



Republic of the Philippines  
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**WILFREDO M. GARRIDO, JR.**

*Complainant,*

**OMB-C-C-19-0044**

For: Violation of Sec. 3 (e), (i) and (j) of RA 3019, as amended, Falsification of Public Documents (Art. 171, RPC), Malversation of Public Funds or Property (Art. 217, RPC) and Illegal Use of Public Funds or Property (Art. 220, RPC)

(CRIMINAL CASE)

- versus -

**OMB-C-A-19-0038**

For: Grave Misconduct, Serious Dishonesty, Grave Abuse of Authority and Conduct Prejudicial to the Best Interest of the Service

(ADMINISTRATIVE CASE)

**PERSIDA V. RUEDA-ACOSTA (SALARY GRADE 31)<sup>1</sup>**

Chief Public Attorney

**ERWIN P. ERFE<sup>2</sup>**

Consultant/Chief, Forensic Laboratory<sup>3</sup>

Both of the Public Attorney's Office

Department of Justice

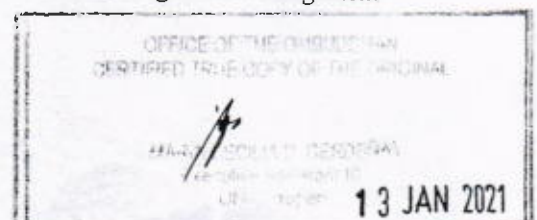
*Respondents.*

X ----- X

<sup>1</sup> As stated in respondent's Consolidated Counter-Affidavit (Records, OMB-C-C-19-0044 Folder II, pp. 106-331, 107) and Consolidated Position Paper (Records, OMB-C-A-19-0038 Folder, pp. 334-382, 334) citing Executive Order (EO) No. 508, Series of 1992, as amended, and pursuant to Section 35, Book V of EO No. 292 or the Administrative Code of 1987.

<sup>2</sup> Respondent's middle initial is "P" as stated in his Consolidated Counter-Affidavit; Records, OMB-C-C-19-0044 Folder II, pp. 333-335.

<sup>3</sup> Salary grade is inapplicable since respondent is a consultant per Department of Budget and Management (DBM) Letter dated 15 December 2004 (*Id* at p. 235).



## JOINT RESOLUTION

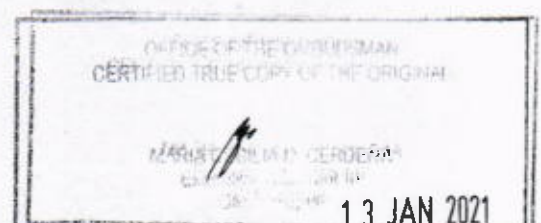
For resolution is the Complaint-Affidavit<sup>4</sup> filed on 22 October 2018 by complainant Wilfredo M. Garrido, Jr. (Garrido) against Chief Public Attorney **Persida V. Rueda-Acosta** (Acosta) and Consultant/Forensic Laboratory Chief **Erwin P. Erfe** (Erfe), both of the Public Attorney's Office (PAO), Department of Justice (DOJ), for violation of Section 3 (e), (i) and (j) of Republic Act (RA) No. 3019,<sup>5</sup> as amended; Falsification of Public Documents defined under Article 171 of the Revised Penal Code (RPC); Malversation of Public Funds or Property defined under Article 217 of the RPC and Illegal Use of Public Funds or Property defined under Article 220 of the RPC in OMB-C-C-19-0044; and for Grave Misconduct, Serious Dishonesty, Grave Abuse of Authority and Conduct Prejudicial to the Best Interest of the Service in OMB-C-A-19-0038, for allegedly creating and funding an office known as the PAO Forensic Laboratory, without legislative authority; ambulance-chasing cases; manufacturing evidence of an alleged Dengvaxia vaccinee, who was not actually vaccinated, and spreading hysteria with their pronouncements to the press and social media.

Complainant alleged that, since her appointment in 2001 as PAO Chief, Acosta purposely hogged the limelight in every possible legal case, particularly, the investigation on the government's Dengue Immunization Program, in clear violation of the practice against ambulance chasing.

Instead of merely passively awaiting indigent clients to approach her office, Acosta actively sought out and instigated the parents of deceased Dengvaxia recipients to file criminal cases against public health officials.

<sup>4</sup> Records, OMB-C-C-19-0044 Folder I, pp. 1-77, inclusive of annexes; the case was received by the handling GIPO on 11 April 2019.

<sup>5</sup> Anti-Graft and Corrupt Practices Act.



