

FIRST DIVISION

[G.R. No. 243411, August 19, 2020]

JESSICA LUCILA G. REYES, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN THIRD DIVISION AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

REYES, J. JR., J.:

Before the Court is the Petition for *Certiorari*^[1] under Rule 65 of petitioner Jessica Lucila G. Reyes who ascribes to respondent Sandiganbayan, Third Division, grave abuse of discretion in issuing Resolution dated June 28, 2018 (hereinafter June 28 Resolution)^[2] which denied her motion for bail *ad cautelam*, and Resolution dated December 7, 2018 (hereinafter December 7 Resolution)^[3] which similarly denied her motion for reconsideration and supplemental motion for reconsideration in SB-14-CRM-0238, entitled *People of the Philippines v. Juan Ponce Enrile*.

Relevant Facts and Proceedings

In 2014, petitioner and four other persons were arrested and charged for plunder based on the following Information filed by the Office of the Ombudsman:

In 2004 to 2010 or thereabout[s], in the Philippines, and within this Honorable Court's jurisdiction, above-named accused **JUAN PONCE ENRILE**, then a Philippine Senator, **JESSICA LUCILA G. REYES**, then Chief of Staff of Senator Enrile's Office, 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 willfully, unlawfully, and criminally amass, accumulate, and/or acquire ill-gotten wealth amounting to at least ONE HUNDRED SEVENTY TWO MILLION EIGHT HUNDRED THIRTY FOUR THOUSAND FIVE HUNDRED PESOS (Php172,834,500.00) 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 ENRILE and/or REYES received, a percentage of the cost of a project to be funded from ENRILE'S Priority Development Assistance Fund (PDAF), in consideration of ENRILE'S endorsement, directly or through REYES, to the appropriate government agencies, of NAPOLES' non government organizations which became the recipients- and/or target implementors of ENRILE'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.^[4]

Over the period of 2014 through 2018, a number of incidents revolving around the sufficiency of the weight and value of the prosecution's testimonial and documentary evidence were resolved by this Court.

In *Reyes v. Hon. Ombudsman*^[5] the Court upheld the findings of the Office of the Ombudsman and the Sandiganbayan that the allegations and evidence in SB-14-0328 engender probable cause to believe that petitioner 1) acted in conspiracy with her co-accused, and 2) committed one count of plunder and 15 counts of violation of Section 3(e) of Republic Act (R.A.) No. 3019. The Court summarized the allegations against petitioner as follows:

Petitioners are all charged as co-conspirators for their respective participations in the anomalous Priority Development Assistance Fund (PDAF) scam, involving, as reported by whistle-blowers Benliur Luy (Luy), Marina Sula (Sula), and Merlina Suñas (Suñas), the illegal utilization and pillaging of public funds sourced from the PDAF of Senator Juan Ponce Enrile (Senator Enrile) for the years 2004 to 2010, in the total amount of P172,834,500.00 x x x Tersely put, petitioners were charged for the following acts:

(a) Reyes, as Chief of Staff of Senator Enrile during the times material to this case, for fraudulently processing the release of Senator Enrile's illegal PDAF disbursements — through: (1) project identification and cost projection;(2) preparation and signing of endorsement letters, project reports, and pertinent documents addressed to the Department of Budget and Management (DBM) and the Implementing Agencies (IAs); and (3) endorsement of the preferred JLN controlled Non-Government Organizations (NGOs) to undertake the PDAF-funded project — and for personally receiving significant portions of the diverted PDAF funds representing Senator Enrile's "share," "commissions," or "kickbacks" therefrom, as well as her own.^[6] (Citations omitted)

x x x x

The evidence which the Court declared sufficient to establish probable cause that petitioner was part of a conspiracy and that she performed a central role in it are "records x x x that [petitioner] as Chief of Staff of Senator Juan Ponce Enrile (Senator Enrile), dealt with the parties involved; signed documents necessary for the immediate and timely implementation of the Senator's PDAF-funded projects

that, however, turned out to be "ghost projects;" and repeatedly received "rebates," "commissions," or "kickbacks" for herself and for Senator Enrile representing portions of the latter's PDAF."^[7] The Court adopted the following summary of the accounts of the whistle-blowers Luy, Sula, and Suñas regarding the participation of petitioner:

