

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

RAMON "BONG" REVILLA, JR.,
Petitioner,

-versus-

G.R. No. 218232

**SANDIGANBAYAN (FIRST
DIVISION), AND PEOPLE OF
THE PHILIPPINES,**
Respondents.

X-----X

RICHARD A. CAMBE,
Petitioner,

-versus-

G.R. No. 218235

**SANDIGANBAYAN (FIRST
DIVISION), PEOPLE OF THE
PHILIPPINES, and OFFICE OF
THE OMBUDSMAN,**
Respondents.

X-----X

JANET LIM NAPOLES,
Petitioner,

-versus-

G.R. No. 218266

**SANDIGANBAYAN (FIRST
DIVISION), HON. CONCHITA
CARPIO MORALES, in her
Capacity as Ombudsman, and
PEOPLE OF THE PHILIPPINES,**
Respondents.

X-----X

CONSOLIDATED COMMENT

The People of the Philippines, represented by the Office of the Ombudsman, through the Office of the Special Prosecutor, unto this Honorable Court, most respectfully states:

I THE CASE

1. After the termination of the summary proceedings for the bail applications of the accused in Criminal Case No. SB-14-CRM-0240, the First Division of the Sandiganbayan (respondent court) rendered judgment in favor of the accused-applicant's continued detention. Accused (now petitioners) Ramon "Bong" B. Revilla, Jr., Richard A. Cambe and Janet Lim Napoles filed separate petitions for certiorari under Rule 65 of the Revised Rules of Court, imputing grave abuse of discretion on the part of respondent court for having issued the following resolutions which denied them bail:

- (a) *Resolution* promulgated on 1 December 2014, denying petitioners' petitions/application for bail¹; and
- (b) *Resolution* promulgated on 26 March 2015, denying petitioners' motions for reconsideration² of the 1 December 2014 Resolution.

2. The bail hearings proceeded from petitioners' indictment for the crime of plunder, punishable under Republic Act No. 7080, as amended. Together with accused Ronald John B. Lim and John Raymund de Asis, petitioners were charged before the Sandiganbayan in an Information filed on 6 June 2014, under the following accusatory portion:

In 2006 to 2010, or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused RAMON B. REVILLA, JR., then a Philippine Senator, and RICHARD A. CAMBE, then Director III at the office of Sen. Revilla, Jr., both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, RONALD JOHN LIM and JOHN RAYMUND DE ASIS, did then and there wilfully, unlawfully, and criminally amass, accumulate, and/or acquire ill-gotten

¹ *Petition for Bail Ad Cautelam*, dated 20 June 2014 of Revilla; *Application for Bail* dated 23 June 2014 of Cambe; and *Joint Petition for Bail* dated 25 June 2014 of Napoles, Lim and De Asis.

² *Napoles' Motion for Reconsideration (Re: Resolution dated 01 December 2014)* dated 17 December 2014; *Revilla's Omnibus Motion: (1) For the Reconsideration [of the Resolution dated 1 December 2014] and (2) to Adduce Additional Evidence* dated 17 December 2014; and *Cambe's Motion for Reconsideration (Re: Resolution Promulgated on 1 December 2014)*.

wealth amounting to at least TWO HUNDRED TWENTY-FOUR MILLION FIVE HUNDRED TWELVE THOUSAND FIVE HUNDRED PESOS (Php224,512,500.00) through a combination or series of overt criminal acts, as follows:

- a) by repeatedly receiving from NAPOLES and/or her representatives LIM, DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and REVILLA, JR. and/or CAMBE received, a percentage of the cost of a project to be funded from REVILLA, JR.'s Priority Development Assistance Fund (PDAF), in consideration of REVILLA, JR.'s endorsement, directly or through CAMBE, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementors of REVILLA, JR.'s PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;
- b) by taking undue advantage, on several occasions, of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to the damage and prejudice, of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.

3. On 20 June 2014, respondent court issued Warrants of Arrest against herein petitioners. On the same day, petitioner Revilla voluntarily surrendered to the Philippine National Police (PNP) and filed a *Motion to Elect Detention Facilities Ad Cautelam*, praying that a *Resolution* be issued ordering his detention at the PNP Custodial Center.

4. Likewise on 20 June 2014, petitioner Cambe voluntarily surrendered to the Sandiganbayan and filed an *Urgent Motion to Commit Accused to CIDG*, praying that he be committed to the Criminal Investigation and Detection Group (CIDG) pending trial of the case.

5. In two separate *Orders* both dated 20 June 2014, respondent court ordered the turn-over of petitioners Revilla and Cambe to the PNP-CIDG, Camp Crame, Quezon City for detention at its PNP Custodial Center Barracks.

6. Thereafter, Revilla filed a *Petition for Bail Ad Cautelam* dated June 20, 2014, while petitioners Cambe and Napoles separately filed their *Application for Bail* dated 23 June 2014 and *Joint Petition for Bail*³ dated 25 June 2014, respectively.

7. After several hearings conducted for the purpose, the respondent court promulgated the first assailed *Resolution* on 1 December 2014, denying bail to Revilla, Cambe and Napoles.

8. Subsequently, herein petitioners separately moved for reconsideration, which respondent court likewise denied in its second assailed *Resolution* promulgated on 26 March 2015.

9. Hence, these petitions and herein respondent's *Consolidated Comment*, filed pursuant to the *Resolution* dated 16 June 2015 issued by this Honorable Court.⁴

II THE ANTECEDENT BAIL PROCEEDINGS

10. The bail hearings in Criminal Case No. SB-14-CRM-0240 commenced with the presentation of the prosecution's testimonial evidence.

11. First on the witness stand was Assistant Commissioner Susan P. Garcia (Garcia) of the Special Services Sector of the Commission on Audit (COA). Her testimony⁵ centered on the audit conducted by the Special Audit Office of the COA of the PDAF transactions from the period 2007 to 2009. With respect to petitioner Revilla, the audit covered twelve (12) SAROs released by the DBM to the Department of Agriculture (DA), NABCOR, NLDC and TRC for the projects identified by Revilla (and/or Cambe) as deserving of financing from his PDAF allocation. The audit team gathered around 168 documents bearing the signature of either Revilla or Cambe, copies of which they sent to the Senator with a request for confirmation on the authenticity of such signatures. In his letter-reply, petitioner Revilla confirmed that said signatures and/or initials on the subject documents appear to be that of him or of his authorized representative. Thereafter, the audit findings noted that the implementation of the PDAF projects violated existing rules and regulations, particularly as regards: (a) the Senator's endorsement of particular NGOs as project beneficiaries; (b)

³ Napoles' *Joint Petition for Bail* included co-accused Ronald John Lim and John Raymund De Asis.

⁴ The OSP received the 16 June 2015 *Resolution* on 3 July 2015. Subsequently, it moved for additional periods totaling sixty (60) days, or until 11 September 2015, within which to comply.

⁵ See 1 December 2014 *Resolution*, pp. 3-6 for the summary of Garcia's testimony.

the questionable personalities, qualifications and existence of the NGOs chosen as well as their respective suppliers; and (c) the non-implementation of the projects, as confirmed by the supposed beneficiaries, despite full payment to the NGOs.

12. Garcia's testimony was followed by that of Carmencita N. Delantar (Delantar), Lorenzo C. Drapete (Drapete), Benhur K. Luy (Luy), Joey I. Narciso (Narciso), Marlina P. Sūnas (Sūnas), Marina C. Sula (Sula), Mary Arlene Joyce B. Baltazar (Baltazar), and Leigh Vhon Santos (Santos). The highlight of their testimonies include the following:

12.1 Delantar⁶ and Drapete,⁷ both from the DBM, separately related the procedures and confirmed the process flowchart being adopted in the processing of the twelve (12) SAROs released by the DBM at the instance of petitioner Revilla. Each SARO had attachments, which invariably included a letter duly signed by Revilla (and/or the Committee on Finance and the Senate President) and his list of projects.

12.2 Luy⁸ was the former finance officer of JLN Corporation, a second cousin of petitioner Napoles, and principal whistleblower of the PDAF scam. He was admitted into the Witness Protection Program (WPP) of the Department of Justice (DOJ) sometime in 2013. His testimony focused on the details of the PDAF scam and his role therein, where he was tasked by Napoles to: (a) prepare the money for the commissions or rebates of lawmakers representing their share in the PDAF transactions; (b) assist in the creation of NGOs, including the SPDFFI wherein he was made the president, to serve as recipients of the PDAF proceeds of the lawmakers; (c) prepare the necessary documents for the bogus projects which will be funded by the PDAF such as, but not limited to, the draft listings of the projects, the draft indorsements designating Napoles' NGOs for signature by Revilla and liquidation papers to make it appear that the Napoles-controlled NGOs actually bought and delivered the goods/items for the PDAF projects; and (d) record, encode and maintain a daily summary of the financial transactions of JLN Corporation which contains the voucher control number, the date, the name of the personalities, the amount disbursed and the amount of money collected. He described how the monies deposited to the accounts of Napoles' NGOs were later withdrawn by him and other employees of the JLN Corporation and given directly to Napoles.

⁶ *Id.*, pp. 6-10 re summary of Delantar's testimony.

⁷ *Id.*, pp. 10-11 re summary of Drapete's testimony.

⁸ *Id.*, pp. 11-18 re summary of Luy's testimony.

12.2.1 Luy also disclosed that the hard copies of documents from which he sourced the financial ledgers and disbursement reports encoded in his computer were ordered by Napoles to be shredded. However, he was able to make a back-up file in his external hard drive, the same hard drive he turned over to the NBI. Similarly, after his rescue by the NBI, he prepared a “summary of rebates” showing the commissions or rebates given to Revilla, through Cambe, by himself or by Napoles, in his presence. The summary was based on the financial ledgers and disbursements reports stored in his external hard drive. He explained in detail the contents of both the summary and ledger and their relationship to each other in terms of specific entries, dates and categories. As appearing in the summary, petitioner Revilla’s commissions amounted to PhP224,512,500.00.

