

WILFRED A. NICOLAS, Petitioner, vs. HON. SANDIGANBAYAN, Third Division and the OFFICE OF THE SPECIAL PROSECUTOR, Respondents.

G.R. No. 175930-31. February 11, 2008

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-175930-31/>

CARPIO MORALES, J.:

In the present consolidated petitions for certiorari and prohibition with prayer for issuance of a Temporary Restraining Order (TRO) or Writ of Preliminary Injunction, petitioners, Wilfred A. Nicolas (Nicolas) and Jose Francisco Arriola (Arriola), attribute to public respondent, Sandiganbayan, grave abuse of discretion in issuing its Resolutions of August 31, 2006[1] and December 7, 2006[2] denying their Demurrer to Evidence and their motions for reconsideration, respectively.

Nicolas and Arriola, former Commissioner and Deputy Commissioner, respectively, of the Economic Intelligence and Investigation Bureau (EIIB), stand charged before public respondent in Criminal Case Nos. 26267 and 26268,[3] for violation of Section 3604[4] of the Tariff and Customs Code in the first case, and Section 3(e)[5] of the Anti-Graft and Corrupt Practices Act or Republic Act (R.A.) No. 3019 in the second.

Culled from the records are the following material facts:

On April 16, 1999, a 40-footer container van bearing Serial Number TRIU-576078-1 and Plate Number PKN 290, which was suspected to be carrying undeclared goods, was seized by EIIB operatives under the command of Arriola, then chief of the Special Operations Group. The van was turned over for safekeeping to the Armed Forces of the Philippines Logistics Command (LOGCOM) compound in Quezon City on April 19, 1999.

On May 6, 1999, however, the van was released by military police from the LOGCOM compound to representatives of the EIIB and Trinity Brokerage. While the van was heading to the docks for shipment to the alleged consignee, it surreptitiously exited at the North harbor with its cargo. It has since been missing.

For purportedly allowing the release of the goods, Nicolas and Arriola were indicted for conspiring with one John Doe who took possession of the goods without proper documentation and payment of customs duties and taxes in the alleged amount of P656,950, thereby depriving the government of revenue.

Both Nicolas and Arriola pleaded not guilty to the charges.

The prosecution presented four witnesses: (1) Commodore George T. Uy (Uy), former commander of the LOGCOM whose signature appeared in the Authority for the withdrawal of the van; (2) Romeo Allan Rosales, chief of the Informal Entry Division-Manila International Container Port (IED-MICP); (3) Ruel Pantaleon (Pantaleon), chief of the Supply Section of the General Services Division (GSD) of the Bureau of Customs; and (4) Alejo Acorda (Acorda) of the LOGCOM who signed as a witness in the Certification of Withdrawal of the van.

Through its testimonial and documentary evidence, the prosecution attempted to show that the withdrawal of the

van from the LOGCOM compound was based on a Notice of Withdrawal signed by Nicolas, and on the Authority for the withdrawal of the van which, though it appeared to have been issued by Uy, was not actually signed by him.

The prosecution likewise attempted to establish that the documents, including Official Receipts allegedly presented to show payment of customs duties and taxes, were all spurious.

After concluding the presentation of its evidence, the prosecution filed on February 16, 2006 a Formal Offer of Evidence/Exhibits[6] to which petitioner Arriola filed a Comment/Opposition.[7]

By Resolution of March 30, 2006,[8] public respondent admitted the following documentary evidence for the prosecution:

(1) Exhibit “A” -

Turn-Over Receipt dated April 19, 1999 for container Van No. TRIU 576078-1[9]

(2) Exhibit “E” -

Certification of Withdrawal dated May 6, 1999[10]

(3) Exhibit “F” -

A portion of the passport of then Capt. Uy[11]

(4) Exhibit “G” -

Affidavit of Capt. Uy dated May 25, 2004[12]

(5) Exhibit “H” -

Letter dated March 4, 2003 of Mr. Ramon P. Simon addressed to the chief of the Informal Entry Division of the Bureau of Customs[13]

(6) Exhibit “I” -

Letter dated March 4, 2003 of Mr. Reynaldo E. Tanquilut addressed to Ms. Zenaida D. Lanaria, chief of the Liquidation and Billing Division of the Bureau of Customs[14]