In addition, Acosta conjured up evidence produced by her own so-called PAO Forensic Laboratory primarily manned by Erfe, which was created and funded without any mandate from Congress, to solely cater to Acosta's whims and caprices, citing *Biraogo v. Philippine Truth Commission*.<sup>6</sup> Meanwhile, there is no provision in RA No. 9406,<sup>7</sup> or the PAO Law, providing for a PAO Forensic Laboratory. The said laboratory is also not an ad hoc office since it offers several services, namely: forensic medicine, bloodstain pattern analysis, crime scene reconstruction, forensic osteology, forensic odontology, forensic archeology/exhumation and forensic and evidence photography, as stated in the PAO's website.<sup>8</sup>

Acosta departed from the mandate of her office and acted without legal authority in prosecuting cases in behalf of non-indigents since there is no showing that the parents of deceased Dengvaxia recipients were indigents. On the contrary, a complainant in one of the cases filed by respondents even stated that he was residing in an upper middle class subdivision – Don Antonio Heights, Quezon City, therefore not an indigent.

Respondents were also caught manufacturing evidence of an alleged Dengvaxia vaccinee, when in truth, said child who died in January 2018 was not actually given the Dengvaxia vaccine. In the Forensic Examinations Report dated 09 May 2018,<sup>9</sup> Erfe certified the results of an autopsy conducted on one Rei Jazztine D. Alimagno (Alimagno) as having died of Dengue shock syndrome. The problem is, Dengvaxia vaccine was not actually administered on Alimagno, citing the Certification of the City Health Office of Antipolo City.<sup>10</sup>

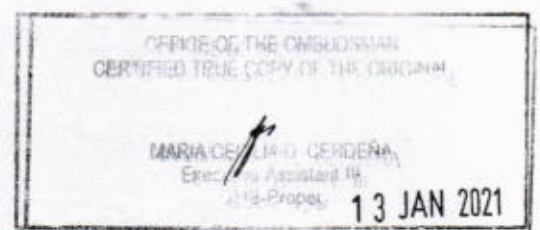
<sup>6</sup> Citing G.R. No. 192935, no date mentioned.

<sup>7</sup> An Act Reorganizing and Strengthening the Public Attorney's Office (PAO), amending for the purpose pertinent provisions of Executive Order No. 292, otherwise known as the "Administrative Code of 1987", as amended, granting Special Allowance to PAO officials and Lawyers, and providing funds therefor.

<sup>8</sup> <http://www.pao.gov.ph/>.

<sup>9</sup> Records, OMB-C-C-19-0044 Folder I, pp. 29-44.

<sup>10</sup> Certification dated 05 February 2018; *Id* at p. 49.



At the same time, Acosta hailed and endorsed the findings of Erfe,<sup>11</sup> whose expertise has been called into question by Malacañang<sup>12</sup> and a panel of doctors from the University of the Philippines (UP)-Philippine General Hospital (PGH).<sup>13</sup> Acosta has not explained why she dispensed with the invaluable services of the National Bureau of Investigation (NBI) and the Philippine National Police (PNP) crime laboratories, and why the opinions of Erfe trump those of the government forensic experts in said agencies.

Respondents, together with the Volunteers Against Crime and Corruption (VACC), filed at least 21 criminal cases against officials of the Department of Health (DOH) based on the same corrupt evidence, an utter waste of public funds better spent defending indigents.

The backlash against the DOH officials has had a detrimental effect on the general health situation since fewer parents want their children vaccinated.<sup>14</sup> Thus, respondents are endangering lives. Respondents even made reckless, unfounded, false and malicious claims, based principally on evidence gathered from the said laboratory, in the press and social media.<sup>15</sup>

Hence, the present criminal and administrative Complaints.

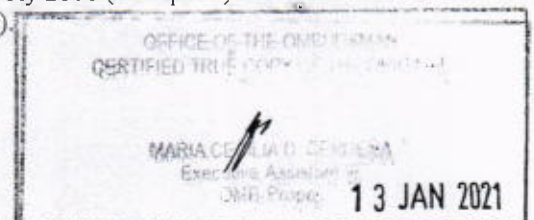
<sup>11</sup> Citing *News Article* from <http://newsinfo.inquirer.net/998260/pao-chief-insists-death-of-60-kids-linked-to-dengvaxia>; *Id* at pp. 53-55.

<sup>12</sup> Citing *News Article* from <http://newsinfo.inquirer.net/967102/palace-doh-say-erwin-erfe-is-no-pathology-expert>; *Id* at pp. 56-58.

<sup>13</sup> Citing *News Article* from <http://www.manilachannel.com/general-news/pao-forensic-consultants-credentials-a-sham>; no copy of the article could be found attached to the Complaint.

<sup>14</sup> Citing *News Article* from <https://www.rappler.com/nation/195101-kids-vaccination-rate-down-dengvaxia-scare-doh>; *Id* at pp. 76-77.