12.2.2 Further to the PDAF allocation of petitioner Revilla, Luy testified that the Senator’s commission or rebate was fifty percent (50%) of the project cost, generally given in two (2) tranches: the first 25% was handed over after Revilla has finalized his project listing and letter of indorsement to the DBM, while the remaining 25% became due after the Revilla’s NGO endorsement and Memorandum of Agreement with the NGO has been submitted to the DBM to serve as basis for the release of the corresponding SARO and the NCA. On top of Revilla’s 50%, petitioner Cambe also received a commission equivalent to five percent (5%) of the project cost. Luy admitted, however, that while he personally witnessed Cambe’s receipt of the commissions/rebates for himself and for petitioner Revilla, there was no occasion when he saw the commissions directly being handed over to Revilla.

12.3 Narciso,⁹ Special Investigator III of the NBI, testified as an expert witness in relation to the forensic examination he conducted on the external hard drive of Luy. Such examination covered the determination of the authenticity of the files in the external drive, as well as the integrity of the files themselves. He explained the processes undertaken for such examination, thereafter concluding that: (a) the hard disk drive was reliable and its integrity was not compromised; (b) the disbursement ledgers contained in the hard disk drive were neither altered nor modified from the date they were last saved up to the date of their examination; and (c) 25 to 27 files contained in the hard drive disk had no deletion or alteration, but he could not say the same of the remaining files.

⁹ *Id.*, pp. 18-25 re summary of Narciso’s testimony.

12.4 Suñas¹⁰ and Sula,¹¹ former employees of JLN Corporation and the JLN Group of Companies, were also admitted into the WPP. They corroborated the testimony of Luy in its main points, specifically with respect to the following: (a) the details of the PDAF scam; (b) the instruction of Napoles for them to prepare documents in support of the bogus NGOs and the equally non-existing PDAF projects; (c) their utilization as presidents of such NGOs as POPDFI (for Suñas) and MAMFI (for Sula), the latter having received funds from the IAs under Revilla's PDAF; (d) their withdrawal of the proceeds of the project cost from the bank accounts of Napoles' NGOs and the turn-over thereof to Napoles herself; (d) their preparation of the money corresponding to the share, commission or rebate of Revilla and Cambe; (e) Luy's recording and documentation of their office transactions including that of the disbursements relating to the PDAF proceeds; (f) the shredding of the documents relating to the PDAF scam; and (g) the frequent visits of petitioner Cambe in the office of JLN Corporation. In addition, both witnesses confirmed that they personally saw Cambe receiving money from Luy and/or Napoles. In the case of Sunas, she personally handed over to Cambe the amount of PhP5 Million sometime in 2006 in relation to a POPDFI-PDAF project while Sula also gave money to Cambe sometime in 2010. While both of them never directly gave money to Revilla or saw Revilla receiving money from either Luy or Napoles, Sula insisted that she knew that the money received by Cambe was for Revilla. Such knowledge was derived from Cambe himself who told her that the money belongs to Revilla on that occasion when she gave money to Cambe and she jokingly asked for a snack.

12.5 Baltazar¹² was the former bookkeeper of Napoles' numerous corporations, NGOs and other companies. She was similarly admitted into the WPP. As part of her employment, she participated in the preparation of supporting documents for the purpose of liquidating the funds received by Napoles' NGOs from the IAs under Revilla's PDAF. Baltazar further testified that: (a) she assisted in the preparation and packing of the money to be given to, and representing the commissions and rebates of, the different lawmakers; (b) she recorded these commissions in the course of preparing financial statements for the JLN-affiliated corporations/companies and NGOs, in coordination with Luy and Suñas who had records of the PDAF grants and the names of the lawmakers whose PDAF were utilized; and (c) the documents in the possession of JLN Corporation and related companies/NGOs

¹⁰ *Id.*, pp. 25-29 re summary of Suñas' testimony.

¹¹ *Id.*, pp. 29-33 re summary of Sulas' testimony.

¹² *Id.*, pp. 33-35 re summary of Baltazar's testimony.

pertaining to the PDAF transactions were shredded on instructions of Napoles.

12.6 Santos¹³ testified in his capacity as financial investigator of the Anti-Money Laundering Council (AMLC) Secretariat. He related why and how they applied for, and was granted, an authority (and a supplemental authority) by the Court of Appeals to conduct a bank inquiry of the accounts of Revilla, Cambe and other entities connected to the PDAF scam (i.e., the NGOs). A summary of their findings precedes the detailed findings themselves, as contained in an Inquiry Report submitted to the Office of the Ombudsman. These findings are summarized as follows:

- (a) The accounts of the NGOs – AEPFFI, APMFI, MAMFI, PSDFI and SDPFFI – to which Revilla transferred his PDAF, only served as temporary repository of funds since withdrawals were made immediately after each deposit. Large amounts of cash were withdrawn by JLN representatives who were neither listed as incorporator, stockholder or officer of said NGOs. In the case of MAMFI and SDPFFI, Napoles' consent was first secured prior to any withdrawal, confirming that these NGOs and their bank accounts were under her control;
- (b) The check deposits relating to the SAROs of Revilla's PDAF allocation confirmed that the NGOs controlled by Napoles were used as beneficiaries of the projects;
- (c) Napoles' cash and check disbursements, similar to the entries in Luy's ledger, are consistent with the withdrawals reflected in the bank documents;
- (d) As compared to the cash and investment reports under Revilla's SALN, his financial reports showed disparities. The difference strongly indicates unexplained wealth;
- (e) Within thirty (30) days from the time Revilla (through Cambe) was alleged to have received commissions or rebates, Revilla and his immediate family made numerous deposits to their bank accounts and investment placement totaling PhP87,626,587.63;
- (f) The corporation owned by Lani Mercado (Revilla's wife) received substantial deposits totaling PhP27,745,000.00 during periods approximating the time Cambe received cash from Luy. Additional fund transfer was made by Revilla and his wife amounting to PhP16,000,000.00. This, despite the corporation's insubstantial capital and lack of operations;

¹³ *Id.*, pp. 35-43 re summary of Santos' testimony.

- (g) Revilla terminated his investment and bank accounts within the period immediately preceding and following the exposé on the PDAF scam.¹⁴

13. With the completion of Santos' testimony, the prosecution terminated the presentation of its testimonial evidence and formally offered Exhibits "A" to "GGGG" (inclusive of sub-marking). Except for Exhibit "EE" and "FF," all of said exhibits were admitted by respondent court.

14. Thereafter, petitioner Revilla presented his defense evidence, which consisted of the following:

14.1 The testimony of Desiderio Pagui,¹⁵ a lawyer and retired document examiner of the NBI. He testified as an expert witness on the examination he conducted relative to the photocopies of PDAF documents bearing the signatures of Revilla and Cambe. Based on his 2013 findings, the signatures appearing in the photocopies (questioned documents) were not affixed by either petitioners. He admitted that for purposes of document examination, the original is preferred over a photocopy but when he inquired as to the whereabouts of the originals, he was told that they (the originals) were with the adverse party. For his examination of the the signatures of Revilla and Cambe, he was paid a professional fee of PhP200,000.00.

14.2 Documentary exhibits¹⁶ which were also admitted by respondent court, except for Exhibits 273 to 277. The documents marked under these excluded exhibits were tendered, pursuant to Section 40, Rule 132 of the Revised Rules of Court.

15. Cambe's witness, Fabian S. Fabian, was supposed to testify on his (Cambe's) travel records with the Philippine Air Lines. The witness' testimony was dispensed with after the parties stipulated on the authenticity of the documents subject of Fabian's testimony. Additionally, Cambe adopted the testimony of Pagui and formally offered Exhibits 251 to 260, 262 to 264-F, and 267 to 282. All these documentary exhibits were admitted in evidence.

16. Petitioner Napoles adopted the testimony of Pagui and dispensed with the additional testimony of Joel De Guzman, representative of the Bureau of Immigration (BI), in view of stipulations made by the parties regarding her immigration records. Her Exhibits 2, 9, 9-A and 20-17 were admitted by respondent court.

¹⁴ *Id.*, pp. 38-41, quoting the summary of AMLC's findings in its Inquiry Report.

¹⁵ *Id.*, pp. 43-47 re summary of Pagui's testimony.

¹⁶ Exhibits 2, 2-A, 3, 3-A, 22, 22-A, 23-A, 81, 81-A, 82, 82-A, 94, 94-A, 154, 154-A, 178, 180, 189, 191, 193, 194 to 223, 265 to 273, 274 to 277, and 278 to 281.

17. To write *finis* to the bail hearings, the parties gave oral summations of their respective positions.

The Ruling of the Sandiganbayan

18. Having heard the testimonies of the witnesses for all the parties, in light of the documentary evidence formally offered, respondent court made the following disquisition:

After a solicitous assessment of the evidence so far presented by the prosecution, the Court finds and declares that there is a strong proof to believe that accused Revilla, Cambe and Napoles committed the crime of plunder. Hence, they should be denied bail.

THE FIRST ELEMENT. Accused Revilla and Cambe were public officers at the time material to this case, accused Revilla being member of the Senate of the Philippines, and accused Cambe being Revilla's Chief of Staff/Political Officer/Director III as appearing on the face of the documents on record. Accused Napoles is a private individual charged in conspiracy with accused Revilla and Cambe. As provided in Section 2 of RA 7080, "[a]ny person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense."

THE SECOND ELEMENT. **Amass** is defined as "to collect for oneself". **Accumulate** means "collect, gather; it may imply rather rapid acquisition; suggests a gradual piling up or increasing as to make a store or great quantity". **Acquire** is "to gain by any means, usually by one's own exertions; to get as one's own; receive or gain in whatever manner".