(7) Exhibits “J” to J-2” -

Certification dated March 17, 2003 issued by Mr. Romeo Allan R. Rosales, chief of the IED-MICP[15]

(8) Exhibit “K” -

Certification dated December 14, 1999 issued by Ruel L. Pantaleon, chief of the Supply Section, GSD, Bureau of Customs[16]

The rest of the Exhibits for the prosecution, being mere photocopies, were not admitted by public respondent. The excluded evidence consisted of Mission Order No. 04-105-99 dated April 19, 1999 for the inventory of the contents of the van (Exhibit “B”); the Inventory List of the van (Exhibits “C” to “C-3”); the Notice of Withdrawal dated May 6, 1999 (Exhibit “D”); and portions of No. 4 Ledger Series-99, the official logbook of the IED-MICP (Exhibits “J-3” and “J-4”).

Petitioners separately filed motions for Leave of Court to File Demurrer to Evidence with Motion to Admit Attached Demurrer to Evidence.[17]

Respecting the first Information, petitioners' respective Demurrer maintained that the evidence admitted by public respondent failed to identify and prove that they were the perpetrators of the crimes charged, for there was no showing that they caused, approved or acted in any manner relative to the release of the goods.

Petitioners went on to contend that none of the documentary evidence bore their names or signatures. And neither was there any testimonial evidence that they acted towards the release of the shipment.

Additionally, petitioners contended that the shipment was not shown to be imported, or for export, or otherwise subject of coastwise trade as to be subject to customs duties; and that even assuming that customs duties were due, there was no evidence that the same were not paid.

Regarding Import Entry Declaration Nos. 5000-99, 5001-99 and 5002-99 which, the prosecution maintained, were used for the release of the goods but were not processed through the IED-MICP, petitioners contended that the same were not shown to have a bearing on the shipment or to their indictment. These import entry declarations were not even presented as documentary evidence, they added.

On the prosecution's submission that customs duties were not paid, petitioners' contended that the same is visited by a similar failure to link the allegedly fraudulent Official Receipt^[18] Nos. 75071606, 7501609, and 75071603 to the cargo.

Respecting the second Information, petitioners' Demurrer maintained that the prosecution failed to establish each and every material element thereof.

In the main, petitioners thus argued that the prosecution was not only unable to show that they were the perpetrators of the crimes charged or that they committed any prohibited act; it was also not able to prove that undue injury was caused the government.

Finally, as to both Informations, petitioners submitted that the existence of conspiracy between them and/or John Doe was not established.

To petitioners' motions to File Demurrer to Evidence^[19] and their Demurrer to Evidence,^[20] the prosecution filed a Comment/Opposition.

By the first questioned Resolution of August 31, 2006, public respondent denied petitioners' respective Demurrer to Evidence. In denying the Demurrer, public respondent held that, inter alia, the prosecution was able to establish that the goods apprehended by the EIIB for non-payment of customs duties were deposited at the LOGCOM in Quezon City and while there they were inventoried and found to be computer spare parts and not "parts of a rock crusher" as they were allegedly originally declared; and that on May 6, 1999, the goods were withdrawn from the LOGCOM compound on the strength of a Notice of Withdrawal purportedly signed by then LOGCOM Commander Uy who did not actually issue it as he was then in the United States on official travel nor by the then deputy LOGCOM commander, one Colonel Romero.

Public respondent concluded that petitioners should not have allowed the withdrawal of the goods from the LOGCOM compound by persons other than the real consignee and without obtaining proof that the customs duties were fully and correctly paid. In doing so, public respondent ruled, petitioners "can be deemed to have conspired or colluded with one another or others to defraud the customs revenue or otherwise violated the law."^[21]

Petitioners filed their respective motions for reconsideration.^[22] The prosecution filed an Opposition^[23] which merited petitioners' Reply.^[24]

By the second questioned Resolution of December 7, 2006,^[25] public respondent denied petitioners' motions for

reconsideration.

Hence, these consolidated petitions.

As stated early on, petitioners jointly ascribe grave abuse of discretion to public respondent for denying their Demurrer given what they submit is the absence or lack of evidence to sustain the cases against them.

Nicolas additionally submits that public respondent grievously abused its discretion when it disregarded this Court's December 16, 2004 Decision in G.R. No. 154668[26] "Wilfred A. Nicolas v. Aniano A. Desierto," in which he was absolved of administrative liability for gross neglect of duty and dishonesty arising from the same incident subject of the criminal charges against him.

