

ORIGINAL

Republic of the Philippines  
**SUPREME COURT**  
Manila

RICHARD A. CAMBE,  
Petitioner,

- versus -

G.R. No. \_\_\_\_\_  
For: Certiorari under Rule 65  
(Case No. SB-14-CRM-0240)

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

x-----x

**PETITION**

Petitioner RICHARD A. CAMBE, by counsel, respectfully states:

**NATURE OF THE PETITION**

This is a verified petition for certiorari under Rule 65 of the Rules of Court to annul the Resolution dated December 1, 2014 and Resolution dated March 26, 2015 (certified true copies are attached as **Annex A** and **Annex B**, respectively) of the Sandiganbayan (First Division), denying petitioner Cambe's application for bail in SB-14-CRM-0240, entitled, *People of the Philippines vs. Ramon "Bong" B. Revilla, Jr., Richard A. Cambe, Janet Lim Napoles, Ronald John Lim, and John Raymund de Asis*, which is a case for Plunder defined and penalized under Section 2 of Republic Act No. 7080, as amended.

The Plunder case stemmed from the alleged Priority Development Assistance Fund or PDAF scam.

The first resolution denied Cambe's Application for Bail dated June 23, 2014 (**Annex C**), while the second resolution denied his Motion for Reconsideration dated December 15, 2014 (**Annex D**).

As the assailed resolutions deny him of his constitutional right to liberty, Cambe has no appeal or any plain, speedy, and adequate remedy in the course of law except this petition.

#### MATERIAL DATES

Petitioner Cambe received the first resolution on December 2, 2014 and he filed his motion for reconsideration on December 17, 2014. He received the second resolution on April 7, 2015; thus he has 60 days or until June 6 to file this petition.

#### PARTIES

Petitioner Cambe is of legal age, a Filipino, with residential address at 238 Banlat Road, Tandang Sora, Quezon City. He is detained at the PNP Custodial Center in Camp Crame, Quezon City in connection with the Plunder case.

Respondent Sandiganbayan (First Division) is the court that issued the assailed resolutions with address at the Sandiganbayan Bldg., Commonwealth Avenue, Quezon City.

Respondent People of the Philippines is the plaintiff in the Plunder case, represented by the Office of the Special Prosecutor, with address at the 5<sup>th</sup> Floor, Sandiganbayan Bldg., Commonwealth Avenue, Quezon City.

Respondent Office of the Ombudsman is the complainant in the Plunder case, and it has address at the Ombudsman Bldg., Agham Road, Quezon City.

#### STATEMENT OF THE FACTS AND OF THE CASE

The Office of the Ombudsman charged petitioner Cambe and the other accused with Plunder under the Information dated June 5, 2014 (**Annex E**).

On July 1, 2014, Cambe received respondent People's Manifestation with Motion to Admit Amended Information (**Annex F**), seeking to amend the Information dated June 5, 2014.

In its Order dated June 26, 2014 (**Annex G**), the respondent court allowed the proposed formal amendments to the Information, but disallowed the proposed substantial amendments.

The allowed formal amendments were limited to the correction of the name of accused Ramon M. Revilla, Jr., the inclusion of Cambe's middle name (Abdon), and the addition of the middle initials of accused Ronald Lim and John Raymund de Asis.

Respondent People did not move for a reconsideration of the Order dated June 26, 2014.

Petitioner Cambe was arraigned and he pleaded not guilty to the charge under the Information dated June 5, 2014 as formally amended.

On June 23, 2014, Cambe filed an Application for Bail (Annex C). The other accused in the Plunder case also applied for bail.

The respondent court conducted bail hearings and thereafter rendered the first assailed resolution (Annex A) denying bail to all accused.

Cambe filed a motion for reconsideration (Annex D), which was denied in the second assailed resolution (Annex B).

In filing this petition, Cambe limits the issue to whether respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolutions.

Cambe has two other pending petitions before this Honorable Court in connection with the Plunder case, which involve issues different from those submitted herein.