<sup>15</sup> Citing *News Articles* from <https://www.philstar.com/headlines/2018/05/14/1815147/doj-start-probe-dengvaxia-complaints> (*Id* at pp. 59-60), <https://www.rappler.com/nation/195283-pao-first-dengvaxia-complaint-rare-disease> (*Id* at pp. 61-64), <http://newsinfo.inquirer.net/1000771/study-on-anti-dengue-vaccine-affirms-pao-dengvaxia-probe-says-acosta> (*Id* at pp. 65-67), <http://www.gmanetwork.com/news/news/nation/637016/pao-chief-acosta-claims-of-no-deaths-related-to-dengvaxia-are-lies/story/> (*Id* at p. 68), <http://newsinfo.inquirer.net/998260/pao-chief-insists-death-of-60-kids-linked-to-dengvaxia> (*Id* at pp. 69-71); *Facebook Posts* dated 22 July 2018 (*Id* at p. 72) and dated 10 May (no year cited, *Id* at p. 75) and *Facebook Photos* (*Id* at pp. 73-74).



By Orders dated 12 April 2019,<sup>16</sup> respondents were directed to file their respective Counter-Affidavits.

**Acosta**, in her Consolidated Counter-Affidavit,<sup>17</sup> denies all accusations against her for being unfounded, malicious, baseless, fabricated and concocted to malign her and the PAO; she neither instigated anyone to file cases in behalf of the parents of the deceased Dengvaxia vaccine recipients nor did she depart from the PAO mandate in prosecuting cases in behalf of non-indigent clients; the assistance of the PAO to the Dengvaxia vaccine recipients was in response to the VACC's request<sup>18</sup> dated 07 December 2017 for the very first case, Christine<sup>19</sup> Mae De Guzman, while the case of Anjielica M. Pestilos, which was first filed with the DOJ, was referred by ABS-CBN Senior Reporter Dominic Almelor (Almelor) and it was Almelor's, and not the PAO's, efforts which resulted in the exhumation, forensic examination and case filing; the PAO's filing of cases, related to the Dengvaxia vaccine fiasco, was not her sole decision but also pursuant to DOJ Department Order No. 792 dated 12 December 2017;<sup>20</sup> the PAO may render legal services to other persons as provided under Section 3 (Section 14-A,<sup>21</sup> Chapter 5, Title III, Book IV of Executive Order No. 292)<sup>22</sup> of RA No. 9406<sup>23</sup> and Section 27 of the Implementing Rules and Regulations (IRR) of RA No. 9406 to the extent that the PAO is called upon to act as counsel de officio even without prior determination of the litigant's indigency in court litigations, citing in particular the appointment of the PAO, despite its vehement objections, by the Sandiganbayan Special

<sup>16</sup> *Id* at pp. 87-89 and Records, OMB-C-A-19-0038 Folder, pp. 86-88.

<sup>17</sup> Records, OMB-C-C-19-0044 Folder II, pp. 106-331, inclusive of annexes.

<sup>18</sup> *Id* at p. 151.

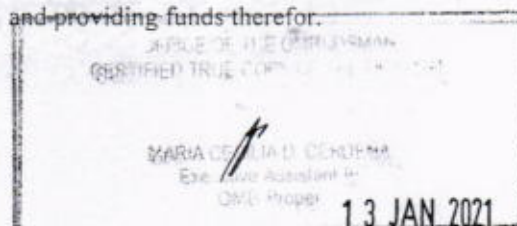
<sup>19</sup> The name stated on the letter is "Catherine" not "Christine"; *Id*.

<sup>20</sup> *Id* at p. 152.

<sup>21</sup> Citing Section 14-A with emphasis and underscoring: "x x x In the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations."

<sup>22</sup> The Administrative Code of 1987.

<sup>23</sup> An act reorganizing and strengthening the Public Attorney's Office (PAO), amending for the purpose pertinent provisions of Executive Order No. 292, otherwise known as "The Administrative Code of 1987," as amended, granting special allowance to PAO officials and lawyers, and providing funds therefor.