Invoking the doctrines of *res judicata* and *stare decisis*, Nicolas contends that public respondent particularly failed to abide by this Court's ruling in the said administrative case that he had acted in good faith in relying upon the apparently valid and genuine documents submitted to him when he requested for the release of the van from the LOGCOM compound.

It appears that Nicolas had, by way of a Manifestation,[27] informed public respondent of this Court's Decision in the administrative case. Public respondent merely noted it, however, together with the pleadings that were subsequently filed after the Manifestation.[28] On the basis of the same Decision in the administrative case, Nicolas filed a Motion to Dismiss[29] the criminal cases against him but public respondent denied it.[30]

Before delving on the substantive issues, this Court must first address the propriety of the availment of a petition for certiorari and prohibition in assailing a denial of a demurrer to evidence. Then, too, it must determine if the present petitions have been rendered moot and academic by the continuation of the trial – for reception of evidence for the defense. As to the latter issue, the Court notes that public respondent had cancelled the initial presentation of defense evidence upon the filing of the present petitions to afford the Court time to act on petitioners' applications for TRO or Writ of Preliminary Injunction.

By Order given in open court on March 27, 2007, public respondent subsequently cancelled and reset the hearing scheduled on even date and on March 28, 2007.[31] It directed the initial presentation of evidence for Arriola on June 27, 2007 if no TRO was issued by this Court.

The Court did not issue a TRO or a Writ of Preliminary Injunction to stop public respondent from continuing the proceedings in the cases. There is no information if the defense has started or concluded the presentation of its evidence.

Be that as it may, the continuation of the trial should not stand in the way of this Court's ruling on the present petitions. Suffice it to stress that should the denial of petitioners' Demurrer be found to be tainted with grave abuse of discretion, whatever proceedings were conducted before public respondent during the pendency of the present petitions are void.

Moreover, it bears stressing that the evidence for the prosecution is the yardstick for determining the sufficiency of proof necessary to convict; and that the prosecution must rely on the strength of its own evidence rather than on the weakness of the evidence for the defense.[32]

On whether certiorari is the proper remedy in the consolidated petitions, the general rule prevailing is that it does not lie to review an order denying a demurrer to evidence, which is equivalent to a motion to dismiss, filed after the prosecution has presented its evidence and rested its case.[33]

Such order, being merely interlocutory, is not appealable; neither can it be the subject of a petition for certiorari.[34] The rule admits of exceptions, however. Action on a demurrer or on a motion to dismiss rests on

the sound exercise of judicial discretion.[35] In *Tadeo v. People*,[36] this Court declared that certiorari may be availed of when the denial of a demurrer to evidence is tainted with “grave abuse of discretion or excess of jurisdiction, or oppressive exercise of judicial authority.” And so it did declare in *Choa v. Choa*[37] where the denial is patently erroneous.

Indeed, resort to certiorari is expressly recognized and allowed under Rules 41 and 65 of the Rules of Court, viz:

Rule 41:

SEC. 1. Subject of appeal. – x x x

No appeal may be taken from:

x x x x

(c) An interlocutory order;

x x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

Rule 65:

SEC. 1. Petition for certiorari -- When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. (Emphasis supplied)

Did public respondent commit grave abuse of discretion in denying petitioners’ Demurrer? The Court finds that it did.

Section 15, Rule 119 of the Revised Rules of Court provides:

Sec. 15. Demurrer to evidence. – After the prosecution has rested its case, the court may dismiss the case on the ground of insufficiency of evidence: (1) on its own initiative after giving the prosecution an opportunity to be heard; or (2) on motion of the accused with prior leave of court.

If the court denies the motion for dismissal, the accused may adduce evidence in his defense. When the accused files such motion without the express leave of court, he waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

A demurrer to evidence is an objection by one of the parties in an action to the effect that the evidence which his adversary produced is insufficient in point of law to make out a case or sustain the issue.[38]

The party filing the demurrer in effect challenges the sufficiency of the prosecution’s evidence.[39] The Court is thus tasked to ascertain if there is competent or sufficient evidence to establish a prima facie case to sustain the indictment or support a verdict of guilt.[40]

Alleged Violation of the Tariff and Customs Code

With respect to petitioners’ indictment for violation of Section 3604 of the Tariff and Customs Code, the

prosecution needed to prove that: (1) at the time material to the case, petitioners were officials or employees of the Bureau of Customs or of any other agency of the government charged with the provisions of the Code; and (2) they either conspired or colluded with another or others to defraud the customs revenue or otherwise violate the law (paragraph d), or willfully made an opportunity for any person to defraud the customs revenue or failed to do any act with intent to enable any person to defraud the customs revenue (paragraph e).