The two other petitions are:

- (1) G.R. No. 212794-95, entitled, *Richard A. Cambe v. Office of the Ombudsman, et al.*, which is a petition for certiorari under Rule 65 to annul the resolution of the Ombudsman finding probable cause against him for Plunder and 16 counts of violation of Section 3(e) of RA 3019 (The Anti-Graft and Corrupt Practices Act); and

- (2) G.R. No. 212014-15, entitled, *Richard A. Cambe v. Office of the Ombudsman, et al.*, which is also a petition for certiorari under Rule 65 to annul the order of the Ombudsman denying Cambe's motion to suspend the preliminary investigation pending non-finality of the Notices of Disallowance issued by the Commission on Audit.

#### GROUNDS

The respondent court committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolutions.

- I. The denial of petitioner's application for bail was based on Criminal Procedure 1900 (General Order No. 58), which requires a much lower quantum of proof to deny bail (i.e., proof of guilt is evident or presumption of guilt is strong), and not on Section 13, Article III of the 1987 Philippine Constitution, which requires proof that "evidence of guilt is strong."
- II. The denial of petitioner's motion for reconsideration was based on the concept of "totality of evidence" which is applicable in Writ of *Amparo* cases only.
- III. Even assuming that "proof evident," "presumption great," or proof that "the presumption of guilt is strong" are the tests to determine whether petitioner may be granted or denied bail, the assailed resolutions were based on mere presumptions and inferences.

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## DISCUSSION

- I. *The denial of petitioner's application for bail was based on Criminal Procedure 1900 (General Order No. 58), which requires a much lower quantum of proof to deny bail (i.e., proof of guilt is evident or presumption of guilt is strong), and not on Section 13, Article III of the 1987 Philippine Constitution, which requires that "evidence of guilt is strong."*
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Citing *People v. Cabral*,<sup>1</sup> the respondent court adopted the tests of "proof evident" and "presumption great" in resolving whether to grant or deny bail to Cambe.<sup>2</sup>

*Cabral* lifted such tests from the October 2, 1930 decision in *Montalbo v. F. Santamaria*,<sup>3</sup> which was based on Section 63 of General Order No. 58 -

SEC. 63. All prisoners shall beailable before conviction except those charged with the commission of capital offense when *proof of guilt is evident* or the *presumption of guilt is strong*.<sup>4</sup>

Abandoning the tests laid down in General Order No. 58, the 1935 Constitution (Art. III, Sec. 16) required that only "when evidence of guilt is strong" in capital offenses may a person be denied bail.

All persons shall before conviction be bailabe by sufficient sureties, except those charged with capital offenses *when evidence of guilt is strong*. Excessive bail shall not be required.<sup>5</sup>

The 1973 Constitution (Art. IV, Sec. 18) retained the same test -

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<sup>1</sup> G.R. No. 131909, February 18, 1999.

<sup>2</sup> Resolution dated December 1, 2014, pp. 51-52.

<sup>3</sup> G.R. No. L-34135.

<sup>4</sup> Italics supplied.

<sup>5</sup> Italics supplied.

All persons, except those charged with capital offenses when evidence of guilt is strong, shall before conviction, be bailable by sufficient sureties. Excessive bail shall not be required.

The 1987 Constitution (Art. III, Sec. 13) retained this higher degree of proof to deny a person of his liberty and his right to bail by requiring the prosecution to present proof that "evidence of guilt is strong" -

All persons, except those charged with offenses punishable by *reclusion perpetua* when the evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. xxx

"Strong evidence of guilt" does away with presumptions and inferences, and requires direct and solid evidence that if unrebutted may give rise to conviction. It is different from proof that "the presumption of guilt is strong" (Sec. 63, General Order No. 58), which is no longer applicable because under our 1987 Constitution (Art. III, Sec. 14, par. 2), the accused shall be presumed innocent in all criminal prosecutions.

Thus, in resorting to a lower quantum of proof to deny petitioner the right to bail, the respondent court did not only commit grave abuse of discretion but it also violated the Constitution.