Under RA 7080, the term "**ill-gotten wealth**" is defined as any asset, property, business enterprise or material possession of any person within the purview of Section 2 thereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the means or schemes enumerated in Section 2(d) of the Plunder Law. "**Series**" refers to a repetition of the same predicate act in any of the items in Section 1(d) of the law. The word "**combination**" contemplates the commission of at least any two different predicate acts in any of said items.

The information alleges that accused Revilla and Cambe in conspiracy with one another, and with accused Napoles, Lim, and De Asis amassed, accumulated or acquired ill-gotten wealth amounting to at least P224,512,500.00 through a series or combination of the enumerated criminal acts.

Jurisprudence teaches us that proof of the agreement need not rest on direct evidence, as the agreement itself may be inferred from the conduct of the parties disclosing a common understanding among them with respect to the commission of the offense. It is not necessary to show

that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out. Therefore, if it is proved that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, then a conspiracy may be inferred though no actual meeting among them to concert means is proved.

The essence in a conspiracy to commit plunder is not the actual receipt or acquisition of ill-gotten wealth by each conspirator, but that each conspirator had participated in the accumulation of ill-gotten wealth, directly or indirectly. x x x

The separate and individual acts of accused Revilla, Cambe and Napoles convincingly appears to have facilitated the amassing, accumulation, and acquisition of ill-gotten wealth by accused Revilla. It is immaterial whether or not the prosecution has presented evidence that accused Cambe and Napoles by themselves have likewise amassed, accumulated, or acquired ill-gotten wealth in the amount of at least P50 Million each. It is sufficient that the prosecution has established that accused Revilla and accused Cambe have conspired with one another, and with accused Napoles in the accumulation or acquisition of ill-gotten wealth of at least P50 Million.

The Court is persuaded that the prosecution has presented compelling evidence that accused Revilla amassed, accumulated or acquired ill-gotten wealth by repeatedly receiving from accused Napoles or her representative or agents, money, through accused Cambe, and in those several occasions, accused Revilla and/or Cambe made use of his or their official position, authority, connections and influence. This was established by the testimonies of the witnesses and the documents they testified to which, at this stage of the proceedings, has remained un rebutted, and thus, given full faith and credence by the Court.¹⁷

x x x

Accused Revilla could not have possibly drawn money from his PDAF allocation directly to himself. He had to do it through channels or conduits to camouflage the flow with a semblance of legitimacy. Here lies the indispensable participation of accused Napoles. Like accused Revilla, accused Napoles stayed at the background, using other people as her tentacle to fulfill her part of the conspiracy. Although accused Napoles' signature does not appear in any of the documents, evidence abounds to support that she was the brains behind that vital link of the conspiracy. Luy, Suñas, Sula and Baltazar, who once worked for accused Napoles, consistently declared that they moved and acted upon the instruction of Napoles, from the creation of fake NGOs to the diversion of the proceeds of the PDAF. Accused Napoles engineered the creation of the NGOs through which the proceeds of accused Revilla's PDAF were funneled.¹⁸

¹⁷ | December 2014 *Resolution*, pp. 54-56.

¹⁸ *Id.*, p. 58-59.

X X X

Accused Napoles' connection to and control of the NGOs are made evident by the bank transactions of the NGOs. Records of bank transactions of these NGOs reveal, as testified to by witness Santos from the AMLC that the accounts of these NGOs with Landbank and Metrobank were only temporary repository of funds and that the withdrawal from the accounts of the NGOs had to be confirmed first with accused Napoles notwithstanding that the accounts were not under her name. It is well to note that the bank accounts of these NGOs were opened by the named presidents using JLN Corp. identification cards. These circumstances are consistent to the testimonies of accused Luy, Sula, Suñas and Baltazar that as soon as the check of the PDAF proceeds were encashed, accused Napoles directed them or any of her trusted employees to withdraw the same. At this stage, the Court sees no basis to doubt the strong evidence against accused Napoles.

Accused Revilla managed to remain *incognito* in reaping benefits from the illegal scheme with the help and cooperation of accused Cambe. Concededly, there are no direct proofs that accused Revilla received commissions/rebates out of the proceeds of his PDAF routed to accused Napoles, but the circumstances persuasively attest that accused Revilla on several occasions, received money from the illegitimate deals involving his PDAF, through accused Cambe. Also, accused Cambe profited from the same transactions so far computed at P13,935.00.

There are solid reasons to infer that accused Cambe acted on behalf of accused Revilla and with the latter's *imprimatur*, and that accused Revilla effectively clothed accused Cambe with full authority. Consider these: (1) accused Cambe worked for Revilla in the Senate; (2) accused Revilla designated accused Cambe to follow up, supervise and act on his behalf for the implementation of the projects, and to sign necessary documents; (3) accused Cambe, representing accused Revilla or Revilla's office, signed the MOAs and other documents used to support the issuance of the checks from the IA to accused Napoles' NGOs to supposedly finance the projects out of accused Revilla's PDAF. Accused Cambe likewise signed liquidation documents such as accomplishment reports; (4) Luy, Suñas, and Sula forthrightly and positively identified Cambe to have received from them or from accused Napoles the commissions/rebates of accused Revilla; (5) The said witnesses likewise candidly testified that accused Cambe also personally got his own commission either from them or from accused Napoles; (6) Luy had recorded the commissions/rebates per his testimony, and as shown by his disbursement ledgers and Summary of Rebates. These points may rest heavily on the credibility of the witnesses. But, as discussed, the Court, in the meantime, saw no cogent justification to invalidate their testimonies.¹⁹

X X X

¹⁹ *Id.*, pp. 63-64.

THE THIRD ELEMENT. Of the PhP224,512,500.00 alleged in the Information to have been plundered by accused Revilla and/or Cambe, the prosecution has so far strongly proven the amount of P103,000.00 xxx. This is the total amount received by accused Cambe for Revilla, to which Luy, Sula and Suñas have testified of their personal knowledge. In other words, Luy, Sula or Suñas either directly handed to money to accused Cambe, or they saw accused Napoles, or any one of them, give the money to accused Cambe. x x x.²⁰

19. Lest it be overlooked, the facts constituting each of the elements of plunder were sourced from the very pieces of evidence presented during the bail hearings. In fact, even the arguments raised by petitioners in their respective summations were duly addressed and resolved by respondent court in its first assailed *Resolution*. Thus, extant in the said *Resolution* are discussions on the proof of conspiracy among the petitioners²¹; the defense of forgery²²; the probative value of the admission made by petitioner Revilla before the COA on the authenticity of his and his representatives' signature on the 168 PDAF documents²³; the probative value of Luy's hard disk drive and the discrepancies of the files therein with his summary of rebates²⁴; the invocation of the rule on *res inter alios acta* in respect of the testimonies of the whistleblowers²⁵; and the credibility of the whistleblowers,²⁶ among others.

20. Petitioners' arguments in their respective motions for reconsideration were likewise resolutely addressed in the second assailed *Resolution*. Respondent court took pains in resolving such issues as: (1) the precepts of proof evident and presumption great²⁷; (b) the credibility of the whistleblowers and the reliability of Luy's hard disk drive²⁸; (c) the alleged sole reliance on the testimonies of the whistleblowers²⁹; (d) Cambe's denial that he was Revilla's chief of staff or political officer³⁰; (e) the defense of forgery³¹; (f) the allegation of speculations and conjectures as being the basis for respondent court's findings³²; (g) the non-indictment of the heads of the IAs³³; (h) the alleged lack of direct evidence that the money handed

²⁰ *Id.*, p. 69.

²¹ *Id.*, pp. 55-56.

²² *Id.*, pp. 58-59 (for Revilla's defense of forged signature) and p. 62 (for Cambe's defense of forged signature).

²³ *Id.*, pp. 60-62.

²⁴ *Id.*, pp. 64-68.

²⁵ *Id.*, p. 68.

²⁶ *Id.*, pp. 62-64.

²⁷ See 26 March 2015 *Resolution*, pp. 10-11.

²⁸ *Id.*, pp. 11-12.

²⁹ *Id.*, p. 15.

³⁰ *Id.*, p. 16.

³¹ *Id.*, pp. 16-18.

³² *Id.*, p. 18.

³³ *Id.*, p. 18

by Napoles to Cambe was intended for Revilla³⁴; (i) the probative value of Narciso's testimony³⁵; and (j) the inapplicability of the *Montano* case,³⁶ among others.

21. Understandably, petitioners could not be convinced by the objective, reasonable and dispassionate recitals of respondent court. Hence, they seek recourse via the instant petitions, hoping to convince this Honorable Court of the same defenses and line or argumentation already rejected by respondent court.

III ARGUMENTS OF THE PARTIES

22. In G.R. No. 218232, petitioner Revilla seeks a reversal of the assailed resolutions, on the claim that the evidence on record does not show a clear and strong evidence of his guilt for the crime of plunder. He elucidates:

- 1) that there is no clear, strong and categorical proof that he amassed, accumulated and acquired ill-gotten wealth from his PDAF allocations from 2006 to 2010³⁷;
- 2) that there is no concrete and credible proof that Cambe supposedly received kickbacks and commissions for and on his behalf³⁸;
- 3) that there is neither a clear, strong nor categorical proof that he received at least Php50,000,000.00 from his PDAF allocation³⁹;
- 4) that he was able to cast serious doubt as to the authenticity of the PDAF documents and his alleged knowledge and participation in the execution of said documents⁴⁰;
- 5) that there is no clear, strong, categorical and convincing proof of conspiracy among the accused⁴¹; and
- 6) that he is entitled to bail because there is no evidence that he is a flight risk, in accordance with the ruling in *Montano vs. Ocampo*.⁴²

³⁴ *Id.*, p. 19.

³⁵ *Id.*, p. 21.

³⁶ *Id.*, p. 23.

³⁷ See Revilla's *Petition*, p. 14.

³⁸ *Id.*, p. 16.

³⁹ *Id.*, p. 19.

⁴⁰ *Id.*, pp. 27-28.