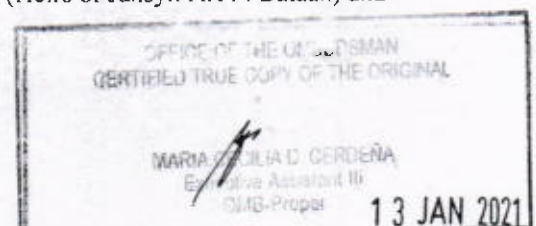


Division to represent former President Joseph Estrada and former Mayor Jinggoy Estrada in their Plunder cases;<sup>24</sup> the PAO Chief is empowered to introduce and amend the indigency criteria to avail of PAO legal services under Section 23, Rule VI of the IRR of RA No. 9406; the PAO's provisional representation of Lt. Col. Ferdinand Marcelino (Marcelino) and Yan Yi Shou (Yan) was in accordance with Section 4,<sup>25</sup> Article II (Clientele) of the PAO Operations Manual considering that the said persons were at the urgent risk of being deprived of their liberty; PMA Cadet Aldrin F. Cudia's (Cudia) parents then were classified as indigents; the VACC referred the tanim-bala victims to the PAO and resulted to a win for more than 70 victims; the question on the PAO's representation of the cases of Marcelino, Yan, Cudia and tanim-bala victims has become moot and academic since the courts have already taken cognizance of their cases; the PAO need not engage in ambulance-chasing considering the surging number of its clients in the last five years (for 2018 13,344,003 clients were served and 975,610 cases handled) and for the last 11 years, the PAO obtained a total of 169,989 acquittals and 1,605,279 other favorable dispositions, despite the scarcity of manpower; despite the issuance of DOJ Department Order No. 792, the special public attorneys assigned to handle Dengvaxia cases, required the parents of deceased vaccine recipients to provide proofs of indigency and in fact, 28 civil cases for damages filed with the Office of the Clerk of Court (OCC) of the Regional Trial Courts (RTC) of Quezon City have separate Motions to Litigate as Pauper Litigants and 16 of them were granted;<sup>26</sup> Liza Makilan and Ramil Pestilos (parents of Anjielica M.

<sup>24</sup> Citing G.R. Nos. 154297-300 dated 15 February 2008; Records, OMB-C-C-19-0044 Folder II, pp. 153-158.

<sup>25</sup> Citing Section 4, Cases Which May Be Provisionally Accepted.

<sup>26</sup> Records, OMB-C-C-19-0044 Folder II, pp. 159-161 (Heirs of Anjielica M. Pestilos), p. 161 (Heirs of Christine Mae De Guzman), pp. 163-164 (Heirs of Lenard L. Baldonado), p. 165 (Heirs of Roshaine D. Cariño), pp. 166-167 (Heir of Zandro M. Colite), pp. 168-169 (Heir of Christine Joy G. Asuncion), p. 170 (Heir of Naomi J. Nimura), p. 171 (Heirs of Erico M. Leabres), p. 172 (Father of Rei Jazztine D. Alimagno), p. 173 (Heirs of Clarissa A. Alcantara), p. 174 (Heirs of Alexander A. Jaime), pp. 175-178 (Heirs of Marc-Axl D. Eboña), pp. 179-180 (Heirs of Ej Christian Apa), pp. 181-185 (Heir of Elezar B. Brigoli, Jr.), pp. 186-188 (Heir of John Paul R. Rafael), pp. 189-191 (Heirs of Jansyn Art F. Bataan) and pp. 192-196 (Heirs of Abbie N. Hedia).



Pestilos) presented Certificates of Indigency<sup>27</sup> showing that although their residence is within Don Antonio Heights, they are residents of a known depressed area of Barangay Holy Spirit and which indigency was recognized by the RTC;<sup>28</sup> and her actuations were taken out of context as it was never her intention to dramatize each case which the PAO handles and was moved by the torture and untimely deaths of the Dengvaxia vaccine recipients, thus, it is sometimes inevitable to retain her composure, while complainant is not the one on the ground and has not visited any of the dead.

Also, the PAO Forensic Laboratory, in 2004, was only a workplace where forensic analysis of medico-legal evidence is conducted before it was launched on 27 January 2010, as part of the PAO Executive Support Services under the Office of the PAO Chief, after M/V Princess of Sulpicio Lines capsized and the PAO was authorized under DOJ Department Order No. 439<sup>29</sup> to extend assistance to all relatives of the victims; the laboratory is manned by doctors, nurses, a medical technologist and a laboratory aide, not just by Erfe; on 14 January 2019, the Department of Budget and Management (DBM) created the Forensic Laboratory Division, lodged under the Office of the PAO Chief;<sup>30</sup> there is no need for Congress to create the laboratory since it is not a separate office, being part of the PAO-Executive Support Service under the Office of the PAO Chief; forensic science through the PAO has become a free and accessible tool for the poor in attaining justice, such as the cases of Bonita Baran, Kian Lloyd Delos Santos and John Dela Riarte, among others; Erfe renders services to the PAO as a medico-legal consultant for 22 years and as Director of the Forensic Laboratory for 14 years, and not as her sidekick;<sup>31</sup> no evidence was manufactured as the criminal cases filed before the DOJ and the courts were

<sup>27</sup> *Id* at pp. 200-201.

<sup>28</sup> *Id* at pp. 197-199.

<sup>29</sup> *Id* at p. 202.

<sup>30</sup> *Id* at pp. 203-204.

<sup>31</sup> Citing Erfe's *Curriculum Vitae* (*Id* at pp. 205-234), *DBM Letters* dated 15 December 2004 (*Id* at p. 235) and dated 21 April 2005 (*Id* at p. 236).