II. *The denial of petitioner's motion for reconsideration was based on the concept of "totality of evidence" which is applicable in Writ of Amparo cases only.*

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Acknowledging that no single piece of evidence qualified as strong evidence to meet the constitutional requirement to deny bail to Cambe, the respondent court resorted to the concept of "totality of evidence" -

Indeed, in the hierarchy of proofs, presumption great or evident proof is of inferior degree than that of proof beyond reasonable doubt. With the required lesser

weight of evidence, the Court is only tasked to determine which situations or conditions show evident guilt from the **totality of evidence presented.**

XXXX

Stress is given to the **“totality of evidence” or “evidence as a whole”** because the Court has observed that the perceived error or grave abuse of discretion attributed to it by the accused-movants refers **to factors or circumstances in the case appreciated in itself independent of the whole, not as part of the entire picture of evidence.**<sup>6</sup>

The concept of “totality of evidence” however applies only to Writ of *Amparo* cases, as explained by this Honorable Court in *Razon et al. v. Tagitis*:<sup>7</sup>

We explained that although the xxx evidence was patently hearsay (and thus incompetent and inadmissible under our rules of evidence), **the unique evidentiary difficulties posed by enforced disappearance cases compel us to adopt standards that were inappropriate and responsive to the evidentiary difficulties faced.** We noted that while we must follow the substantial evidence rule, we must also observe flexibility in considering the evidence that we shall take into account. **Thus, we introduced a new evidentiary standard for Writ of Amparo cases in this wise:**

The fair and proper rule, to our mind, is to **consider all the pieces of evidence adduced in their totality, and to consider any evidence otherwise inadmissible under our usual rules to be admissible if it is consistent with the admissible evidence adduced.** In other words, we reduce our rules to the most basic test of reason i.e., to the relevance of the evidence to the issue at hand and its consistency with all the other pieces of adduced evidence. Thus, even hearsay evidence can be admitted if it satisfies this minimum test.<sup>8</sup>

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<sup>6</sup> Resolution dated March 26, 2015, pp. 10-11.

<sup>7</sup> G.R. No. 182498, February 16, 2010.

<sup>8</sup> Emphasis supplied.

For obvious reason, respondent court's reliance on the concept of totality of evidence to deny Cambe his right to bail is a grave abuse of discretion.

III. *Even assuming that "proof evident," "presumption great," or proof that "the presumption of guilt is strong" are the tests to determine whether petitioner may be granted or denied bail, the assailed resolutions were based on mere presumptions and inferences.*

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Presumptions do not constitute strong evidence. However, the findings and conclusions of respondent court in its assailed resolutions stood on a pyramid of presumptions; worse, they disregarded material evidence and testimonies that favored Cambe.

Due process means not only giving every contending party the opportunity to be heard but also for the Court to consider every piece of evidence presented.<sup>9</sup>

*First Element: The Offender is a public officer who acts by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons.*

When respondent court stated that Cambe was a public officer at the time material to this case "being Revilla's Chief of Staff/Political Officer/Director III as appearing on the face of the documents on record,"<sup>10</sup> respondent court only made up such presumption by merely parroting what was alleged in the Information.

Allegations in the Information are not proof.

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<sup>9</sup> *People v. Cabral, et al.*, G.R. No. 131909, February 18, 1999.

<sup>10</sup> Resolution dated December 1, 2014, p. 54.



Moreover, none of the exhibits appearing in footnote 79 of the resolution duly proved that Cambe was a public officer, allegedly for being Revilla's Chief of Staff or Political Officer or Director III.

Footnote 79 listed Exhibits A-22-e, A-25-f, A-26-L, A-26-a, and "among others (sic)."

In the first place, there was no admission or stipulation that Cambe was a public officer.

Moreover, the exhibits in footnote 79 were PDAF documents which respondent court admitted that "[Cambe] may not be the one who signed/initialed the MOAs and other liquidation documents," thus:

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 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.**<sup>11</sup>

Second, aside from the PDAF documents, no other evidence was presented to prove that Cambe was a public officer.

The PDAF documents consisted of various memoranda of agreement (MOAs) and liquidation documents denominated as Terminal Reports, Accomplishment Reports, Certificates of Acceptance, Delivery Reports, Lists of Beneficiaries, Official Receipts, Official Receipts-Delivery Receipts or OR-DR, and Sales Invoices.

