

FIRST DIVISION

[G.R. No. 153686, July 22, 2003]

**LEANDRO A. SULLER, PETITIONER, VS. SANDIGANBAYAN,
RESPONDENT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a petition for review of the decision of the Sandiganbayan dated December 6, 2001 in Criminal Case No. 17759, finding petitioner Leandro Suller y Avena guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, otherwise known as the *Anti-Graft and Corrupt Practices Act*.

Petitioner was charged in an Information which reads:

That on or about the 8th day of June 1992, or sometime prior thereto, at United Nations Avenue, Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused a public officer, being a Legal Officer III of Adjudication Board No. 1 of the National Police Commission, while in the performance of his official functions, taking advantage of his position and committing the crime in relation thereto, with evident bad faith and manifest partiality, did then and there, willfully and unlawfully and criminally demand the amount of P8,000.00 but received only the amount of P2,000.00 from complainant Reynaldo M. Nicolas in consideration of the accused refraining from working for the reversal of the decision prepared by Hearing Officer Lucien Florentino of the same officer recommending the dismissal of the Administrative Case for Homicide against said Reynaldo M. Nicolas which was elevated to said Adjudication Board No. 1 for review which the accused failed to accomplish as he was apprehended upon receipt of the latter amount, thereby causing undue injury to said Reynaldo M. Nicolas in the aforesaid amount.

CONTRARY TO LAW.^[1]

When arraigned, petitioner pleaded not guilty to the offense charged. After trial on the merits, the Sandiganbayan rendered the challenged decision, the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered finding accused LEANDRO A. SULLER GUILTY beyond reasonable doubt of the offense of violation of Section 3(e) of R.A. No. 3019, otherwise known as the *Anti-Graft and Corrupt Practices Act*, and he is hereby sentenced -

(a) To suffer imprisonment for an indeterminate period of six

- (6) years and one (1) month as minimum to twelve (12) years and one (1) month as maximum;
- (b) To suffer perpetual disqualification from public office; and
- (c) To pay the costs of the suit.

As regards the civil liability *ex delicto* of accused Leandro A. Suller, the same is deemed extinguished, in as much as the money which is the object of the crime committed, had already been recovered from said accused.

SO ORDERED.^[2]

The facts, as established by the evidence for the prosecution, show that sometime in the last week of May 1992, petitioner, representing himself to be an employee of the NAPOLCOM, called up SPO1 Reynaldo M. Nicolas of the WPD, PNP on the telephone and told him that the administrative case against him for homicide before the NAPOLCOM had already been elevated to the Adjudication Board. Thus, if he wanted to settle the case, he must meet with petitioner on June 1, 1992 at 10:00 a.m. at the 7-11 convenience store along United Nations Avenue, Manila. Petitioner also informed SPO1 Nicolas that he will be wearing a long-sleeved polo shirt and jeans and will be standing near the telephone booth.^[3]

The following day, SPO1 Nicolas went to NAPOLCOM to verify the status of his case. There, he learned that the same was indeed before the Adjudication Board. He spoke with Atty. Florentino, the hearing officer of his case, and reported to him that a NAPOLCOM employee was extorting money from him in exchange for his acquittal. Atty. Florentino was surprised to hear this since he had recommended his exoneration.^[4]

SPO1 Nicolas met the petitioner at the agreed time and place to talk about his case. Petitioner informed him that there were many "loopholes" in Atty. Florentino's recommendation. He then told SPO1 Nicolas that if he can produce the sum of P10,000.00, he can make a favorable resolution in the case. Otherwise, SPO1 Nicolas might be dismissed from the service. Petitioner also told him that a certain Atty. Hernandez of the Adjudication Board already knew about their transaction. SPO1 Nicolas haggled for a smaller amount, and petitioner agreed to reduce it to P8,000.00, saying that only P3,000.00 thereof will go to him while the remaining P5,000.00 will go to Atty. Hernandez. SPO1 Nicolas and petitioner agreed to meet again on June 8, 1992 at 10:00 a.m. at the Shakey's Pizza Parlor on Taft Avenue, Manila, for the pay-off.^[5]

At 8:00 a.m. of June 8 1992, before his meeting with petitioner, SPO1 Nicolas went to the National Bureau of Investigation (NBI) to file a complaint against him. Agent Rickson L. Chiong mobilized a team to conduct an entrapment operation composed of himself, Agent Juan E. Monge, Agent Norberto R. Malit, Jr., and Special Investigator James Calleja. SPO1 Nicolas, for his part, provided the money consisting of twenty pieces of P100.00 bills, which were marked with invisible crayon and fluorescent powder and placed inside a white envelope.^[6]