⁴¹ *Id.*, pp. 32-33.

⁴² *Id.*, p. 41.

23. On the other hand, petitioner Cambe argues, in G.R. No. 218235, that:

- 1) the denial of his application for bail was based on Criminal Procedure 1900 (General Order No. 58), which requires a much lower quantum of proof to deny bail and not on Section 13, Article III of the 1987 Philippine Constitution which requires proof that evidence of guilt is strong⁴³;
- 2) the denial of his motion for reconsideration was based on the concept of “totality of evidence” which is applicable in Writ of Amparo cases only⁴⁴;
- 3) even assuming that “proof evident,” “presumption great,” or proof that “the presumption of guilt is strong” are the tests to determine whether he may be granted or denied bail, the assailed resolutions were based on mere presumptions and inferences.⁴⁵

24. G.R. No. 218266 pertains to Napoles’ petition, where she raises the following grounds:

- 1) the respondent court committed grave abuse of discretion in ruling that the prosecution was able to prove with strong evidence that Senator Revilla and Richard Cambe conspired with her in amassing, accumulating and acquiring ill-gotten wealth⁴⁶;
- 2) the respondent court committed grave abuse of discretion in ruling that the hard disk, disbursement ledger and the summary of rebates are reliable and with integrity⁴⁷;
- 3) the respondent court committed grave abuse of discretion in upholding the testimonies of the witnesses and the documents they testified on⁴⁸; and
- 4) the respondent court committed grave abuse of discretion in upholding the information and ruling that the evidence of the prosecution proves plunder.⁴⁹

25. By way of counter-arguments, the People submit that:

⁴³ See Cambe’s *Petition*, p. 5.

⁴⁴ *Id.*, p. 5.

⁴⁵ *Id.*, p. 8.

⁴⁶ See Napoles’ *Petition*, p. 5.

⁴⁷ *Id.*, p. 10.

⁴⁸ *Id.*, p. 17.

⁴⁹ *Id.*, p. 21.

A

THE RESPONDENT COURT CORRECTLY DENIED BAIL TO PETITIONERS AS THE PROSECUTION WAS ABLE TO ESTABLISH “PROOF EVIDENT” OF THEIR GUILT.

B

THE CASE OF *Montano vs. Ocampo* WAS ERRONEOUSLY INVOKED BY PETITIONER REVILLA.

C

THE RESPONDENT COURT CORRECTLY HELD THAT THE EVIDENCE PRESENTED DURING THE BAIL HEARINGS DULY ESTABLISHED CRIMINAL CONSPIRACY AMONG THE PETITIONERS.

D

THE RESPONDENT COURT CORRECTLY GAVE CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND THE EVIDENCE THEY TESTIFIED ON.

E

PETITIONER NAPOLES’ PETITION IS AN IMPROPER AND MISPLACED REMEDY FOR ASSAILING THE VALIDITY OF THE INFORMATION.

**IV
DISCUSSION**

The respondent court correctly denied bail to petitioners as the prosecution was able to establish the “proof evident” of their guilt.

26. There is no question that offenses punishable by death, *reclusion perpetua* or life imprisonment are non-bailable when the evidence of guilt is strong.⁵⁰ The penalty for Plunder is *reclusion perpetua*.⁵¹ Therefore, an individual accused of Plunder will not be granted provisional liberty when evidence of his guilt is strong.

⁵⁰ Section 7, Rule 114 of the Revised Rules of Criminal Procedure provides thus:

Sec. 7. Capital offense or an offense punishable by *reclusion perpetua* or life imprisonment, not bailable. No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

⁵¹ Republic Act No. 7080, as amended by Section 12 of R.A. No. 7659.

27. The weight of evidence sufficient to deny bail is referred to as “*proof evident*” or “*evident proof*” which is clear and strong evidence as would lead a well-guarded, dispassionate judgment to conclude that the offense was committed as charged by the accused who will probably be punished capitally if the law is administered.⁵² Reasonable doubt is by no means absolutely precluded.⁵³ Rather, the import and impact of the entire record convincing an unbiased mind that the accused is guilty of a capital offense justifies refusal of bail.⁵⁴

28. Petitioners are charged with the crime of Plunder, defined and penalized under Section 2 of RA 7080, otherwise known as “*An Act Defining and Penalizing the Crime of Plunder.*” As provided therein,

x x x. Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1 (d) hereof, in the aggregate amount or total value of at least fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by reclusion perpetua to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances as provided by the Revised Penal Code shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

29. The Anti-Plunder Law more than adequately answers the question ‘What is the violation?’ Indeed, to answer this question, any law student -- using basic knowledge of criminal law -- will refer to the elements of the crime, which in this case are plainly and certainly spelled out in a straightforward manner in Sections 2 and 1(d) thereof. Those elements are:

1. The offender is a *public officer* acting by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons.
2. The offender amasses, accumulates or acquires *ill-gotten wealth*.
3. The aggregate amount or total value of the ill-gotten wealth so amassed, accumulated or acquired is at least *fifty million pesos* (P50,000,000).

⁵² *People of the Philippines vs. Alfredo Cabral, et al.* (G.R. No. 131909, 18 February 1999).

⁵³ *Laarni N. Valerio vs. Court of Appeals, et al.* (G.R. Nos. 164311-12, 10 October 2007); *People of the Philippines vs. Milagros Valerio* (G.R. Nos. 164406-07, 10 October 2007).

⁵⁴ 8 CJS p. 70.

4. Such ill-gotten wealth -- defined as any asset, property, business enterprise or material possession of any of the aforesaid persons (the persons within the purview of Section 2, RA 7080) -- has been acquired directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any *combination* or *series* of the following means or similar schemes:

- (i) through misappropriation, conversion, misuse or malversation of public funds or raids on the public treasury;
- (ii) by receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
- (iii) by the illegal or fraudulent conveyance or disposition of assets belonging to the national government or any of its subdivisions, agencies or instrumentalities or government-owned or controlled corporations and their subsidiaries;
- (iv) by obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
- (v) by establishing agricultural, industrial or commercial monopolies or other combination and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
- (vi) by taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.⁵⁵

30. In petitioners' case, the prosecution successfully discharged its duty of presenting proof evident corresponding to each and all of the above elements.

⁵⁵ *Estrada vs. Sandiganbayan*, G.R. No. 148560, 19 November 2001.

FIRST ELEMENT:

The Offender is a Public Officer who acted by himself or in connivance with family or subordinates.

31. There is no dispute that petitioner Revilla is a Senator of the Republic. This was part of the stipulations entered into by the parties during the first pre-trial conference held on 3 July 2014.

32. With respect to petitioner Cambe, there is overwhelming evidence clearly demonstrating that he was a public officer at the time material to the case, being then the Chief of Staff/Political Officer or Director III of his co-accused, petitioner Revilla. The Prosecution's evidence – consisting of public documents⁵⁶ – clearly show that petitioner Cambe was a public officer working in the office of Senator Revilla.

33. Although Cambe does not deny being a public officer or working for petitioner Revilla, he nevertheless questions the alleged lack of proof directly showing him as such subordinate and representative of the Senator. He conveniently overlooks the records where his designation and/or position, name and signature appear, under the letterhead of the Senate of the Philippines and the office of Senator Revilla. He likewise glosses over the admission of petitioner Revilla that he (Cambe) is the representative of the Senator. These proofs duly identify him as a public officer, with whom petitioners Revilla and Napoles conspired to plunder the government coffers.

34. For her part, petitioner Napoles is unquestionably a private individual, but she is charged in conspiracy with petitioners Revilla and Cambe. Under Section 2, R.A. 7080, "*any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense.*"

SECOND ELEMENT:

He amassed ill-gotten wealth through a series or combination of overt or criminal acts.

35. To amass is to gather or collect for oneself.⁵⁷ From such a definition, especially in the context of Plunder, the act proscribed immediately reveals itself as equivocally referring not only to the active collection, but also to the resultant accumulation of the collected items. Hence, the statutory minimum amount of PhP50,000,000.00.

⁵⁶ Exhibits A-22-e; A-25-f; A-26-l; A-26-a, among others.

⁵⁷ <http://www.merriam-webster.com/dictionary/amass>.

36. During the bail hearing, three prosecution witnesses in the persons of Luy, Sula and Suñas all gave consistent, corroborative and uninhibited testimony that they – either individually or in the company of any other one of them – have seen Cambe receive commissions, delivered to Cambe the commissions and knew that Cambe received said commissions from Luy and/or Napoles, relative to Revilla’s PDAF transactions.⁵⁸ As it turned out, these commissions were intended both for Cambe and his principal.

37. In the assailed resolution, the respondent court commenced its explanation on the appreciation of the testimonies of these whistleblowers with the observation that Revilla’s participation with respect to the PDAF projects went beyond endorsement, and was aimed at siphoning portions of said PDAF for his own benefit.⁵⁹ Thus, after the issuance of the pertinent SAROs, Cambe delivered, either personally or by facsimile machine, the advanced copies of the SAROs to the office of petitioner Napoles. Upon receiving the advanced copy of the SARO, Luy prepared the draft endorsement letter to be signed by petitioner Revilla, designating Napoles’ NGO as project implementor and, at the same time, giving accused Cambe full authority to act as the representative of petitioner Revilla. Thereafter, Cambe returned to Napoles’ JLN Corporation office, bringing with him the endorsement letters already signed by Revilla, together with the signed Memorandum of Agreement(s) bearing the signature of Cambe. Prosecution witness Luy’s testimony on this practice, is as follows:

Q Now, after Atty. Cambe received partial commission, what happened next, if any?

