,750.00) with Antiquela Macasieb as payee.

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Exhibit "GG-42" - PVAO Check No. VA 0008499549 in the amount of Thirty Eight Thousand Three Hundred Seventy Five Pesos (P38,375.00) with Jennifer Mondigo Saura as payee

Exhibit "GG-43" - PVAO Check No. VA 0009730691 in the amount of Fifty Two Thousand Five Hundred Pesos (P52,500.00) with Melita Magno Diamada as payee

Exhibit "GG-44" - PVAO Check No. VA 0008247098 in the amount of Twenty One Thousand Seven Hundred Fifty Pesos (P21,750.00) with Reynold Mondigo Saura as payee

As can be gleaned from the markings or endorsement on the dorsal portion of the checks, these were either deposited or encashed by the Philippine Veterans Bank, who debited the amount of the checks in the account of the Philippine Veterans Affairs Office.

However, contrary to the discussion of the lower court in its decision, the Letter dated September 28, 1998 issued by Ms. Nimfa S. Espero of the Philippine Veterans Bank (Exhibit "GG-4") and Exhibits "GG-5 to GG-16" were considered by the court, when in fact Exhibits "GG-4", "GG-10", "GG-11", "GG-13", "GG-14", "GG-15" and "GG-16" were denied admission for being violative of the best evidence rule as the originals thereof were not presented in an Order²⁴ dated May 13, 2020.

Thus, the plaintiff-appellee merely presented twelve (12) checks which were negotiated and encashed or deposited by the Philippine Veterans Bank. Indeed, the Philippine Veterans Affairs Office sustained undue injury in the total amount of Four Hundred Seventy Four Thousand Two Hundred Fifty Two Pesos and Ninety Nine Centavos (P474,252.99), the total value of the checks which were encoded and caused to be printed by accused-appellant Basuel.

Banking on the case of *Guadines v. Sandiganbayan and People of the Philippines*,²⁵ the term "undue injury" in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of "causing undue injury to any party," has a meaning akin to that civil

²⁴ Supra Note 7

²⁵ G.R. No. 164891, June 6, 2011

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law concept of "actual damage." The Court said so in *Llorente v. Sandiganbayan*, thus:

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." *Undue* has been defined as "more than necessary, not proper, or illegal;" and *injury* as "any wrong or damage done to another, either in his person, rights, reputation or property; that is, the invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

Based on the foregoing, the plaintiff-appellee proved the guilt of accused-appellant Basuel with moral certainty in the following cases:

Case No.	Date	Payee Name	PVAO Claim No.	Check No.	Amount	Exhibit
98-80087	March 3, 1997	Reynold Saura	TC-MCO-94-318878	8247098	P21,750.00	"GG-44"
98-80089	April 23, 1997	Florencio G. Abayan	OV-MCO-93-114088	8495810	P34,500.00	"GG-5"
98-80090	May 6, 1997	Reynold Mondigo Saura	TC-MCO-94-318878	8496667	P29,700.00	"GG-6"
98-80093	July 17, 1997	Jennifer Saura	TM-MCO-94-318880	8499549	P38,375.00	"GG-42"
98-80094	July 24, 1997	Petra G. de Tasa	OA-MCO-93-601388	8499825	P55,375.00	"GG-7"
98-80095	August 7, 1997	Segundo Magpayo Perez	OV-MCO-92-103709	8988617	P28,736.66	"GG-8"
98-80096	August 7, 1997	Antiquela Macasieb	TS-MCO-93-646158	8988633	P4,750.00	"GG-41"
98-80097	August 21, 1997	Ildefonso A. Naval	OV-MCO-92-102214	8988984	P48,366.00	"GG-9"
98-80098	September 5, 1997	Marieta Padama Usi	OW-MCO-96-777644	8989296	P48,858.33	"GG-40"
98-80103	October 2, 1997	Jaime Antonio Naval	DA-MCO-93-655371	9730257	P69,375.00	"GG-12"
98-80104	October 14, 1997	Melita M. Diamada	OW-MCO-94-066158	9730691	P52,500.00	"GG-43"
98-80107	November 11, 1997	Apolonio R. Basuel	OV-MAO-93-119802	9731185	P41,967.00	"A"

However, with respect to the other subject pension checks, the plaintiff-appellee fell short in proving beyond reasonable doubt that accused-appellant Basuel had caused undue injury to Philippine Veterans Affairs Office when he encoded said checks. There were no

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proofs presented that the eighteen (18) remaining checks were actually encashed or negotiated by the payees. Therefore, accused-appellant's presumption of innocence must be sustained for these cases.