Yet in a grave abuse of discretion, respondent court conveniently dismissed its own findings and simply relied on *its own*

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<sup>11</sup> Id., p. 62. Emphasis supplied.

“presumption that accused Cambe knew or consented to the ‘forgery’.”

However, no witness testified and no document was presented to show Cambe knew or consented to the forging of his signatures in the PDAF documents.

As no evidence proved Cambe was a public officer during the material dates of the accusation, the first element was missing. Thus, respondent court gravely abused its discretion when it merely presumed the existence of the first element.

*Second Element: That he amassed, accumulated or acquired ill-gotten wealth through a combination or series of the following overt or criminal acts: xxx*

*Third Element: That the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least P50,000,000.00.*

Respondent court conceded that no evidence was presented to prove Cambe and Napoles each amassed ill-gotten wealth of at least P50 million.

xxx 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.<sup>12</sup>

As to Revilla, the prosecution did not even bother to prove that he amassed an ill-gotten wealth of at least P224,512,500.00, as the Information charges.

These facts alone already show that no strong evidence exists to deny Cambe his right to bail.

Yet, in a grave abuse of discretion, respondent court took the extra mile in salvaging the prosecution’s case by coming up with an

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<sup>12</sup> Id., p. 56.

amount of the alleged ill-gotten wealth which Revilla allegedly amassed.

*That* amount supposedly totaled P103 million based not on the accusation in the Information, which is P224,512,500.00, not on the report of the Anti-Money Laundering Council (AMLC), which is P87,626,567.63<sup>13</sup> but on the self-serving and unsubstantiated testimonies of witnesses Luy, Sula and Merlina P. Suñas.<sup>14</sup>

Even plaintiff's documentary exhibits could not support respondent court's computation of ill-gotten wealth of P103 million, which explains the conspicuous absence of any exhibit supporting such computation.

Note, and respondent court admitted, that no direct evidence showed Revilla receiving any money from Cambe, Napoles or from anyone.

That respondent court had to belabor its explanation on how the supposed conspiracy among the accused was carried out confirms the absence of strong evidence to deny bail to Cambe.

In relying on presumptions and inferences to deny bail to Cambe and in letting these presumptions defeat Cambe's constitutional right to liberty, right to bail, right to due process, and right to be presumed innocent, respondent court gravely abused its discretion in issuing the assailed resolutions.

Therefore, the assailed resolutions should be annulled and set aside, and Cambe should be granted bail.

#### RELIEF

Wherefore, petitioner prays that the Honorable Court (a) annul and set aside the assailed resolutions, and (b) grant him bail and equitable relief.

Makati City for Manila, June 3, 2015.

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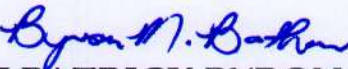
<sup>13</sup> Id., p. 43.

<sup>14</sup> Id., p. 69.


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**COPY FURNISHED:**

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Sandiganbayan Building  
Commonwealth Ave., Quezon City  
(SB-14-CRM-0240)

**OFFICE OF THE SPECIAL PROSECUTOR**  
5<sup>th</sup> Floor Sandiganbayan Bldg.  
Commonwealth Ave., Quezon City

**OFFICE OF THE OMBUDSMAN**  
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Agham Road, Quezon City

**EXPLANATION FOR SERVICE BY REGISTERED MAIL**

In compliance with Section 11, Rule 13 of the Rules of Court, the undersigned counsel explains that this petition will be served by registered mail because of constraints in distance and manpower, making personal service impracticable.

  
Erwin Jake C. Doctor

**VERIFICATION AND CERTIFICATION**  
**AGAINST FORUM SHOPPING**

I, **RICHARD A. CAMBE**, of legal age, with address at 238 Banlat Road, Tandang Sora, Quezon City, hereby state under oath that:

1. I am the petitioner in this petition, and I was the one who caused its preparation.
2. I read this petition, the contents of which are true and correct based on my personal knowledge and on authentic records at hand.
3. I have not heretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency. My two other pending petitions before the Supreme Court (i.e. G.R. No. 212014-15 and G.R. No. 212794-95), while they are related to OMB-C-C-13-0316, OMB-C-C-13-0395 and SB-14-CRM-0240, involve different issues.
4. If I should later learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, I undertake to promptly inform the aforesaid courts and other tribunal or agency of such similar action or proceeding within five (5) days from learning thereof.