The members of the entrapment team proceeded to Shakey's Pizza Parlor and strategically occupied different tables. SPO1 Nicolas arrived shortly and sat beside petitioner. He then surreptitiously handed to petitioner the white envelope under the table, which the latter placed inside his shirt pocket. Immediately thereafter, SPO1 Nicolas gave the pre-arranged signal that prompted all the NBI agents to accost petitioner and place him under arrest.^[7]

Petitioner was brought to the NBI where he was booked, fingerprinted and photographed. His hands were likewise examined at the NBI's Chemistry Division, the results of which were as follows:

FINDINGS:

Ultra-violet light examinations conducted on the above mentioned specimen showed the presence of yellow fluorescent specks and smudges on the dorsal and palmar aspects. xxx^[8]

For his part, petitioner denied the charge against him and claimed that he was framed-up by SPO1 Nicolas and the NBI agents. According to him, SPO1 Nicolas went to NAPOLCOM to follow up the status of his case sometime in the last week of May 1992. SPO1 Nicolas pleaded for his help in asking the Adjudication Board to affirm Atty. Florentino's recommendation for the dismissal of his case. Petitioner advised him to just wait for the resolution of the case because he cannot influence the decision of the Adjudication Board since he is a mere legal researcher. Nevertheless, to end the already long-drawn conversation, he promised SPO1 Nicolas that he will see what he can do.^[9]

On June 1, 1992 at around 9:00 a.m. SPO1 Nicolas returned to NAPOLCOM. As petitioner was about to leave for the Department of Justice (DOJ) to do some research, SPO1 Nicolas offered him a ride in his jeep. Petitioner accepted the offer since it was difficult to obtain public transportation. During the trip, SPO1 Nicolas repeatedly begged for his assistance and implored him to relay the request to Atty. Hernandez. Petitioner refused to entertain his plea for assistance. Instead, he reiterated that he cannot do anything about his request as it is very difficult to talk to Atty. Hernandez. Before petitioner alighted from the jeep, SPO1 Nicolas asked if they can meet on June 8, 1992 at 9:00 a.m. at the 7-11 convenience store along United Nations Avenue. Petitioner acceded to his request just to appease him.^[10]

On June 8, 1992, at 9:00 a.m., petitioner arrived at the 7-11 store and found SPO1 Nicolas already there. After talking about the developments of his case, SPO1 Nicolas invited him for a snack somewhere on Taft Avenue but said he had to ask permission first from his superiors to leave the headquarters. Petitioner waited for SPO1 Nicolas but when he did not return after ten minutes, decided to proceed to the DOJ to do some legal research. As he was walking towards Taft Avenue, he met SPO1 Nicolas near the Manila Medical Center. SPO1 Nicolas again invited petitioner for a snack at the nearby Shakey's Pizza Parlor, and the latter agreed to join him.^[11]

Inside the restaurant, SPO1 Nicolas moved his chair closer to petitioner and inserted a white envelope into his left side shirt pocket. Petitioner asked what the envelope was for, and SPO1 Nicolas told him not to mind it. As he was about to take out the envelope and return it to SPO1 Nicolas, agents of the NBI appeared and arrested

him.^[12]

Petitioner was thereafter brought to the Anti-Graft Division of the NBI where he was harassed by the agents who arrested him. Agent Chiong forced him to count the money inside the envelope while news reporters took photographs. After he counted the money, he was brought to the Chemistry Division where his hands were examined.^[13]

Hence, this petition based on the following assignment of errors:

I

IT WAS IMPOSSIBLE FOR HEREIN PETITIONER TO HAVE DEMANDED P2,000.00 FROM THE PRIVATE COMPLAINANT;

II

THE PROSECUTION'S EVIDENCE IS WEAK;

III

THERE ARE STRONG REASONS OR MOTIVES FOR THE PRIVATE COMPLAINANT AND THE N.B.I. AGENTS TO CONCOCT THE CHARGE AGAINST THE PETITIONER;

IV

PETITIONER CANNOT BE FAULTED FOR LACK OF CORROBORATIVE WITNESSES;

V

PETITIONER CANNOT BE CONVICTED UNDER R.A. 3019, SECTION 3(e) BECAUSE ACTUAL INJURY WAS NOT INCURRED BY THE COMPLAINANT.

^[14]

Petitioner claims that he could not have demanded the measly sum of P2,000.00 from SPO1 Nicolas who was a complete stranger; that he was not in a position to help in the outcome of any administrative case pending before the Adjudication Board of the NAPOLCOM as he was a mere legal researcher in that office; and that it would be contrary to human experience for him to extort money in front of the Western Police District or the NBI where he could have been easily arrested.

We are not persuaded.

It is a well-entrenched rule that factual findings of the Sandiganbayan are conclusive upon the Supreme Court except where: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts and the findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record.

^[15] None of the above exceptions obtains in this case.