Fraud contemplated by law must be intentional – that which is actual and not constructive, and consists of deception willfully and deliberately dared or resorted to in order to give up some right.[41]

Conspiracy, on the other hand, must be established by the same quantum of evidence as the elements of the offense charged. It must be shown by overt acts indicating not only unity of purpose but also unity in execution of the unlawful objective by the alleged conspirators.[42]

From the testimonial and documentary evidence of the prosecution admitted by public respondent, the Court gathers that apart from establishing that petitioners were government officials, the prosecution was only able to establish that: (1) the van was turned over to the LOGCOM on April 19, 1999; (2) the same van was withdrawn from the LOGCOM compound on May 6, 1999; (3) the signature appearing above the name of prosecution witness, then LOGCOM commander Uy, in the Authority for the withdrawal of the van was not his; (4) Import Entry Nos. 5000-99 to 5002-99 were not filed with the IED-MICP; and (5) Bureau of Customs O.R. Nos. 75071606, 75071609, and 75071603 are spurious.

There is no competent or sufficient evidence of particular overt acts that would tend to show that petitioners colluded with each other or with another person or others to defraud the customs revenue or to otherwise violate the law, or that they willfully made it possible for John Doe to defraud the customs revenue.

Not one of the prosecution witnesses identified, mentioned or even alluded to either of petitioners as having personally interceded or been present during the release of the cargo from the LOGCOM compound, or testified as to any act or omission that may be construed to be in furtherance of the alleged conspiracy to defraud the customs revenue.

The Notice of Withdrawal (Exhibit “D”), the only document bearing the name and signature of petitioner Nicolas, was not even admitted by respondent court.

It may not be amiss to mention further that while Uy testified that he did not sign the Authority to release the van, he admitted during cross-examination that the signature above his printed name appeared to be that of his deputy commander, Col. Romero, who was authorized to sign “for” him in his absence.[43]

Respecting the purported failure of petitioners to note the fraudulent nature of O.R. Nos. 75071606, 75071609 and 75071603, the Court notes the testimony of Pantaleon, then chief of the Supply Section of the GSD of the Bureau of Customs, which is quoted in the Petition[44] of Nicolas, and which merited no refutation from the prosecution in its Consolidated Comment.

Thus, during cross-examination, Pantaleon stated that only the Printing Office, his Division chief and he were privy to the formula used in the printing of BC Forms No. 38, and that other government offices including the EIIB have not been informed of this formula.

Q:

Now, Mr. Witness you made mention of [the] formula used in determining the series number of official receipts. Now, could you tell us: Does this formula change every year or is it constant?

A:

Constant, sir

Q:

So, the same formula in 1999 is the same formula for this year?

A:

Yes, Sir.

Q:

Okay, now Mr. Witness, who determined this formula?

A:

I myself, Sir.

Q:

You determined the formula?

A:

Yes, Sir.

Q:

Okay. Now, Mr. Witness, who were the persons to whom you divulged this formula?

A:

Sa akin po at saka sa Hepe ng Division na nagretiro. To me and to the Chief Division that [sic] ha[s] retired.

Q:

Aside from the two (2) of you, nobody knows the formula?

A:

The printing office, Sir.

x x x x

Q:

Now, in performing your duties with respect to the formula and the printing of the official receipts, do you inform other government offices of the formula?

A:

No, Sir.

Q:

So, you did not inform the EIIB in 1999 about this formula?

A:

Hindi po. No, Sir.

Q:

So they wouldn't know by just looking at the official receipt whether the official receipt is fake or not because they do not know the formula, would that be a fair statement?

A:

They don't know the series, Sir.

Q:

Now my question is, you wouldn't know whether the official receipts would be fake?

A:

Hindi ko po alam kung paano nila i-determine. I don't know how they will determine it.[45] (*Italics and emphasis supplied*)

Clearly then, petitioners were not in a position to detect any fraud.