[O]nce a PDAF allocation becomes available to Senator Enrile, his staff, in the person of either respondent **Reyes** or [Atty. Jose Antonio Evangelista, the then Deputy Chief of Staff of Senator Enrile], would inform Tuason of this development. Tuason, in turn, would relay the information to either Napoles or Luy. Napoles or Luy would then prepare a listing of the projects available where Luy would specifically indicate the implementing agencies. This listing would be sent to **Reyes** who would then endorse it to the DBM under her authority as Chief-of-Staff of Senator Enrile. After the listing is released by the Office of Senator Enrile to the DBM, Janet Napoles would give Tuason a down payment for delivery to Senator Enrile through Reyes. After the SARO and/or NCA is released, Napoles would give Tuason the full payment for delivery to Senator Enrile through **Atty. Gigi Reyes**.^[8]

The Court further held that the foregoing account "is corroborated in all respects by Tuason's verified statement," specifically the following pertinent parts:

11.... It starts with a call or advise from **Atty. Gigi Reyes** or Mr. Jose Antonio Evangelista (also from the Office of Senator Enrile) informing me that a budget from Senator Enrile's PDAF is available. I would then relay this information to Janet Napoles/Benhur Luy.

12. Janet Napoles/Benhur Luy would then prepare a listing of the projects available indicating the implementing agencies. This listing would be sent to **Atty. Gigi Reyes** who will endorse the same to the DBM under her authority as Chief-of-Staff of Senator Enrile.

13. After the listing is released by the Office of Senator Enrile to the DBM, Janet Napoles would give me a clown payment for delivery for the share of Senator Enrile through **Atty. Gigi Reyes**.

14. After the SARO and/or NCA is released, Janet Napoles would give me the full payment for delivery to Senator Enrile through **Atty. Gigi Reyes**.

15. Sometimes Janet Napoles would have the money for Senator Enrile delivered to my house by her employees. At other times, I would get it from her condominium in Pacific Plaza or from Benhur Luy in Discovery Suites. When Benhur Luy gives me the money, he would make me scribble on some of their vouchers [or] even sign under the name "Andrea Reyes," [Napoles's] codename for me. This is the money that I would deliver to Senator Enrile through **Atty. Gigi Reyes**.

16. I don't count the money I receive for delivery to Senator Enrile. I just receive whatever was given to me. The money was all wrapped and ready for delivery when I get it from Janet Napoles or Benhur Luy. For purposes of recording the transactions, I rely on the accounting records

of Benhur Luy for the PDAF of Senator Enrile, which indicates the date, description and amount of money I received for delivery to Senator Enrile.

x x x x

18. As I have mentioned above, I personally received the share of Senator Enrile from Janet Napoles and Benhur Luy and I personally delivered it to Senator Enrile's Chief-of-Staff, **Atty. Gigi Reyes**. Sometimes she would come to my house to pick up the money herself. There were also instances when I would personally deliver it to her when we would meet over lunch. There were occasions when Senator [Enrile] would join us for a cup of coffee when he would pick her up. For me, his presence was a sign that whatever **Atty. Gigi Reyes** was doing was with Senator Enrile's blessing.

x x x x

25. Initially, I was in-charge of delivering the share of Senator Enrile to **Atty. Gigi Reyes**, but later on, I found out that Janet Napoles dealt directly with her. Janet Napoles was able to directly transact business with **Atty. Gigi Reyes** after I introduced them to each other. This was during the Senate hearing of Jocjoc Bolante in connection with the fertilizer fund scam. Janet Napoles was scared of being investigated on her involvement, so she requested me to introduce her to **Atty. Gigi Reyes** who was the Chief of Staff of the [sic] Senate President Enrile. (Emphases supplied, in the original, and citation omitted)^[9]