A Magfax na po si Atty. Cambe ng advance po ng SARO sa opisina ng JLN Corporation. (Atty. Cambe will fax a copy of the advance SARO). SARO, the Special Allotment Release Order coming from the DBM po. So, since mayron na kaming advance copy, utusan na po kami ni Madame Janet mag-prepare ng draft indorsement letter po ni Senator Ramon Revilla, Jr., designating the NGO of Napoles, at the same time authority given to Atty. Richard Cambe. (Since I have an advance copy of the SARO, I will prepare a draft indorsement letter of the Senator Bong Revilla, designating the NGO as well as authorizing Atty. Richard Cambe as his representative. Peo ma’am, hindi po masyado ano po yong English, kasi po hindi po kami masyadong marunong. Sila po and (sic) nagfa-finalize po non.

xxx xxx xxx

Q So, after you prepared the indorsement letter of the NGO, and authorizes Atty. Cambe to act for and in behalf of Senator Revilla, and the other documents, what do you do next, if any?

⁵⁸ TSNs of 24 and 31 July 2014 A.M. and P.M.; 7, 14 and 20 August 2014 A.M. and P.M.; and 28 August 2014 A.M., 4 September 2014 P.M., 11 September 2014 A.M. and P.M., 18 September 2014 A.M. and P.M., 25 September 2014 A.M.

⁵⁹ See *Resolution* 1 December 2014, page 57.

A Bumalik po si Atty. Cambe po, dala-dala na nya po yong signed indorsement letter po ni Senator Ramon Revilla, Jr., po. (Atty. Cambe will return, bringing with him the signed indorsement letter of Senator Ramon Revilla). Tapos, signed Memorandum of Agreement, bearing the signature of Atty. Richard Cambe po. (Also the signed Memorandum of Agreement bearing the signature of Atty. Richard Cambe). Tapos po kung may project proposal, kasama yon, pero kung wala pa po, wala. (If there is a project proposal, it is included, but if there's none, no sir.) Tapos kasama po doon yong kopya po ng SARO with attachment po, NCA. (Also included is a copy of the SARO with attachment NCA).⁶⁰

38. It is clear that after naming Cambe as his authorized representative, Revilla repeatedly endorsed Napoles's NGOs. Documents bearing Revilla's signatures were presented as evidence of Cambe's authority and of the series of endorsements. The signatures appearing therein were confirmed by Revilla himself to be authentic.⁶¹ These facts were established, not only by the testimonies of the whistleblowers, but by the COA audit.

39. In exchange for his repeated endorsements of Napoles's NGOs as project partners in the implementation of his identified PDAF projects, Revilla repeatedly received commissions. Consequently, he was able to enrich himself and his family at the expense and to the damage of the Filipino people and the Republic who were unjustly deprived of the opportunity and means to improve their livelihood and to move towards his promise of a prosperous economy.

40. Revilla assails the respondent court's reliance on the authenticity of his signatures in the endorsement letters and authorization documents. He reiterates that Luy, Sula and Suñas admitted having signed certain PDAF-related documents and emphasizes that his own witness, Desiderio A. Pagui, found that the subject signatures thereon were forged.

41. However, Revilla failed to clearly, positively and convincingly prove⁶² the fact of forgery, being the party asserting the same. Pagui's testimony on the manner, the method he employed in examining the signatures, as well as his credibility as a witness all crumbled under scrutiny. *First*, he merely used photocopies of the questioned documents to determine the forgery. *Second*, as he himself admitted on cross examination, he had previously compromised a handwriting report upon the instructions of his superior. *Third*, his examination of the questioned documents were made for a consideration.

⁶⁰ TSN, July 24, 2014, PM session, pp. 31-33.

⁶¹ Exhibit A-38-a.

⁶² *Joey P. Marquez vs. Sandiganbayan* (G.R. Nos. 187912-14, 31 January 2011).

42. Revilla does not seriously believe that such feeble testimony constitutes clear and positive proof sufficient to convince this High Court and supersede his own previous and categorical confirmation that the same signatures belong to him and his duly authorized representative and that such signatures are authentic. He cannot now choose to forget the letter he sent to COA,⁶³ acknowledging the signatures on the 168 PDAF documents. He never disputed or disowned said letter even after COA Asst. Commissioner Arcadio B. Cuenco acknowledged⁶⁴ receipt of the same.

43. To be sure, it was not until two years later, or in 2013, that Pagui came up with a report, finding that the previously admitted genuine signatures were actually forged. The convenience of Pagui's testimony is heightened by the fact that the NBI itself could have been tapped to conduct the forensic examination of the alleged forgery. For reasons which are obvious to the prosecution, petitioners Revilla and Cambe chose to pay a retired NBI agent to do the examination on their behalf.

44. In any event, said signatures passed severe scrutiny by no less than Revilla himself so much so that he never even once questioned or filed a case against any individual who may have benefitted from such dastardly act. Instead, even after having been apprised that there are issues regarding the signatures appearing in the 168 PDAF documents, he continued to repeatedly transact and recognize the transactions entered into upon the strength of the documents bearing the forgeries.

45. Petitioner Cambe harps on the observation made by respondent court that there are dissimilarities and observable strokes in his signatures as appearing in some of the MOAs and liquidation documents suggestive that Cambe may not have been the one who signed some of these documents. However, the fact that Cambe may not be the one who signed some of the documents does not necessarily mean that he never personally signed any of the remaining questioned documents. Seemingly, accused wants to impress upon this Honorable Court that since there are dissimilarities in the strokes of the signatures appearing on SOME of the documents, then accused Cambe never signed any of them. The logic in such argument is extremely wanting.

46. Moreover, Cambe also insists that since the prosecution witnesses (whistleblowers) admitted having forged the signatures appearing on some of the PDAF documents, then he (Cambe) did not affix his signature on any of one them. Again, this is clearly erroneous. While there are admissions of the kind made by these prosecution witnesses, it is important to point out that not any one of them admitted forging Cambe's signature on the MOAs.

⁶³ Exhibit A-38-a.

⁶⁴ Exhibit A-38-b.

47. Considering the foregoing, no amount of quibbling from accused Cambe can soften the blow of this Honorable Court's ruling that:

With regard to accused Cambe's supposed forged signatures on the MOAs and liquidation documents, the Court admits that there are dissimilarities and observable strokes in the signatures suggestive that accused Cambe may not be the one who signed on some of these documents. However, this fact alone does not weigh much against the circumstances pointing to a convincing presumption that accused Cambe knew or consented to the "forgery". In other words, he may not be the one who signed/initialed the MOAs and other liquidation documents but he allowed the doing of the same for the end purpose of "legitimizing" the PDAF utilization. It should be stressed that the matter concerns accused Revilla's PDAF. Accused Cambe was accused Revilla's Chief of Staff/Political Officer. In his letter to the IAs, accused Revilla designated or authorized accused Cambe to be his representative to act on his behalf to see the smooth implementation of the project, and to sign documents. Accused Revilla confirmed to the COA that accused Cambe was indeed his authorized representative. These circumstances, to the Court's mind, largely indicate that accused Revilla's participation extended to the implementation stage, that there are documents to be signed post-release of the SARO, and this, accused Revilla's office had to sign these documents. Thus, the need of the signature of accused Cambe as accused Revilla's representative on the MOAs and liquidation documents, whether affixed by him or by someone else with his consent.⁶⁵

THIRD ELEMENT:

**The aggregate amount of ill-gotten wealth
is at least PhP50,000,000.00.**

48. To prove the third element, prosecution witness Luy testified on, and identified, his records of kickbacks/commissions which he and/or Napoles gave to Revilla and Cambe, which records were encoded, kept and stored in his computer.⁶⁶ Of the total amount of PhP224,512,500.00 kickbacks/commissions Revilla and Cambe were alleged to have received, the respondent court found compelling evidence that Revilla and Cambe amassed PhP103,000,000.00, with Cambe receiving amounts on behalf of Revilla.

49. National Bureau of Investigation (NBI) forensic examiner Joey Ignacio Narciso – another prosecution witness – bolstered Luy's documentation by certifying on the integrity of Luy's computer records.⁶⁷ He testified that as Special Investigator III of the NBI's Cybercrime Division, his main function is to conduct digital forensic examination.

⁶⁵ See 1 December 2014 *Resolution*, page 62.

⁶⁶ Exhibit "G-1", "X" to "DD".

⁶⁷ TSNs of 28 August 2014 P.M., 4 September 2014 A.M., 2 October 2014 P.M., 30 October 2014 A.M., 6 November 2014 A.M. and P.M.

When he examined Luy's hard disk drive,⁶⁸ particularly the disbursement ledgers, he found no alterations or modifications thereon from the date that they were last saved up to the date of examination. This meant that neither Luy nor any other person manipulated – or could have manipulated the records – in order to reflect a false or self-serving information.

50. Narciso, under his sacred oath, avowed that based on his knowledge, education and experience as a forensic expert, the Benhur Luy files were reliable and that the ledgers derived from the hard disk were really existing. Thus, he testified:

Justice Lagos: Mr. Narciso, we have heard lengthily your testimony in the hard disk and in the files, and we heard you mentioned technical terms like Encase, hash tags, metadata. Well, personally that's all flick to me. But can you tell us, I mean, in your, the best way you can whether after thorough examination of the hard disk or the image copy, whether the files contained therein can be relied upon? If you can explain to us in the most simple terms, if you can avoid, you know, the technical terms you have testified on.

Narciso: Yes, your Honors. From the file properties that I extracted from the files that I presented during my testimony here before this Honorable Court, the file names that bear the dates of that disbursement sheet or worksheet was created, was seen in the extended file properties. For example, your Honors, in no. 20, but the file name is 04/2006 April disbursement, that refers to April disbursement, and from the content created, the content created date is April 3, 2006 at 6:39 P.M.

Justice Lagos: And that appears in Benhur Luy's ledger?

Narciso : Yes, your Honors.

Justice Lagos: And how about the other entries in this ledger, did you confirm that these were really existing?

Narciso : Yes, your Honors.

Justice Lagos: So you can say that the files extracted from the hard disk are reliable?

Narciso : Yes, your Honors.

Justice Lagos: How accurate can you say that, up to what percentage, let's say from zero to 100 percent?

