

[G.R. No. 136806, August 22, 2000]

**EDUARDO A. ALARILLA, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN (FIRST DIVISION), RESPONDENT.**

D E C I S I O N

GONZAGA-REYES, J.:

In this petition for *certiorari* under Rule 65 of the Rules of Court, petitioner alleges that the Sandiganbayan^[1] gravely abused its discretion when it issued its Resolution dated July 28, 1998 denying his demurrer to evidence and the subsequent Resolution dated December 17, 1998 denying his motion for reconsideration in Criminal Case No. 23069.^[2]

The factual background of this case is set out herein:

On December 1, 1995, the Office of the Ombudsman, acting through the Office of the Special Prosecutor, filed an information^[3] with the Sandiganbayan charging petitioner Eduardo A. Alarilla with the crime of grave threats as defined in Article 282 of the Revised Penal Code. On the same day, a second information^[4] was filed charging petitioner of having violated section 3 (e) of Republic Act No. 3019. These informations were docketed as Criminal Case Nos. 23069 and 23070, respectively.

Criminal Case No. 23070 was raffled to the Second Division of the Sandiganbayan. Acting upon a motion for reinvestigation filed by petitioner, the Office of the Special Prosecutor filed a motion to withdraw the information^[5], which motion was eventually granted by the Sandiganbayan on July 16, 1996.^[6]

Meanwhile, Criminal Case No. 23069 was assigned to the First Division of the Sandiganbayan. Petitioner also filed a motion for reinvestigation with the court on May 8, 1996, to which the prosecution objected. On June 18, 1996, the court issued a resolution deferring action on petitioner's motion for reinvestigation until compliance by the prosecution with the court's resolution of March 20 and 28, 1996, requiring the amendment of the information so as to indicate the "office-related" character of the crime charged. On November 8, 1996, the Office of the Special Prosecutor filed an ex-parte motion^[7] for the admission of an amended information which reads -

That on or about October 13, 1982, in Meycauayan, Bulacan, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Municipal Mayor of Meycauayan, Bulacan, committing the crime herein charged in relation to and taking advantage of his official functions, did then and there wilfully, unlawfully and feloniously level and aim a .45 caliber pistol at and threaten to kill one Simeon G. Legaspi, during a public hearing about the pollution from the operations of the Giant Achievers Enterprises Plastic Factory and after the

said complainant rendered a privilege speech critical of the abuses and excesses of the administration of said accused.

In its resolution^[8] of January 30, 1997, the Sandiganbayan admitted the amended information.

Petitioner filed a motion for reconsideration,^[9] praying that the court reconsider its admission of the amended information. He claimed that the crimes charged in Criminal Case Nos. 23069 and 23070 arose out of the same incident; that considering that the latter case had already been dismissed by the court on the ground that it had no jurisdiction over the same since the crime charged was not "office-related," the same ruling should apply to the former case. After the prosecution had filed its comment,^[10] the First Division issued a resolution^[11] on April 25, 1997, denying petitioner's motion for reinvestigation of Criminal Case No. 23069 and his motion for reconsideration. With regards to the issue of jurisdiction, the Sandiganbayan held that –

In criminal cases, the court's jurisdiction in the first instance is determined by the facts alleged in the complaint or information. The complaint or information must be examined for the purpose of ascertaining whether or not the facts set out therein and the punishment provided for by law for such acts fall within the jurisdiction of the court in which the complaint or information is presented. If the facts set out in the complaint or information are sufficient to show the court in which the complaint or information is presented has jurisdiction, then the court has jurisdiction (U.S. vs. Mallari, 24 Phil 366; Magay vs. Estiandan, 69 SCRA 456; Enerio vs. Alampay, 64 SCRA 142).

A perusal of the Amended Information in the instant case readily shows that the felony allegedly committed was "office-related," hence, within the jurisdiction of this court. It is alleged therein that accused mayor committed the crime of grave threats when he levelled and aimed his gun at and threatened to kill private complainant Simeon Legazpi during a public hearing about the pollution which resulted from the operation of Giant Achievers Enterprises Plastic Factory and after said complainant rendered a privileged speech critical of the abuses and excesses of the administration of the accused. As the local chief executive, the health and sanitation problem of the community was one of the accused's main concern[s]. Thus, accused was performing his official duty as municipal mayor when he attended said public hearing. It is apparent from the allegations, that, although public office is not an element of the crime of grave threat[s] in abstract, as committed by the accused, there is an intimate connection/relation between the commission of the offense and accused's performance of his public office.

Moreover, accused's violent act was precipitated by complainant's criticism of his administration as the mayor or chief executive of the municipality, during the latter's privilege speech. It was his response to private complainant's attack to his office. If he was not the mayor, he would not have been irritated or angered by whatever private complainant might have said during said privilege speech.