As to the allegations in the Informations that petitioners failed to turn over the goods to the Bureau of Customs pursuant to Memorandum No. 225 and the Joint Guidelines, this Court reiterates its observations in the administrative case against Nicolas subject of G.R. No. 154668:[46]

x x x. Under its standard operating procedure, [the EIIB] normally did the inventory in the presence of representatives of the AFP Logistics Command (which was the depository of apprehended container vans), the Bureau of Customs, the broker or importer, and the Commission on Audit. If there was any irregularity, only then would the EIIB turn over the cargo to the Bureau of Customs.

The aforementioned procedure was consistent with Memorandum Order No. 225, which required the turnover of seized articles to the Bureau of Customs. For practical considerations, the EIIB could not be expected to forward to the Bureau of Customs all cargoes immediately upon apprehension. The EIIB still needed to determine whether there was any irregularity in the importation. Memorandum Order No. 225 itself did not require the immediate forwarding of apprehended cargoes to the Bureau of Customs. Believing in good faith that the taxes and duties had already been paid, petitioner [Nicolas] cannot be faulted for not sending the cargo to the Bureau.[47]

Alleged Violation of R.A. No. 3019

To sustain the indictment or to support a guilty verdict against petitioners for violation of Section 3(e) of R.A. No. 3019, the prosecution must establish all the foregoing elements of the offense:

- The accused is a public officer or a private person charged in conspiracy with the former;
- That he or she causes undue injury to any party, whether the government or a private party;
- The public officer commits the prohibited acts during the performance of his or her official duties or in relation to his or her public functions;

- Such undue injury is caused by giving unwarranted benefits, advantage or preference to such parties; and
- That the public officer has acted with manifest partiality, evident bad faith, or gross inexcusable negligence.[48]

The prosecution attempted to build its case for violation of R.A. No. 3019 upon the theory that Nicolas and Arriola, as EIIB commissioner and deputy commissioner, respectively, and in connection with their official duties as such, were responsible for the release of the goods from the LOGCOM compound without the actual payment of customs duties and taxes, thereby causing injury to the government.

The prosecution proffered that the withdrawal of the van from the LOGCOM based on what turned out to be fictitious documents and the subsequent loss of its cargo, which they attributed to petitioners, were motivated by manifest partiality, evident bad faith or gross inexcusable neglect.

The evidence for the prosecution failed to sustain its case, however. In addition to this Court's earlier observations about the missing links in the prosecution's evidence, it failed to show by what particular acts petitioners had discharged their functions with manifest partiality, evident bad faith or gross inexcusable neglect.

Sistoza v. Desierto[49] stressed that for culpability to attach under Section 3(e) of R.A. No. 3019, it is not enough to show mere bad faith, partiality or negligence because the law requires the bad faith or partiality to be evident or manifest, respectively, and the negligent deed to be gross and inexcusable. And that the acts indicating any of these modalities of committing the violation must be determined with certainty.[50] Thus held the Court:

Simply alleging each or all of these methods is not enough to establish probable cause, for it is well settled that allegation does not amount to proof. Nor can we deduce any or all of the modes from mere speculation or hypothesis since good faith on the part of the petitioner as with any other person is presumed. The facts themselves must demonstrate evident bad faith which connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will.

On the other hand, gross inexcusable negligence does not signify mere omission of duties nor plainly the exercise of less than the standard degree of prudence. Rather, it refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected. It entails the omission of care that even inattentive and thoughtless men never fail to take on their own property, and in cases involving public officials it takes place only when breach of duty is flagrant and devious.[51] (*Italics in the original; Emphasis and underscoring supplied*)

In the case of Nicolas, he was exonerated of administrative liability in G.R. No. 154668[52] by this Court. In said case, the Court noted that while he requested the release of the cargo, he did so in good faith as he relied on the records before him and the recommendation of Arriola. And it noted that there was nothing to indicate that he had foreknowledge of any irregularity about the cargo.[53] Thus Nicolas was absolved of having acted with gross neglect of duty, viz:

Arias v. Sandiganbayan [G.R. Nos. 81563 & 82512, December 19, 1989, 180 SCRA 309] ruled that heads of office could rely to a reasonable extent on their subordinates. x x x

x x x x

Without proof that the head of office was negligent, no administrative liability may attach. Indeed, the negligence of subordinates cannot always be ascribed to their superior in the absence of evidence of the latter's own negligence. While Arriola might have been negligent in accepting the spurious documents, such fact does not automatically imply that Nicolas was also. As a matter of course, the latter relied on the former's recommendation. Petitioner [Nicolas] is not mandated or even expected to verify personally from the Bureau

of Customs — or from wherever else it originated — each receipt or document that appears on its face to have been regularly issued or executed.[54]