Narciso : Rating from zero to 100 percent, it's 99%, your Honors.

⁶⁸ Exhibit MM.

Justice Lagos: 99%?

Narciso : Yes, your Honors.

Justice Lagos: And you are saying this based on your knowledge, your education, your experience as a forensic technician or expert?

Narciso : Yes, your Honors.⁶⁹

51. Indeed, even during his cross-examination by Atty. Buenaventura, Narciso explained that the files found in Luy's hard disk were not manipulated:

Atty. Buenaventura: In the files, subject of this particular case, is it possible that they have been manipulated?

Narciso : It is possible, sir but with my examination, as I've said earlier, the dates of several files would indicate that they were not manipulated in a particular date or time so as to make it appear that they were created on that particular date.⁷⁰

52. It is therefore correct for respondent court to give due credence and probative weight to Luy's hard disk drive as an exhibit from which were sourced the electronic data and its hard copy or print-outs. As respondent court pointed out, electronic documents may be authenticated by the presentation of other evidence showing their integrity and reliability to the satisfaction of a judge. Narciso's expert testimony alone, reciting the procedure observed to generate the document without compromising the faithfulness and integrity of the data reflected therein – in relation to the data stored in the drive – served as sound foundation for corroborating the amount of commissions or kickbacks received by Cambe and Revilla.

53. More importantly, the entries in the ledger which were obtained from the hard disk drive were described in detail and adequately explained by Luy during his testimony in open court. Luy's candid and spontaneous declarations on the contents of his records cemented the reliability of the said records as evidence of the agreement between Revilla, Cambe and Napoles, the terms and rates of commissions paid to the legislator as a result of said agreement, and of the disbursement and receipt of such payments. As the finance officer whose duty was to record the daily financial transactions of Napoles's NGOs, Luy's testimony on the significance of, and interconnections among, the figures and other contents of his records certainly added strong corroboration of the scheme employed by the petitioners to plunder public funds.

⁶⁹ 6 November 2014 TSN, pages 38-40.

⁷⁰ 30 October 2014 TSN, pages 34-35.

54. Aside from the testimonies of and documents provided by Luy, Narciso, Sula, Suñas and Baltazar, the prosecution also presented Atty. Leigh Von G. Santos (Santos), Bank Officer II who worked as a financial investigator of the Anti-Money Laundering Council Secretariat (AMLCS).⁷¹ Santos testified that he and a team of financial investigators conducted a bank inquiry into the accounts and financial transactions of Revilla, Cambe and Napoles' NGOs. He identified the *Inquiry Report on the Bank Transactions Related to the Alleged Involvement of Sen. Ramon B. Bong Revilla, Jr. in the PDAF Scam*, which he and his team of financial investigators prepared following the conduct of their investigation. Notable among their findings were the following:

- a. The AMLC investigation into Revilla's bank accounts covered the influx of funds proximate to Revilla's receipt of commissions from Napoles's group.
- b. A total of P87,626,567.63 was deposited into Revilla's and his immediate family members' accounts and placed into investments within a period of four years and twenty-two days, or from 6 April 2006 to 28 April 2010.
- c. Deposits amounting to P27,000,000.00 were recorded in the financial books of Nature Concepts Development and Realty Corporation⁷² (NCDRC), a juridical entity of insubstantial capital; a large portion of which deposits occurred within a thirty day period from the dates Luy recorded as dates of commission payments to Revilla through Cambe. Yet, it filed no financial statements with the Securities and Exchange Commission (SEC) from 2007 to 2010 and claimed to have no operations from 2011 to 2012.
- d. From June to September 2013, immediately before and after the PDAF scandal circulated in the media, Revilla closed around twenty bank accounts and investments.⁷³

55. The foregoing bank accounts and records examined by the AMLCS tally as convincing indication of the unexplained increasing wealth placed at the disposal and for the enjoyment of Revilla and his immediate family.

56. It is worth emphasizing that the AMLCS' financial investigation of the accounts of Revilla, Cambe, and Napoles' NGOs were based on documents gathered and submitted by banks and other non-bank financial institutions. Such investigation was pursuant to a lawful order obtained from the Court of Appeals, authorizing the AMLCS to conduct a bank inquiry on the specified accounts of Revilla, Cambe, and Napoles' NGOs.

⁷¹ TSNs of 9 October 2014 P.M., 16 October 2014 A.M. and P.M., 23 October 2014 A.M.

⁷² NCDRC is a business over which Revilla's spouse, Lani Mercado (Mercado), held controlling interest.

⁷³ Exhibits ZZZ to ZZZ-1.

57. Banks, on the other hand, are obliged to exercise the highest degree of diligence as well as high standards of integrity and performance in all its transactions because its business is imbued with public interest. The stability of banks largely depends on the confidence of the people in the honesty and efficiency of banks.⁷⁴ As aptly declared in *PCIBank vs. Court of Appeals*:⁷⁵

Time and again, we have stressed that banking business is so impressed with public interest where the trust and confidence of the public in general is of paramount importance such that the appropriate standard of diligence must be very high, if not the highest, degree of diligence. Xxx

Banks handle daily transactions involving millions of pesos. By the very nature of their work the degree of responsibility, care and trustworthiness expected of their employees and officials is far greater than those of ordinary clerks and employees. Banks are expected to exercise the highest degree of diligence in the selection and supervision of their employees.

58. Having been prepared in the ordinary course of business by institutions in which the highest degree of diligence is required, the documents gathered by the AMLCS are entitled to full faith and credit.

59. Based on the foregoing discussion, it is clear that the prosecution successfully discharged its duty of establishing by competent evidence all the elements of Plunder to the degree of “presumption great” and “proof evident.” Rightly then, petitioners’ are not entitled to bail.

The case of Montano vs. Ocampo was erroneously invoked by petitioner Revilla.

60. Petitioner Revilla continues to insist that he is entitled to bail as there is no evidence that he is a flight risk following the case of *Montano vs. Ocamp*.⁷⁶ Such insistence is simply puerile and unfairly wears down *Montano*’s jurisprudential value in view of the “proof evident” presented by the prosecution.

61. The respondent court’s discussion on the matter in the assailed *Resolution* is beautiful in its simplicity. Its clarity is crystallized in the following manner:

⁷⁴ *ComSavings Bank vs. Capistrano*, G.R. No. 170942, 28 August 2013.

⁷⁵ *PCI Bank vs. CA*, G.R. Nos. 121413, 121479, 128604, 29 January 2001.

⁷⁶ G.R.No. L-6352, 29 January 1953.

A reading of the ruling in Montano case, however, readily shows that bail therein was granted to the accused primarily because the Supreme Court did not find any strong evidence against Senator Montano. The High Court, in its opening statement in that case said:

Brushing aside the charge that the preliminary investigation of this case by the aforesaid Judge was railroaded, the same having been conducted at midnight, a few hours after the complaint was filed, we are of the opinion that, upon the evidence adduced in the application for bail in the lower court, as such evidence is recited lengthily in the present petition and the answer thereto, and extensively analyzed and discussed in the oral argument, there is not such clear showing of guilt as would preclude all reasonable probability of any other conclusion. (Underscoring supplied)

The finding of the Honorable Supreme Court that the accused in the Montano case was not a flight risk only supported the conclusion therein that bail could be granted. What is clear, however, is that the High Court found no strong evidence against the accused therein. There is, unfortunately, nothing in Montano which can support the theory that even if evidence is strong but the accused is not a flight risk, bail can still be granted. Such an argument runs counter to Section 7, Rule 114 of the Rules of Criminal Procedure which provides:

Section 7. *Capital offense of an offense punishable by reclusion perpetua or life imprisonment, not bailable.* — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

62. With the foregoing, no further counter-argument need to be raised as regards petitioner Revilla's reliance on *Montano*. Indeed, it appears that no amount of reasonable elucidation will convince an unwilling and irrational listener.

The respondent court correctly held that the evidence presented during the bail hearings duly established a criminal conspiracy among the accused.

63. As to the allegation of conspiracy, this is likewise sustained by the evidence on record.

64. Although conspiracy, like the crime, must be proven beyond doubt, it need not be established by direct proof. So long as the acts of the conspirators are characterized by unity of purpose, intent and design in order to effect a common unlawful objective – conspiracy exists as such fact may be inferred from the coordinated acts and movements of the co-

conspirators.⁷⁷ It is also essential for one to be a party to a conspiracy as to be liable for the acts of the others that there be intentional participation in the transaction with a view to the furtherance of the common design. Except when he is the mastermind in a conspiracy, it is necessary that a conspirator should have performed some overt act as a direct or indirect contribution in the execution of the crime planned to be committed. **The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators.**⁷⁸

65. By its nature conspiracy is planned in utmost secrecy, hence, it can rarely be proved by direct evidence. Consequently, the presence of the concurrence of minds which is involved in conspiracy may be inferred from proof of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, a conspiracy may be inferred though no actual meeting among them is proved.⁷⁹ Further, where conspiracy exists and can rightly be appreciated, the individual acts done to perpetrate the felony becomes of secondary importance, the act of one being imputable to all the others.⁸⁰

66. In petitioners' case, the individual, collective and connected acts implicitly show unity of purpose between and among them — a concerted effort to commit **fraud** against the government. As fittingly pronounced by respondent court in its assailed decision,

xxx Repeatedly, accused Revilla in his capacity as Senator, requested the release of his PDAF. Upon proof of receipt of the DBM of accused Revilla's request with endorsement, accused Napoles advanced a portion of accused Revilla's agreed commission, through accused Cambe. After the SARO was released, accused Napoles would complete accused Revilla's stipulated commission, again through accused Cambe. On these occasions, accused Cambe also received his own rebate or commission. Then, accused Revilla endorsed Napoles' NGOs to the IAs concerned. Accused Cambe, on behalf of Revilla, and accused Napoles, using her NGOs, executed MOAs with and submitted other documents to the IAs. The IAs released checks to the NGOs. After the checks were cleared, accused Napoles had her trusted employees immediately withdraw from that account. Subsequently, the NGOs liquidated the amount of the checks using

⁷⁷ *People vs. Narca, et al*, G.R. No. 108488, 21 July 1997.