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The ruling in Criminal Case No. 23070 relied upon by the accused will not apply in this case, because the offense involved there was [a] [v]iolation of Section 3 (e) of R.A. 3019. It is an essential element of said offense that the act of the accused in

causing undue injury to any party including the Government or the giving to any party of unwarranted benefits, advantage or preference was done in the course of the discharge of his official, administrative or judicial function. The ponente, the Hon. Jose S. Balajadia, however, found the said circumstance not obtaining in the said case (Crim. Case No. 23070) because the incident complained of took place after the public hearing when the accused was not anymore performing any of his official administrative functions. The difference lies in the fact that in the case at bar (grave threats), said condition is not a component element. All that the law requires for the crime to be within the jurisdiction of this court is the fact that the felony was committed "in relation to his office" (not during the discharge of his official function).

PREMISES CONSIDERED, and on the further ground that accused's primary intent in pleading a reinvestigation is the determination of the "office-related" character of the crime, which is now passed upon, his Motion for Reinvestigation is hereby DENIED due course. His Motion for Reconsideration of the Court's Resolution dated January 30, 1997 is likewise DENIED for lack of merit.

Petitioner filed a motion for reconsideration of the above cited ruling, but the Sandiganbayan denied the same in its resolution^[12] dated June 18, 1997. Thus, petitioner was prompted to file a petition for *certiorari*^[13] with this Court questioning the Sandiganbayan's April 25, 1997 and June 18, 1997 resolutions, which case was docketed as G.R. No. 130231. However, in our resolution^[14] dated September 22, 1997, we dismissed the petition "for failure to sufficiently show that the questioned [resolutions were] tainted with grave abuse of discretion."

Thus, the trial of Criminal Case No. 23069 proceeded. On May 19, 1998, after the prosecution had completed the presentation of its evidence, petitioner filed a demurrer to evidence^[15] on the ground that the prosecution had failed to prove that he had committed the crime charged in the information and that the act complained of took place while he was performing his official functions.

In a resolution^[16] dated July 28, 1998, the Sandiganbayan denied petitioner's demurrer to evidence. The resolution states that –

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The accused herein is charged with having threatened to kill Simeon Legaspi by pointing a .45 caliber pistol at him. There is evidence on record that the acts were indeed committed. Regardless of whether or not the pistol was cocked, the pointing of a firearm at a person in a hostile manner is an act demonstrating an intent to inflict harm to that person. Whether or not the accused Mayor was in the performance of his proper duties when he pointed the .45 caliber pistol is not a proper issue of jurisdiction for this Court since all illegal acts are never proper acts of one's public office. What is at evidence is that an ordinary citizen was not in a position to convoke the Sanggunian Bayan nor to preside over the same, much less to interfere with the legislative proceedings of the Municipal Council which, because he as mayor, the accused could and did, even if unlawfully.

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Petitioner's motion for reconsideration was similarly denied by the Sandiganbayan in its December 17, 1998 resolution^[17] explaining that –

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Indeed, an illegal act is not an official act; rather the question boils down to whether or not the acts attributed to the accused herein were performed by him in the occasion of either the performance of his duties or of his assertion of his authority to do so. Were the rule to be otherwise, the Sandiganbayan would never have jurisdiction of criminal acts of public officers since these acts would never be the performance of official duties or be official acts, although they might be in the occasion thereof.

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Hence, the present petition wherein petitioner asks this Court to set aside the July 28, 1998 and December 17, 1998 resolutions of the Sandiganbayan and to dismiss Criminal Case No. 23069. In addition, petitioner prays for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin public respondent from further proceeding with said case until this petition has been resolved.^[18]

The Office of the Special Prosecutor filed its Comment^[19] on April 22, 1999. On May 18, 1999, petitioner filed a motion to resolve^[20] his application for a temporary restraining order and/or writ of preliminary injunction in order to enjoin the Sandiganbayan from further proceeding with the case, which prayer he reiterated in a subsequent motion^[21] filed with this Court on July 22, 1999. On September 6, 1999, the Court denied petitioner's July 22, 1999 motion for lack of merit.^[22] Petitioner filed a Reply^[23] on December 6, 1999. The prosecution and the defense then filed their respective Memorandums on March 16, 2000^[24] and on March 30, 2000,^[25] respectively, after which the case was deemed submitted for decision.

Petitioner sets forth the following issues for the Court's resolution -

I. WHETHER OR NOT THE FIRST DIVISION OF THE SANDIGANBAYAN ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN DENYING PETITIONER'S DEMURRER TO EVIDENCE.

II. WHETHER OR NOT THE FIRST DIVISION OF THE SANDIGANBAYAN ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN RULING THAT THE OFFENSE CHARGED IN CRIMINAL CASE NO. 23069 FALLS WITHIN ITS JURISDICTION.

III. WHETHER OR NOT PETITIONER SHOULD BE GRANTED INJUNCTIVE RELIEF.^[26]

With regard to the first issue, petitioner claims that the elements constituting the crime of grave threats have not been proven. He insists that the prosecution had not established that his act of pointing a gun at complainant Simeon Legaspi, assuming that it had actually occurred, constituted grave threats.^[27] However, quite to the contrary, the Sandiganbayan found that the prosecution's evidence, standing un rebutted by any opposing evidence, sufficiently established the crime charged.^[28]