This Court is not unmindful of its rulings that the dismissal of an administrative case does not bar the filing of a criminal prosecution for the same or similar acts subject of the administrative complaint and that the disposition in one case does not inevitably govern the resolution of the other case/s and vice versa.[55] The applicability of these rulings, however, must be distinguished in the present cases.

In *Ocampo v. Office of the Ombudsman*[56] and the other cases[57] cited by the prosecution in its Consolidated Comment,[58] it was the dismissal of the criminal cases that was pleaded to abate the administrative cases filed against the therein petitioners.

More importantly, the quantum of proof required to sustain administrative charges is significantly lower than that necessary for criminal actions. To this effect was the ruling in *Ocampo*:

The dismissal of the criminal case will not foreclose administrative action filed against petitioner or give him a clean bill of health in all respects. The Regional Trial Court, in dismissing the criminal complaint, was simply saying that the prosecution was unable to prove the guilt of petitioner beyond reasonable doubt, a condition sine qua non for conviction. The lack or absence of proof beyond reasonable doubt does not mean an absence of any evidence whatsoever for there is another class of evidence which, though insufficient to establish guilt beyond reasonable doubt, is adequate in civil cases; this is preponderance of evidence. Then, too, there is the “substantial evidence” rule in administrative proceedings which merely requires such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Thus, considering the difference in the quantum of evidence, as well as the procedure followed and the sanctions imposed in criminal and administrative proceedings, the findings and conclusion in one should not necessarily be binding on the other.[59] (Emphasis supplied)

Where, as in this case, the administrative complaint was dismissed for failing to satisfy the degree of proof which is merely substantial evidence, a fortiori the criminal case based on the same facts and evidence cannot but falter and fall against the highest quantum of proof – proof beyond reasonable doubt.

The present cases must be distinguished likewise from those involving the prior dismissal of administrative cases.[60] Unlike in the cases cited by the prosecution, this Court’s Decision in the administrative case against *Nicolas* ruled squarely that he was not guilty of bad faith and gross neglect of duty, which constitute an essential element of the crime under Section 3(e) of R.A. No. 3019. Under the doctrine of stare decisis, such ruling should be applied to the criminal case for violation of Section 3(e), R.A. No. 3019, the facts and evidence being substantially the same.[61]

In fine, absent the element of evident bad faith and gross neglect of duty, not to mention want of proof of manifest partiality on the part of *Nicolas*, the graft case against him cannot prosper.

Like in the case of *Nicolas*, no act or conduct on the part of *Arriola* was established that would tend to show that he had acted in evident bad faith, manifest partiality or gross inexcusable negligence in the performance of his functions, as then deputy commissioner of the EIIB and head of the Special Operations Group, relative to the release of the van.

Turning once more to the evidence in the present criminal cases, no documentary or testimonial evidence linking *Arriola* to the withdrawal of the van, much more, the loss of the goods it contained, is appreciated.

To stress, not one of the documents admitted for the prosecution contained *Arriola*’s name, initials or signature. Neither did any of the prosecution witnesses, not even *Acorda* who was present during the deposit and withdrawal of the van from the LOGCOM compound, mention or refer to *Arriola* in any manner or testify on his probable

complicity or involvement in the crimes charged. For that matter, nothing in the entire testimony of Acorda[62] supports the submission that it was upon Arriola's request that the van was withdrawn from the LOGCOM.

ATTY. SABADO [On cross-examination]

Q : Do you know the reason why Major Rasay and Captain Uy allowed the shipment or the van to be taken out of the Logcom?

WITNESS

A : For us, sir, when there is a request from the EIIB that the property be released, and if it is approved by our boss, it will be released, sir.

ATTY. SABADO

Q : So, you only knew that there was a request and that Captain Uy and Major Rasay allowed this request?

WITNESS

A : Yes, sir.[63]

Even granting *arguendo* Arriola made a recommendation for the withdrawal of the van as the prosecution suggested, this alone does not prove that he acted in bad faith. The presumption of law being in favor of good faith, it was incumbent upon the prosecution to prove bad faith.