⁷⁸ *Odon Pecho vs. People*, G.R. 111399, 27 September 1996.

⁷⁹ *People vs. del Rosario*, G.R. No. 127755, 14 April 1999.

⁸⁰ *People vs. Quitlong, et al.*, G.R. No. 121562, 10 July 1998.

manufactured documents. The scheme strongly established patterns or series of acts employed by accused Revilla, with the aid of accused Napoles and Cambe, to acquire, accumulate or amass ill-gotten wealth sourced from his PDAF.⁸¹ [Emphasis and underscoring supplied]

67. The aforequoted disquisition is an accurate and succinct description of the intricate criminal scheme adopted by petitioners to plunder the coffers of the government. The elements of the said crime, as alleged in the Information, have all been clearly established, and the *modus operandi* – as correctly appreciated by respondent court – corresponds to such elements.

68. Having established conspiracy, all the accused are answerable as co-principals **regardless of their degree of participation**. The act of one is the act of all and all must suffer for their acts.⁸²

69. Petitioner Napoles argues that there can be no evidence of conspiracy, because the prosecution witnesses “*never saw nor heard Senator Revilla talk with Janet Lim Napoles about their alleged agreement.*” She thus concludes – quite erroneously, of course – that any assertion of the presence of a criminal conspiracy among the co-accused is “*clearly hearsay.*”

70. The crime of plunder, committed by herein petitioners under the elaborate scheme of the PDAF scam – was done clandestinely to avoid detection. Necessarily, case law prescribes a more realistic standard for detecting, establishing and proving conspiracies. As accurately pointed out in the assailed *Resolution*:

Jurisprudence teaches us that proof of the agreement need not rest on direct evidence, as the agreement itself may be inferred from the conduct of parties disclosing a common understanding among them with respect to the commission of the offense. It is not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out.⁸³

71. Guided by respondent court’s ratiocination, the argument that conspiracy was not established since the statements of the prosecution’s witnesses “*came only from Janet Lim Napoles,*” should be given scant consideration.

⁸¹ 1 December 2014 *Resolution*, p. 68.

⁸² *People vs. Linsangan*, G.R. Nos. 95232, 95592, 31 January 1992.

⁸³ *Id.*, p. 55.

72. The truth remains that petitioner Napoles has consistently, for years, unabashedly communicated to her employees the details of her illegal activities, and disclosed the identities of politicians she was in cahoots with, including Revilla. If such information stopped there, it can indeed be argued that evidence necessary for a finding of criminal culpability would be insufficient. However, in this case, while details of the criminal conspiracy were primarily sourced only from accused Napoles, such details were repeatedly verified, over a span of so many years, by what prosecution witnesses actually did as JLN Corporation employees. These witnesses while enjoying the confidentiality reposed by Napoles and having been directed to perform illegal acts for the furtherance of the plunder, have personal knowledge of the scheme adopted to perpetrate the PDAF scam.

73. When petitioner Napoles relayed to her employees that a specific “*PDAF Scam*” transaction pertained to the office of Revilla, its veracity cannot be questioned. After all, these employees-turned prosecution witnesses repeatedly dealt with Cambe, used official documents bearing the signature of Revilla, and created NGOs to which the PDAF proceeds of Revilla were channeled. The existence of a criminal conspiracy is borne overwhelmingly by all these facts and circumstances, duly supported by testimonial and documentary evidence. Such facts and circumstances cannot be negated simply by the reality of Napoles’ and Revilla’s caution and overriding greed to prevent any possibility of being seen together to discuss the details of their agreement in full view and within earshot of witnesses. As pointed out above, for all their vices, sophisticated and cunning criminals are very rarely careless and indiscrete.

74. In support of her theory that the prosecution failed to establish the existence of a conspiracy among the petitioners herein, petitioner Napoles further cites the rulings of this Honorable Court in *People vs. Santiago*⁸⁴ and *Orodio vs. Court of Appeals*.⁸⁵ In these cases, however, the pronouncements of the Honorable Court relating to the quantum of proof required to establish the existence of a conspiracy were made in the context of a **trial proper** where the evidence required is proof beyond reasonable doubt. As discussed by the respondent court in the first assailed *Resolution*, however, guilt beyond reasonable doubt is not required to be established during a bail hearing since –

⁸⁴ G.R. No. 129371, 04 October 2000.

⁸⁵ G.R. No. L-57519, 13 September 1988.

Even though there is a reasonable doubt as to the guilt of the accused, if on an examination of the entire record the presumption great that accused is guilty of a capital offense, bail should be refused. In other words, the test is not whether the evidence establishes guilt beyond reasonable doubt but rather to decide which circumstances and factors are present which would show evident guilt or presumption of guilt as defined above.⁸⁶

75. Thus, unlike the trial proper where evidence of a conspiracy must be established as clearly as the culpability for the crime itself, the required proof during a bail hearing is not as exacting. After all, the sole purpose of the bail hearing is to determine whether or not provisional liberty should be granted the accused. For such determination, liability for the crime need not be proved. “To forfeit the constitutional right to bail in capital offenses, it is enough that the evidence of guilt be ‘strong’.”⁸⁷ During the bail hearing, the court does not sit to try the merits of the case or to enter into any inquiry as to the weight that ought to be give to the evidence for or against the accused, nor will it speculate on the outcome of the trial or on what further evidence may be offered or admitted.⁸⁸

76. Contrary to petitioner Napoles’ arguments, therefore, evidence to prove conspiracy during the bail hearing need not use the standard of *proof beyond reasonable doubt*. Such standard will apply only during the trial proper, for the purpose of rendering a judgment of conviction or acquittal. At this juncture, it is sufficient that respondent court – in light of the evidence presented thus far – was convinced of the existence of a criminal conspiracy among the accused and that the “circumstances testified to are such that the inference of guilt naturally to be drawn therefrom is strong, clear and convincing to an unbiased judgment and excludes all reasonable probability of any other conclusion.”⁸⁹

The respondent court correctly gave credence to the testimonies of prosecution witnesses and the evidence they testified on.

77. Petitioner Napoles contends that the testimonies of “*Benhur Luy and the other whistle blowers*” are “*hearsay*” simply because they “*admitted that they never saw nor heard Senator Revilla talked with Janet Lim Napoles about their alleged agreement.*” She also dismisses the AMLCS Report as “*multiple hearsay*” because it is “*based on the affidavits of persons not presented in court and documents prepared by persons other*

⁸⁶ 1 December 2014 *Resolution*, p. 52.

⁸⁷ *Pareja vs. Gomez*, G.R. No. L-18733, 31 July 1962.

⁸⁸ See *People vs. Gako*, G.R. No. 135045, 15 December 2000.

⁸⁹ *Resolution*, p. 52.

than the witness from AMLC.” On these bases, accused Napoles contends that said testimonies cannot be given credence under the exclusionary rule of Rule 130, Section 36.

78. The rule above invoked was not violated in petitioner’s case. The testimonies of the witnesses which petitioner Napoles assails all conform to the general rule that testimony should be confined to personal knowledge. All the witnesses presented testified as to matters that are within their competence and knowledge; as far as they are concerned, they merely relayed facts which they personally know to be true. As to whether these witnesses’ version of the facts is veracious, the same is an independent issue that will be established through corroborative testimonies and by appreciating the totality of the evidence and the coherence and consistency of its parts. This contingency, however, does not render the testimonies of prosecution witnesses inadmissible for being “hearsay.”

79. *First.* In *People vs. Figueroa*,⁹⁰ the Supreme Court stated that “[u]nder the doctrine of independently relevant statements x x x the hearsay rule does not **apply where only the fact that such statements were made is relevant, and the truth or falsity thereof is immaterial.**” [Emphasis and underscoring supplied]

80. In *Bayani vs. People*,⁹¹ the Supreme Court ruled that an independently relevant statement is an exception to the hearsay rule and its purpose is merely “to establish the fact that the statement was made or the tenor of such statement.” Thus, “evidence regarding the making of such independently relevant statement is not secondary but primary, because **the statement itself may (a) constitute a fact in issue or (b) be circumstantially relevant as to the existence of that fact.**” [Emphasis supplied]

81. Further, in *People vs. Gumimba*,⁹² :

Appellant challenges the testimonies of the witnesses Magallano and Arañas on what appellant had confessed to or told them for being hearsay. The challenge fails. The testimonies, it should be conceded, cannot serve as a proof of extrajudicial confession for an extrajudicial confession has to be in writing, among others, to be admissible in evidence. That is why the testimonies are of use in the case as corroborative evidence only. Such utility, however, cannot be defeated by the hearsay rule. The testimonies covered are independently relevant statements which are not barred by the hearsay rule. (Underscoring supplied)

⁹⁰ G.R. No. 186141, 11 April 2012.

⁹¹ G.R. No. 155619, 14 August 2007.

⁹² G.R. No. 174056, 27 February 2007.

82. It bears emphasis that for the entire duration of the bail hearings, the prosecution was operating under the theory that the “*PDAF Scam*” conspiracy was perpetrated individually, collectively and connectively by the petitioners and their co-accused. To support such theory, the prosecution presented witnesses and offered evidence to show, all the acts of petitioners directed at a common goal. Thus, the testimonies of the prosecution witnesses corresponded to, and verified, the various aspects of the massive “*PDAF Scam*” corruption scheme, in all its stages from inception to execution. Quite obviously, no single witness can testify on the complete facts that will encapsulate the entire case of the prosecution. Instead, by piecing together the testimonies of various witnesses, the prosecution demonstrated how the entire conspiracy was carried out.