It is elementary that in this jurisdiction, no less than proof beyond reasonable doubt is required to support a judgment of conviction. While the law does not require absolute certainty, the evidence presented by the prosecution must produce in the mind of the Court a moral certainty of the accused's guilt. When there is even a scintilla of doubt, the Court must acquit.²⁶

More so, in all criminal prosecutions, the prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the Prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The Prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the Prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.²⁷

Consequently, this Court finds it necessary to discuss the penalty to be imposed against accused-appellant Basuel. The pertinent provision of Section 2 of *Batas Pambansa Blg. 195* states that

²⁶ *People of the Philippines v. PO1 Lumikid*, G.R. No. 242695, June 23, 2020

²⁷ *Patula v. People of the Philippines*, G.R. No. 164457, April 11, 2012

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Section 9 of Republic Act No. 3019 is hereby amended to read as follows:

"Sec. 9. *Penalties for violations.* (a) any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

"Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the fair value of such thing."

Pursuant to Act No. 4103 or the Indeterminate Sentence Law, if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

Hence, it is proper for the accused to suffer the penalty of imprisonment and to pay Philippine Veterans Affairs Office the total amount of the subject pension checks for the cases where his guilt was proven beyond reasonable doubt.

WHEREFORE, the appeal is **PARTIALLY GRANTED**. The Joint Decision of Regional Trial Court, Branch 88, Quezon City dated September 8, 2020 is hereby **MODIFIED** as follows:


1. This Court **AFFIRMS** the Joint Decision dated September 8, 2020 of the Regional Trial Court of Quezon City, Branch 88 in Criminal Cases Nos. 98-80087, 98-80089, 98-80090, 98-

80093, 98-80094, 98-80095, 98-80096, 98-80097, 98-80098, 98-80103, 98-80104 and 98-80107, finding accused-appellant **LEOMAR BASUEL y BERNAL** guilty beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. 3019, and he is hereby sentenced to suffer for each count the indeterminate penalty of imprisonment ranging from **six (6) years and one (1) month as minimum to eight (8) years as maximum**, with perpetual disqualification from public office.

Accused-appellant Leomar Basuel is also ordered to pay private complainant Philippine Veterans Affairs Office the amount of Four Hundred Seventy Four Thousand Two Hundred Fifty Two Pesos and Ninety Nine Centavos (P474,252.99), with legal interest at the rate of 6% per annum²⁸ upon finality of the Decision until full payment thereof.

2. Accordingly, accused-appellant Leomar Basuel is hereby **ACQUITTED** in Criminal Cases Nos. 98-80081 to 98-80086, 98-80088, 98-80091 to 98-80092, 98-80099 to 98-80102, 98-80105 to 98-80106, 98-80108 to 98-80110 for failure of the prosecution to prove his guilt beyond reasonable doubt.

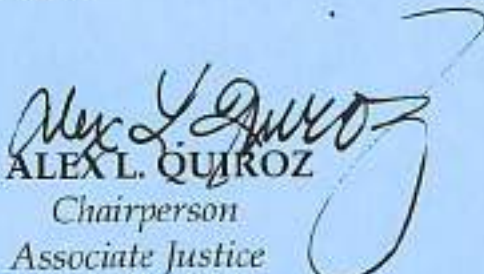
SO ORDERED.

...

LORIFEL LACAP PAHIMNA
Associate Justice

²⁸ Art. 2209 of the New Civil Code provides: "If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent (6%) per annum."

Section 1 of Resolution No. 796 of the Monetary Board of the Bangko Sentral ng Pilipinas dated May 16, 2013 states: "The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum."

We concur:


ALEX L. QUIROZ
Chairperson
Associate Justice


BAYANI H. JACINTO
Associate Justice

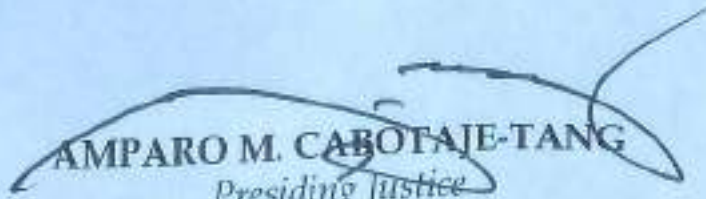
ATTESTATION

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


ALEX L. QUIROZ
Chairperson
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOFAJE-TANG
Presiding Justice