The Court then concluded that, on the basis of the foregoing evidence, there is probable cause to charge petitioner:

Indeed, these pieces of evidence are already sufficient to engender a well-founded belief that the crimes charged were committed and Reyes is probably guilty thereof as it remains apparent that: (a) Reyes, a public officer, connived with Senator Enrile and several other persons (including the other petitioners in these consolidated cases as will be explained later) in the perpetuation of the afore-described PDAF scam, among others, in entering into transactions involving the illegal disbursement of PDAF funds; (b) Senator Enrile and Reyes acted with manifest partiality and/or evident bad faith by repeatedly endorsing the JLN-controlled^[10] NGOs as beneficiaries of his PDAF without the benefit of public bidding and/or negotiated procurement in violation of existing laws, rules, and regulations on government procurement; (c) the PDAF-funded projects turned out to be inexistent; (d) such acts caused undue injury to the government, and at the same time, gave unwarranted benefits, advantage, or preference to the beneficiaries of the scam; and (e) Senator Enrile, through Reyes, was able to accumulate and acquire ill-gotten wealth amounting to at least P172,834,500.00.^[11] (Citation omitted)

The foregoing conclusions of the Court took into account the issues raised by petitioner that the evidence against her are weak and insufficient. The accounts of

the whistle-blowers are hearsay and unsubstantiated as they "merely mentioned her name in general terms but did not positively declare that they saw or talked with her at any time or that they had seen her receive money from Janet Napoles or anyone else connected with the latter." Even her purported "signatures found on the documentary evidence presented were forged, falsified, and fictitious."^[12] The Court addressed these issues, thus:

Assuming *arguendo* that such whistleblower accounts are merely hearsay, it must be reiterated that — as held in the *Estrada* case — probable cause can be established with hearsay evidence, so long as there is substantial basis for crediting the same. As aforesaid, the *modus operandi* used in advancing the PDAF scam as described by the whistle-blowers was confirmed by Tuason herself, who admitted to having acted as a liaison between Janet Napoles and the office of Senator Enrile. The Ombudsman further pointed out that the collective statements of Luy, Sula, Suñas, and Tuason find support in the following documentary evidence: (a) the business ledgers prepared by witness Luy, showing the amounts received by Senator Enrile, through Tuason and Reyes, as his "commission" from the so-called PDAF scam; (b) the 2007-2009 Commission on Audit (COA) Report documenting the results of the special audit undertaken on PDAF disbursements — that there were serious irregularities relating to the implementation of PDAF-funded projects, including those endorsed by Senator Enrile; and (c) the reports on the independent field verification conducted in 2013 by the investigators of the FIO which secured sworn statements of local government officials and purported beneficiaries of the supposed projects which turned out to be inexistent. Clearly, these testimonial and documentary evidences are substantial enough to reasonably conclude that Reyes had, in all probability, participated in the PDAF scam and, hence, must stand trial therefor.

x x x x

Finally, anent Reyes's claim that her signatures in the documentary evidence presented were false, falsified, and fictitious, it must be emphasized that "[a]s a rule, forgery cannot be presumed and must be proved by clear, positive[,] and convincing evidence and the burden of proof lies on the party alleging forgery. The best evidence of a forged signature in the instrument is the instrument itself reflecting the alleged forged signature. The fact of forgery can only be established by comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is theorized' upon to have been forged." Here, Reyes has yet to overcome the burden to present clear and convincing evidence to prove her claim of forgery, especially in light of the following considerations pointed out by the Office of the Solicitor General in its Comment on the petition in **G.R. Nos. 212593-94**: (a) in a letter dated March 21, 2012 addressed to the COA, Senator Enrile himself admitted that his signatures, as well as those of Reyes, found on the documents covered by the COA's Special Audit Report are authentic; and (b) Rogelio Azores, the supposed document examiner who now works as a freelance consultant, aside from only analyzing photocopies of the aforesaid documents and not the originals