83. The witnesses’ testimonies, therefore, are not excludible under the hearsay rule. They are independently relevant statements; they attest to certain facts which, taken in totality, are relevant to the issue of whether a criminal conspiracy exists among the petitioners and how it was carried out. Specifically, the testimonies of Luy and the other whistleblowers cannot be dismissed as hearsay because, in themselves, they constitute independently relevant statements supporting the prosecution’s theory of conspiracy. At this stage of the proceedings, it is of little import that such witnesses did not actually see or hear accused Revilla and Napoles directly confirm their agreement regarding the “*PDAF Scam*.” When these independently relevant statements are juxtaposed with and validated against the plethora of documentary evidence presented by the prosecution, any doubt as to their veracity was necessarily erased.

84. As to Atty. Leigh Von Santos of the AMLCS, accused Napoles’ attempts to discredit his testimony are groundless. She belittles Atty. Santos’ testimony because (1) he did not interview Benhur Luy, even as he used the latter’s sworn affidavit during his investigation; and (2) he did not interview the bank officer who made the notation “confirmed by Napoles” in the withdrawal slips.

85. What accused Napoles conveniently overlooks is that Atty. Santos is not in the position to testify on the veracity of Mr. Luy’s affidavit – that is for Mr. Luy himself to establish during his own examination as a witness. Nor is Atty. Santos required to supply the motive or rationale behind the incriminating “notation” in the bank withdrawal slips that directly implicates accused Napoles. As a bank officer and financial investigator of the AMLCS, Atty. Santos can conduct a financial investigation according to the standards of his practice and the protocols of his office. In doing so, he has the competence and authority to draw conclusions based on the evidence he finds, including official documents on record. As already pointed out

earlier, these official documents are presumed to be regular on their face, especially when there is no reason to perceive them as spurious or fabricated.

86. To reiterate, the testimonies of prosecution witnesses assume credence and credibility because they have ample support in other pieces of evidence. The “*shortfalls*” or “*defects*” that petitioner Napoles points out are merely thinly-veiled but futile attempts to exclude evidence that directly and clearly implicates her.

87. This is the case with Luy and Santos. This is also the case with Narciso, who was admitted as an expert witness⁹³ but whose expertise petitioner Napoles assails. Indeed, despite Napoles’ assertions, it remains a fact that the authority of expert witnesses is acquired by their specialized knowledge of the subject matter “either by the study of recognized authorities on the subject or by practical experience,”⁹⁴ both of which Narciso more than amply satisfied.

88. In any case, petitioner Napoles understandably grasps at any straw in order to prevent incriminating evidence from being presented against her, including discrediting an undisputed expert witness – one of literally only a *handful* of certified digital forensic examiners in the country, and one who *officially* conducts forensic examinations for the country’s only specialized investigative agency. Instead of insisting on her misplaced arguments, Napoles should simply accept the well-established rule that “the problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of an abuse of that discretion.”⁹⁵

89. With regard to the so-called “*inconsistencies*” in the testimonies of prosecution witnesses, which petitioners commonly decry, it is important to stress that these alleged “*inconsistencies*” do not in any way detract from the facts that the evidence presented has so far established persuasively. No reasonable mind would dismiss the *overwhelming* evidence of the “*PDAF Scam*” scheme on the basis merely of claimed inconsistencies on trivial or inconsequential matters. Indeed, axiomatic is the rule that “as long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility.”⁹⁶ Such testimonies will not be dismissed as long as “the testimonies agree on the essential facts and that the respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole.”⁹⁷

⁹³ Resolution, p. 65.

⁹⁴ Cayao-Lasam vs. Spouses Ramolete, G.R. No. 159132, 18 December 2008.

⁹⁵ Gomez vs. Gomez-Samson, G.R. No. 156284, 06 February 2007.

⁹⁶ People vs. Dadao, G.R. No. 201860, 22 January 2014.

⁹⁷ People vs. Añora, G.R. No. 101584, 07 April 1993.

90. All told, as far as the purpose of bail hearing is concerned, the substance of prosecution witnesses' testimony and the evidence they testified on, is sufficient to establish *strong evidence of guilt*. Again, at this stage of the proceedings, the law and the rules require nothing more.

Napoles' petition is an improper and misplaced remedy for assailing the validity of the Information.

91. Petitioner Napoles also assails the Information for Plunder against her, arguing that since she, a private person, was alleged to be the principal beneficiary of the scheme, plunder would be an inappropriate charge because plunder applies only to public officers and their co-conspirators.

92. In the first place, the instant *petition* is an improper remedy to raise issues regarding the alleged defect in the Information and to assail the subject matter jurisdiction of respondent court over the plunder case. Rule 117 of the Rules on Criminal Procedure provides that a motion to quash is the appropriate remedy to question an Information which suffers from such defects as erroneous or insufficient allegations. At this stage of the proceeding where Napoles' right to post bail has already been denied, raising the issue of whether she was charged under a wrongful Information is already out of order.

93. Second, since the respondent court has found the existence of a *conspiracy* among the petitioners, then their respective culpabilities are to be treated *collectively* and not *individually*. Verily, when conspiracy is established, the responsibility of the conspirators is collective, not individual, that render all of them equally liable regardless of the extent of their respective participations, the act of one being deemed to be the act of the other or the others, in the commission of the felony.⁹⁸

94. Petitioner Napoles incorrectly hypothesizes that the entire "*PDAF Scam*" conspiracy was conceived to enable her to misappropriate the PDAF proceeds for her personal gain. This is utterly hilarious. As respondent court correctly found, the intent to siphon off the PDAF allocation resides in petitioner Revilla – an elected Senator – to benefit himself, with petitioners Napoles and Cambe aiding him.⁹⁹

⁹⁸ *People vs. Montanir*, G.R. No. 187534, 04 April 2011.

⁹⁹ See 1 December 2014 *Resolution*, p. 68.

95. What petitioner Napoles fails to grasp is that, in accordance with the prosecution's contention, the "*PDAF Scam*" conspiracy consists of multi-layered and multi-faceted components, each being manned and executed by a different co-conspirator. For her part, Napoles acted as the facilitator or mechanism of the scheme, with her JLN Corporation and network of dummy NGOs providing the "*backbone*" and "*cover*" of the operations. As facilitator, she received her own share of the loot, but this does not in any way imply that the illegal kickbacks she received were the ultimate objective of the scheme.

96. The bottom line is: Napoles received her share, just like Revilla and Cambe did. As the conspiracy yielded benefits for all those involved – not just Napoles – she has no ground to hoist herself up as the "*principal and ultimate beneficiary*" of the scheme. There was no single conduit to which the entirety of the PDAF funds was illegally diverted; there were many. As far as the shared criminal intent of the petitioners is concerned, all of them are beneficiaries of the conspiracy, and the law will hold them equally liable as such.

97. *Lastly*, accused Napoles wrongly invokes the case of *People vs. Belicena*¹⁰⁰ to support her cause. It is true that in the said case, respondent court held that Plunder cannot be established due to failure to show that "*any public officer actually obtained any monetary consideration or was able to share or was rewarded by FILSTAR or the spouses Chingkoe with the equivalent monetary value of the TCCs.*"

98. The *Belicena* case is clearly inapplicable in the instant case. For one, it would be the height of absurdity to presume that what petitioner Napoles handed over to her co-accused (by way of kickbacks or commission) were her "*personal funds.*" On the contrary, the "*PDAF Scam*" built her "*businesses.*" It is incumbent upon her to present evidence to support her laughable proposition, and convince this Honorable Court that she can actually identify any "*personal fund*" distinguishable from the wealth she and her family derived from the proceeds of her PDAF thievery.

99. More importantly, the respondent court dismissed the plunder charge in *Belicena* because of the absolute lack of link between the accused public officers and the proceeds of the illicit conspiracy. No such infirmity is present in this case. The evidence presented during the bail hearings undeniably demonstrates that all the accused, including public officers Revilla and Cambe, benefited from the pillage of PDAF funds. The kickbacks or commissions they received – which are absent in the case of the public officers in *Belicena* – already provides the "*link*" required in

¹⁰⁰ Crim. Case No. SB-09-CRM-0078 (Sandiganbayan, First Div.).

Belicena, because they are the “monetary consideration” or reward “*of equivalent monetary value*,” traceable to the PDAF allocation of petitioner Revilla.

CONCLUSION

100. The prosecution has presented overwhelming evidence showing that petitioner Revilla used and abused his position as a Senator of the Republic. Prosecution witnesses Luy, Sula, and Suñas gave detailed testimony of the scheme adopted by accused Revilla and Napoles in accumulating for themselves public funds. The other pieces of evidence, as discussed earlier, establish the Senator’s accumulation of wealth from such commissions or from unexplained sources during the relevant years when he, and his henchman Cambe, willingly and knowingly transacted with Napoles and her NGOs.

101. The foregoing accounts and records, each of its own peculiar form and nuance, neatly fills a particular niche in the intricate mosaic of the PDAF scam. Such congruence of individual pieces can only persuade even the most astute of skeptics of a singular and deliberate design pursued by petitioners to plunder the coffers of our government and deprive the people of the benefits that a just and equitable society ensure.

PRAYER

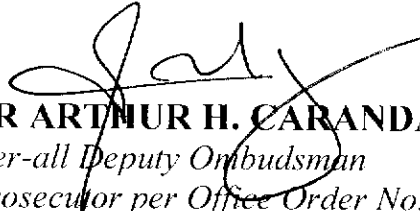
WHEREFORE, the prosecution respectfully prays that instant petitions be **DISMISSED** for lack of merit.

Other reliefs just and equitable under the premises are likewise prayed for.

Quezon City, Philippines, 10 September 2015.

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EXPLANATION

Pursuant to Section 11, Rule 13 of the 1997 Revised Rules of Civil Procedure, copy of this *Consolidated Comment* is being served upon the parties, except the Sandiganbayan, by registered mail in view of the distance and lack of manpower to personally serve the same.


JANET LEAH M. RAMOS

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