Even on the purported spurious receipts that prosecution witness Pantaleon testified on, there is no showing that Arriola was instrumental or participated in their preparation or that he knew of their fraudulent nature.

It bears emphasis that references to petitioner Arriola in the Decision on the administrative case against Nicolas were made only for the purpose of determining the culpability of the latter. These statements, therefore, are in no way binding on Arriola.

Given that the evidence presented by the prosecution against petitioners does not *prima facie* prove petitioners' culpability beyond reasonable doubt, the burden of evidence did not shift to the defense. The Court thus finds that public respondent gravely abused its discretion in denying their Demurrer to Evidence.

WHEREFORE, the consolidated Petitions for certiorari and prohibition are GRANTED. The Sandiganbayan's assailed Resolutions dated August 31, 2006 and December 7, 2006 are ANNULLED and SET ASIDE for having been issued with grave abuse of discretion. The separate Demurrer to Evidence of petitioners are accordingly GRANTED and the cases against them DISMISSED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

* "Wilfredo" in some pleadings.

[1] Penned by Justice Godofredo L. Legaspi, chairperson of the Third Division of the Sandiganbayan and concurred in by Justices Efren N. De La Cruz and Norberto Y. Germaldez. Rollo, G.R. Nos. 175930-31, pp. 125-132; rollo, G.R. Nos. 176010-11, pp. 39-46.

[2] Id. at 133-134; id. at 66-67.

[3] Similarly entitled “People of the Philippines v. Wilfred A. Nicolas, J. Francisco Arriola and John Doe.”

[4] Section 3604. Statutory Offenses of Officials and Employees. - Every official, agent or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Code, who is guilty of any delinquency herein below indicated shall be punished with a fine of not less than Five Thousand Pesos nor more than Fifty Thousand Pesos and imprisonment for not less than one year nor more than ten years and perpetual disqualification to hold public office, to vote and to participate in any public election:

x x x x

(d) Those who conspire or collude with another or others to defraud the customs revenue or otherwise violate the law;

(e) Those who willfully make opportunity for any person to defraud the customs revenue or who do or fail to do any act with intent to enable any person to defraud said revenue;

x x x x.

[5] Sec. 3. (e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefit, advantage, preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[6] Rollo, G.R. Nos. 176010-11, pp. 101-112.

[7] Id. at 128-131.

[8] Rollo, G.R. Nos. 175930-31, p. 291; rollo, G.R. Nos. 176010-11, p. 133.

[9] Rollo, G.R. Nos. 176010-11, p. 113.

[10] Id. at 120.

[11] Id. at 121.

[12] Id. at 122.

[13] Id. at 123.

[14] Id. at 124.

[15] Id. at 125.

[16] Id. at 127.

[17] Rollo, G.R. Nos. 175930-31, pp. 292-348; rollo, G.R. Nos. 176010-11, pp. 47-51. Dated May 12, 2006 and May 3, 2006 for petitioners Nicolas and Arriola, respectively.

[18] BC Form No. 38.

[19] Rollo, G.R. Nos. 176010-11, pp. 134-142. Dated May 17, 2006.

[20] Rollo, G.R. Nos. 175930-31, pp. 349-396. Dated September 19, 2006.

[21] Rollo, G.R. Nos. 175930-31, p. 131; rollo, G.R. Nos. 176010-11, p. 45. Resolution of August 31, 2006.

[22] Id. at 360-396; id. at 68-81.

[23] Rollo, G.R. Nos. 175930-31, pp. 397-408.

[24] Id. at 409-427; rollo, G.R. Nos. 176010-11, pp. 171-181. Dated November 24, 2006 and November 9, 2006 for petitioners Nicolas and Arriola, respectively.

[25] Rollo, G.R. Nos. 175930-31, pp. 133-134; rollo, G.R. Nos. 176010-11, pp. 66-67.

[26] 447 SCRA 154.

[27] Rollo, G.R. Nos. 175930-31, pp. 168-173.

[28] Id. at 174 & 194. Minutes of the proceedings on January 24, 2005 and April 7, 2005 of respondent Sandiganbayan. The exchange of pleadings consisted of a Counter Manifestation, a Reply Manifestation and a Rejoinder Manifestation (id. at 175-193.)

[29] Id. at 195-209.