**RICHARD A. CAMBE**

*Affiant*

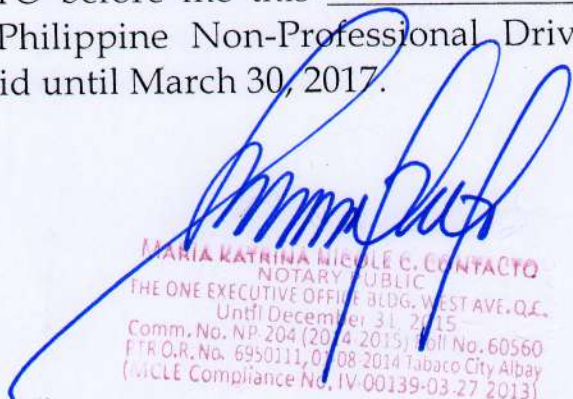
SUBSCRIBED AND SWORN TO before me this JUN 04 2015,  
affiant exhibiting to me his Philippine Non-Professional Driver's  
License No. NO1-99-239871 valid until March 30, 2017.

Doc. No. 251;

Page No. 48;

Book No. I;

Series of 2015.



MARIA KATRINA NICOLE C. CONTACTO  
NOTARY PUBLIC  
THE ONE EXECUTIVE OFFICE BLDG. WEST AVE. Q.C.  
Until December 31, 2015  
Comm. No. NP-204 (2014-2015) Fil No. 60560  
PTR O.R. No. 6950111, 0108-2014 Tabaco City Albay  
(MCLE Compliance No. IV-00139-03-27 2013)

Republic of the Philippines)  
City of Makati ) S.S.

**AFFIDAVIT OF SERVICE**

I, **EDGAR C. TINGSON**, of legal age, Filipino, an employee of Ancheta & Associates Attorneys-at-Law, with address at Suite 6L Vernida I Building, 120 Amorsolo St., Legazpi Village, Makati City, 1229 Metro Manila, hereby state under oath that I served copies of –

**PETITION**

in connection with G.R. No. \_\_\_\_\_, "Richard A. Cambe, v. Sandiganbayan (First Division), People Of The Philippines, And Office Of The Ombudsman,," pending before Supreme Court - Manila, pursuant to Sections 3, 4, 5, and 10 of Rule 13 of the Rules of Court by **REGISTERED MAIL** to the following addressee/s:

**SANDIGANBAYAN (FIRST DIVISION)**

Sandiganbayan Building  
Commonwealth Ave., Quezon City  
(SB-14-CRM-0240)

**OFFICE OF THE SPECIAL PROSECUTOR**

5<sup>th</sup> Floor Sandiganbayan Bldg.  
Commonwealth Ave., Quezon City

**OFFICE OF THE OMBUDSMAN**

Ombudsman Bldg.  
Agham Road, Quezon City

by depositing copy of the aforesaid paper on June 5, 2015 in the Post Office at Makati City, as evidenced by the corresponding Registry Receipt Number/s attached hereto and indicated after the name/s of the addressee/s, with instructions to the Postmaster to return the mail to the sender after ten (10) days if undelivered.

I attest to the truthfulness of my statements above, and to the voluntary execution of this affidavit.

**EDGAR C. TINGSON**  
Affiant

SUBSCRIBED AND SWORN TO before me this June 5, 2015 at Makati City by the affiant who is personally known to me and who exhibited to me his BIR TIN 912-043-373 bearing his photograph and signature.

Doc. No. 105 ;  
Page No. 28 ;  
Book No. I ;  
Series of 2015.



**RAYMOND FRANCIS MARIA C. JAMORA**  
COMMISSION NO. M-34  
Attorney's Roll No. 62921  
NOTARY PUBLIC FOR MAKATI  
UNTIL DECEMBER 31, 2016  
IBP No. 0988471; Ilo-Ilo; 01-09-15  
PTR No. 4760188; Makati City; 01-09-15