[30] Id. at 239-241.

[31] Rollo, G.R. Nos. 176010-11, p. 428.

[32] Madrid v. Court of Appeals, 388 Phil. 366, 400 (2000), citing People v. Comesario, 366 Phil. 62, 68 (1999).

[33] David v. Rivera, 464 Phil. 1006, 1013-1014 (2004); Ong v. People, 396 Phil. 546, 554(2000); Cruz v. People, 363 Phil. 156, 161 (1999).

[34] David v. Rivera, supra; Tadeo v. People, 360 Phil. 914, 919 (1998). Vide Cruz v. People, supra; Katigbak v. Sandiganbayan, 453 Phil. 515, 535-536 (2003).

[35] Tan v. Court of Appeals, 347 Phil. 320, 329 (1997); Bernardo v. Court of Appeals, 344 Phil. 335, 346 (1997).

[36] Tadeo v. People, supra note 34.

[37] 441 Phil. 175, 182-183 (2002), citing Cruz v. People, supra note 33.

[38] Soriquez v. Sandiganbayan, G.R. No. 153526, October 25, 2005, 474 SCRA 222, 228; Rivera v. People of the Philippines, G.R. No. 163996, June 9, 2005, 460 SCRA 85, 91; Gutib v. Court of Appeals, 371 Phil. 293, 300 (1999).

[39] Gutib v. Court of Appeals, supra.

[40] Supra; Katigbak v. Sandiganbayan, supra note 34.

[41] Farolan, Jr. v. Court of Tax Appeals, G.R. No. 42204, January 21, 1993, 217 SCRA 298, 304, cited in Remigio v. Sandiganbayan, 424 Phil. 859, 869 (2002).

[42] People v. Larrañaga, 66 Phil. 324, 388-389(2004); People v. Manuel, G.R. Nos. 93926-28, July 28, 1994, 234 SCRA 532, 542; Orodio v. Court of Appeals, G.R. No. L-57579, September 13, 1988, 165 SCRA 316, 323; Magsuci v. Sandiganbayan, 310 Phil. 14, 19 (1995).

[43] Transcript of Stenographic Notes (TSN), March 8, 2005, pp. 19-20; rollo, G.R. Nos. 176010-11, pp. 535-536.

[44] Rollo, G.R. Nos. 175930-31, pp. 66-67.

[45] Id., referring to the TSN of April 7, 2005, pp. 25-26.

[46] Supra note 26.

[47] Supra at 169-170.

[48] Peralta v. Desierto, G.R. No. 153152, October 19, 2005, 473 SCRA 322, 332; Sistoza v. Desierto, 437 Phil. 117, 130 (2002).

[49] Supra.

[50] Supra.

[51] Supra at 132.

[52] Supra note 25.

[53] Supra note 26 at 166.

[54] Supra at 167.

[55] Saludo, Jr. v. Court of Appeals, G.R. No. 121404, May 3, 2006; De La Cruz v. Department of Education, Culture and Sports, 464 Phil. 1033, 1049 (2004); Añonuevo, Jr. v. Court of Appeals, 458 Phil. 532, 541(2003); Ocampo v. Office of the Ombudsman, 379 Phil. 21, 27 (2000).

[56] Supra at 27-28.

[57] Office of the Court Administrator v. Matas, 317 Phil. 9 (1995); Tan v. Commission on Elections, G.R. No. 112093, October 4, 1994, 237 SCRA 353.

[58] Rollo, G.R. Nos. 175930-31, pp. 452-477; rollo, G.R. Nos. 176010-11, pp. 397-427.

[59] Supra at 27-28.

[60] Paredes, Jr. v. Hon. Sandiganbayan, 322 Phil. 709, 730 (1996); Tecson v. Sandiganbayan, 376 Phil. 191 (1999). No administrative case was involved in Ong v. People (supra note 33); hence, the citation of the case was inappropriate.

[61] Tala Realty Services Corp. v. Banco Filipino, 389 Phil. 455, 461-462 (2000); Negros Navigation Co., Inc. v. Court of Appeals, 346 Phil. 551, 563 (1997); Paredes, Jr. v. Sandiganbayan, supra note 55 at 730-731.

[62] TSN, September 12, 2005, pp. 4-64; rollo, G.R. Nos. 176010-11, pp. 455-513.

[63] Id. at 60; id. at 511.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.